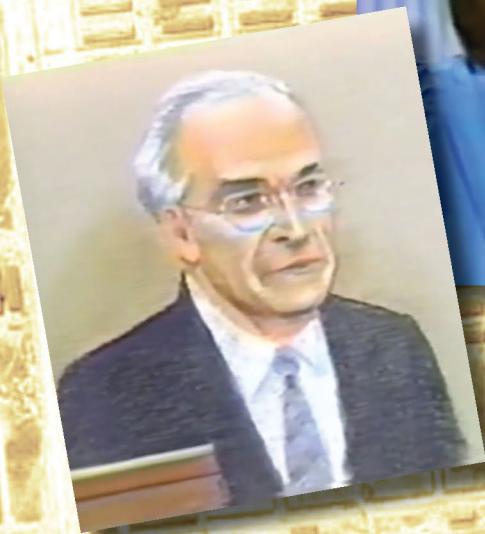


# **The First Zündel Trial**



**The Court Transcript  
of the Canadian “False News” Trial  
of Ernst Zündel, 1985**

## THE FIRST ZÜNDEL TRIAL



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of the Canadian “False News” Trial  
of Ernst Zündel, 1985

Edited by Germar Rudolf



**Castle Hill Publishers**  
**P.O. Box 243, Uckfield, TN22 9AW, UK**  
**February 2020**



Gerhard Rudolf (ed.):  
*The First Zündel Trial: The Court Transcript of the Canadian "False News"  
Trial of Ernst Zündel, 1985.*  
February 2020  
Uckfield, UK: CASTLE HILL PUBLISHERS  
P.O. Box 243, Uckfield, TN22 9AW, UK

ISBN13: 978-1-59148-045-7 (print edition)  
ISBN10: 1-59148-045-0 (print edition)

Published by Castle Hill Publishers  
Manufactured worldwide

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Distribution worldwide:  
Castle Hill Publishers  
P.O. Box 243  
Uckfield, TN22 9AW, UK  
<https://shop.codoh.com>

Set in Times New Roman

Cover illustrations: Scenes from a documentary on the First Zündel Trial (currently at <https://youtu.be/-PtZe13n2s>, but YouTube keeps banning such videos...). Top: a newscaster reporting on the trial; left: courtroom drawing of Dr. Robert Faurisson; right: courtroom drawing of Dr. Raul Hilberg; bottom: courtroom drawing of Douglas Christie; background: air photo of the Auschwitz-Birkenau Camp; back cover: mass media interviewing Ernst Zündel during the Second Zündel Trial.

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## Editor's Remarks

Thirty-five years have passed since the first trial of Ernst Zündel ended in Canada. Many of the key defense players have since passed away, among them Ernst Zündel himself (†2017) and his *spiritus rector* Prof. Dr. Robert Faurisson (†2018), who was the mastermind behind both Zündel trial defenses, as well as Zündel's defense counsels Douglas Christie (†2013) and his assistant and later wife Barbara Kulaszka (†2017). Nevertheless, this historic trial, together with the second trial of Zündel of 1988, keeps having an impact as if they had happened just yesterday.

The First Zündel Trial of 1985 was extensively and largely factually covered by the Canadian media, and to a much-lesser extent also by the U.S. media, all of which drew a lot of attention to the Holocaust-revisionist cause. It was a misstep the mainstream media did not repeat in later such trials, neither the Second Zündel Trial nor David Irving's UK libel case against Deborah Lipstadt in 2000. Though media coverage was still considerable, it was thenceforward heavily biased in favor of the Holocaust orthodoxy.

Instead of retelling the tale of how it all came about and unfolded in the courtroom, we have included in this volume, as an introduction, an article written by the mastermind behind the two Zündel Trials, the late Dr. Robert Faurisson.

\* \* \*

The present book contains the complete and unedited transcript of the First Zündel Trial. We received a scanned file of that transcript several years ago from Barbara Kulaszka, who was reluctant to share it with us, fearing that it might violate someone's copyright if the transcript got published. How a publicly accessible transcript of a public trial could be protected by any kind of copyright is beyond me. Anyway, we OCR-processed the document and posted it online, where it has been accessible for years.

Making this document accessible as a book required a long-lasting, tedious cleaning up of the messy OCR output. The bulk of this work was done by our volunteer Katana, to whom I would like to express my sincere gratitude. During that clean-up process and the subsequent editing of the result, we inevitably stumbled over a number of misspellings and other flaws in the original transcript. Our software's auto-correct function tried repeatedly to "improve" the text, but whenever we caught it doing that, we reversed it. Instead of correcting the text as such, we have tried to preserve it as it is in the original, only adding in [brackets] any corrections or missing words, punctuation, etc. which we

thought ought to be there. On occasion, when a vowel in a German word should have been an umlaut but wasn't, we added that umlaut in brackets.

In many cases, the original transcript has quotations formatted with large indentation and with quotation marks starting every single line. Preserving this format would have inflated the volume of the present book unacceptably, so we chose to render these quotations by using simple italics instead, with only one quotation mark each at the start and the end of the quotation. Wherever words are underlined in the original, we tried to underline them in the present book as well.

In order to enable quoting the page numbers of the original transcript, we have inserted a separator | at each original page break, surrounded by braces, with the page number of the text prior to it given on the left, and the text after it given on the right. For instance, {89|90} separates the text of page 89 to the left of it from the text on page 90 to the right.

The original transcript has a few pagination flaws, such as repeated page numbers (pp. 1947, 2450, 3457, 4212f.; Charge to Jury, p. 172). In that case, the repeated page number has an "a" attached (in some cases already in the original). Moreover, there seems to be at least one page missing between pages 3113 and 3114, because page 3114 starts with an incomplete sentence that is not a continuation of page 3113. Judging by the quotation with which page 3113 ends – it deals with the alleged homicidal gas chamber at Dachau – and the topic dealt with on page 3114 – Krematorium II at Auschwitz – it is even possible that more text is missing than fits on just one page. We don't know whether that is a flaw in the original transcript or in the copy Mrs. Kulaszka had in her possession.

This book has no index. Creating one would have been very time-consuming, hence prohibitively expensive. However, this shortcoming can be remedied easily by downloading the freely available PDF file of this book, which can be searched for any term. It is posted at the same location where a scanned copy of the original transcript can also be found: [www.codoh.com/library/document/3355/](http://www.codoh.com/library/document/3355/).

May this book help the open-minded reader and researcher to get closer to an accurate depiction of what really happened during the events collectively referred to as the "Holocaust."

Germar Rudolf, January 27, 2020

## The Zündel Trials (1985 and 1988)

By Robert Faurisson

On May 13, 1988, Ernst Zündel was sentenced by Judge Ronald Thomas of the District Court of Ontario, in Toronto, to nine months in prison for having distributed a Revisionist booklet that is now 14 years old: *Did Six Million Really Die?*

Ernst Zündel lives in Toronto where, up until a few years ago, he worked as a graphic artist and advertising man. He is now 49 years old. A native of Germany, he has kept his German citizenship. His life has known serious upsets from the day when, in about 1981, he began to distribute *Did Six Million Really Die?*, a Revisionist booklet by Richard Harwood. The booklet was first published in 1974 in Great Britain where, a year later, it was the focus of a lengthy controversy in the literary journal *Books and Bookmen*. At the instigation of the Jewish community of South Africa, it was later banned in that country.

In Canada, during an earlier trial in 1985, Zündel had been sentenced to 15 months in prison. That sentence was thrown out in 1987. A new trial began on January 18, 1988. I participated in the preparations for it and in the unfolding of those judicial proceedings. I devoted thousands of hours to the defense of Ernst Zündel.

### François Duprat: A Precursor

In 1967, François Duprat published an article on "The Mystery of the Gas Chambers" (*Défense de l'Occident*, June 1967, pp. 30-33). He later became interested in the Harwood booklet and became actively involved in its distribution. On March 18, 1978, he was killed by assassins armed with weapons too complex not to belong to an intelligence service. Responsibility for the assassination was claimed by a "Remembrance Commando" and by a "Jewish Revolutionary Group" (*Le Monde*, March 23, 1978, p. 7). Patrice Chairouff had published Duprat's home address in the *Dossier Néo-Nazisme*. He justified the assassination in the pages of *Le Monde* (April 26, 1978, p. 9) by citing the victim's Revisionism: "François Duprat is responsible. There are some responsibilities that kill." In *Le Droit de vivre*, the publication of the LICRA (International League Against Racism and Anti-Semitism), Jean Pierre-Bloch expressed an ambiguous position: he criticized the crime but, at the same time, he let it be understood that he had no pity for those who, inspired by the victim, would start out on the Revisionist path (*Le Monde*, May 7-8, 1978).

### Pierre Vianson-Ponté

Eight months before Duprat's assassination, journalist Pierre Vianson-Ponté had launched a virulent attack against the Harwood pamphlet. His chronicle was entitled:

"Le Mensonge" (The Lie), (*Le Monde*, July 17-18, 1978, p. 13). It was reprinted with an approving commentary in *Le Droit de vivre*. Six months after the assassination, Vianson-Ponté took up the attack once more in "Le Mensonge" (suite) (The Lie – Continued) (*Le Monde*, September 34, 1978, p. 9). He passed over the assassination of Duprat in silence, made public the names and home towns of three Revisionist readers, and called for legal repression against Revisionism.

### Sabina Citron Versus Ernst Zündel

In 1984, Sabina Citron, head of the Holocaust Remembrance Association, stirred up violent demonstrations against Ernst Zündel in Canada. An attack was made on Zündel's home. The Canadian postal service, treating Revisionism the way it treats pornography, refused him all service and all right to receive mail. Zündel only recovered his postal rights after a year of judicial procedures. In the meantime, his business has failed. At the instigation of Sabina Citron, the Attorney General of Ontario filed a complaint against Zündel for publishing a "false statement, tale or news." The charge was based on the following reasoning: the defendant had abused his right to freedom of expression; by distributing the Harwood pamphlet, he was spreading information that he knew was false; in fact, he could not fail to be aware that the "genocide of the Jews" and the "gas chambers" were an established fact. Zündel was also charged with publishing an allegedly "false" letter, which he had written himself.

### The First Trial (1985)

The first trial lasted seven weeks. The jury found Zündel not guilty regarding the letter he had himself written but guilty of distributing the Harwood booklet. He was sentenced by Judge Hugh Locke to 15 months in prison. The German consulate in Toronto confiscated his passport and the West German government prepared a deportation action against him. In Germany itself, West German authorities had already carried out a series of large-scale police raids on the houses of all his German correspondents. In 1987, the United States forbade him entry to its territory. But in spite of all that, Zündel had won a media victory: day after day, for seven weeks, the entire English-speaking Canadian media covered the trial, with its spectacular revelations. The public learned that the Revisionists had first class documentation and arguments, while the Exterminationists were in desperate straits.

### Their Expert: Raul Hilberg

The prosecution expert in the first trial was Raul Hilberg, an American professor of Jewish descent and author of the standard reference work, *The Destruction of the European Jews* (1961), which Paul Rassinier discussed in *Le Drame des Juifs européens* (*The Drama of the European Jews*). Hilberg began his testimony by explaining, without interruption, his theory about the extermination of the Jews. He was then cross-examined by Zündel's lawyer, Douglas Christie, who was assisted by Keltie Zubko and myself. Right from the start it was clear that Hilberg, who was the world's leading authority on the Holocaust, had never examined a single concentration camp, not even Auschwitz. He had still not examined any camp in 1985 when he announced the imminent appearance of a new edition of his main work in three volumes, revised, corrected and augmented. Although he did visit Auschwitz in 1979 for a single day as part of a ceremonial appearance, he did not bother to examine either the buildings or the archives. In his entire life he has never seen a "gas chamber," either in its original condition or in ruins. (For a historian, even ruins can tell tales). On the stand he was forced to admit that there had never been a plan, a central organization, a budget or supervision for what he called the policy of the extermination of the Jews. He also had to admit that since 1945 the Allies have never carried out an expert study of "the weapon of the crime," that is to say of a homicidal gas chamber. No autopsy report has established that even one inmate was ever killed by poison gas.

Hilberg said that Hitler gave orders for the extermination of the Jews, and that Himmler gave an order to halt the extermination on November 25, 1944 (such detail!). But Hilberg could not produce these orders. The defense asked him if he still maintained the existence of the Hitler orders in the new edition of his book. He dared to answer yes. He thereby lied and even committed perjury. In the new edition of his work (with a preface dated September 1984), Hilberg systematically deleted any mention of an order by Hitler. (In this regard, see the review by Christopher Browning, "The Revised Hilberg," *Simon Wiesenthal Center Annual*, 1986, p. 294). When he was asked by the defense to explain how the Germans had been able to carry out an undertaking as enormous as the extermination of millions of Jews without any kind of plan, without any central agency, without any blueprint or budget, Hilberg replied that in the various Nazi agencies there had been "an incredible meeting of minds, a consensus mind-reading by a far-flung bureaucracy."

### Witness Arnold Friedman

The prosecution counted on the testimony of "survivors." These "survivors" were chosen with care. They were supposed to testify that they had seen, with their own eyes, preparations for and the carrying out of homicidal gassings. Since the war, in a series of trials like those at Nuremberg (1945-46), Jerusalem (1961), or Frankfurt (1963-65), such witnesses have never been lacking. However, as I have of-

ten noted, no lawyer for the defense had ever had the courage or the competence necessary to cross-examine these witnesses on the gassings themselves.

For the first time, in Toronto in 1985, one lawyer, Douglas Christie, dared to ask for explanations. He did it with the help of topographical maps and building plans as well as scholarly documentation on both the properties of the gases supposedly used and also on the capacities for cremation, whether carried out in crematory ovens or on pyres. Not one of these witnesses stood the test, and especially not Arnold Friedman. Despairing of his case, he ended by confessing that he had indeed been at Auschwitz-Birkenau (where he never had to work except once, unloading potatoes), but that, as regards gassings, he had relied on what others had told him.

### Witness Rudolf Vrba

Witness Rudolf Vrba was internationally known. A Slovak Jew imprisoned at Auschwitz and at Birkenau, he said that he had escaped from the camp in April 1944 with Fred Wetzler. After getting back to Slovakia, he dictated a report about Auschwitz and Birkenau, and on their crematories and "gas chambers."

With help from Jewish organizations in Slovakia, Hungary and Switzerland, his report reached Washington, where it served as the basis for the U.S. Government's famous "War Refugee Board Report," published in November 1944. Since then every Allied organization charged with the prosecution of "war crimes" and every Allied prosecutor in a trial of "war criminals" has had available this official version of the history of those camps.

Vrba later became a British citizen and published his autobiography under the title of *I Cannot Forgive*. This book published in 1964, was actually written by Alan Bestic, who, in his preface, testified to the "considerable care [by Rudolf Vrba] for each detail" and to the "meticulous and almost fanatic respect he revealed for accuracy." On November 30, 1964, Vrba testified at the Frankfurt Auschwitz trial. Then he settled in Canada and became a Canadian citizen. He has been featured in various films about Auschwitz, particularly Shoah by Claude Lanzmann. Everything went well for him until the day at the Zündel trial in 1985 when he was cross-examined mercilessly. He was then shown to be an impostor. It was revealed that he had completely made up the number and location of the "gas chambers" and the crematories in his famous 1944 report. His 1964 book opened with a purported January 1943 visit by Himmler to Birkenau to inaugurate a new crematorium with "gas chamber." Actually, the last visit by Himmler to Auschwitz took place in July of 1942, and in January 1943 the first of the new crematories was still far from finished.

Thanks, apparently, to some special gift of memory (that he called "special mnemonic principles" or "special mnemonic method") and to a real talent for being everywhere at once, Vrba had calculated that in the space of 25 months (April 1942 to April 1944) the Germans had "gassed"



1,765,000 Jews at Birkenau alone, including 150,000 Jews from France. But in 1978, Serge Klarsfeld, in his *Memorial to the Deportation of the Jews from France*, had been forced to conclude that, for the entire length of the war, the Germans had deported a total of 75,721 Jews from France to all their concentration camps. The gravest aspect of this is that the figure of 1,765,000 Jews “gassed” at Birkenau had also been used in a document (L-022) at the main Nuremberg trial. Attacked on all sides by Zündel’s lawyer, the impostor had no other recourse than to invoke, in Latin, the “*licentia poetarum*,” or “poetic license,” in other words, the right to engage in fiction. His book has just been published in France (1987); this edition is presented as a book by “Rudolf Vrba with Alan Bestic.” It no longer includes the enthusiastic preface by Alan Bestic, and the short introduction by Émile Copfermann notes that “with the approval of Rudolf Vrba the two appendices from the English edition have been removed.” Nothing is said about the fact that those two appendices had also caused Vrba serious problems in 1985 at the Toronto trial.

### The Second Zündel Trial (1988)

In January 1987, a five-judge appeals court decided to throw out the 1985 verdict against Ernst Zündel for some very basic reasons: Judge Hugh Locke had not allowed the defense any influence in the jury selection process and the jury had been misled by the judge on the very meaning of the trial. As for me, I have attended many trials in my life, including some carried out in France during the period of the “Purge” at the end and after World War II. Never have I encountered a judge so partial, autocratic and violent as Judge Hugh Locke. Anglo-Saxon law offers many more guarantees than French law but it only takes one man to pervert the best of systems. Judge Locke was such a man.

The second trial began on January 18, 1988, under the direction of Judge Ronald Thomas, who is a friend, it seems, of Judge Locke. Judge Thomas was often angry and was frankly hostile to the defense, but he had more finesse than his predecessor. The ruling by the five-judge appeal court also inhibited him somewhat. Judge Hugh Locke had imposed numerous restrictions on free expression by the witnesses and experts for the defense. For example, he forbade me to use any of the photos I had taken at Auschwitz. I had no right to use arguments of a chemical, cartographical, or architectural nature (even though I had been the first person in the world to publish the plans for the Auschwitz and Birkenau crematories). I was not allowed to talk about either the American gas chambers or the aerial reconnaissance photos of Auschwitz and Birkenau. Even the testimony of the eminent chemist William Lindsey was cut short. Judge Ronald Thomas did allow the defense more freedom, but at the outset of the trial, he made a decision, at the request of the prosecution, that would tie the hands of the jury.

### Judge Thomas’s Judicial Notice

In Anglo-Saxon law, everything must be proved except for certain absolutely indisputable evidence (“The capital of Great Britain is London,” “day follows night”... ) The judge can take “judicial notice” of that kind of evidence at the request of one or the other of the contending parties;

Prosecuting Attorney John Pearson asked the judge to take judicial notice of the Holocaust. That term then has to be defined. It is likely that, had it not been for the intervention of the defense, the judge could have defined the Holocaust as it might have been defined in 1945/46. At that time, the “genocide of the Jews” (the word “Holocaust” was not used) could have been defined as “the ordered and planned destruction of six million Jews, in particular by the use of gas chambers.”

The problem for the prosecution was that the defense advised the judge that, since 1945/46, there have been profound changes in the understanding of Exterminationist historians about the extermination of the Jews. First of all, they no longer talk about an extermination but about an attempted extermination. They have also finally admitted that “in spite of the most scholarly research” (Raymond Aron, Sorbonne Convention, 2 July 1982), no one has found any trace of an order to exterminate the Jews. More recently, there has been a dispute between the “intentionalists” and the “functionalists.” Both agree that they have no proof of any intent to exterminate, but “intentionalist” historians nevertheless believe that one must assume the existence of that intent, while “functionalist” historians believe that the extermination was the result of individual initiatives, localized and anarchic: in a sense, the activity created the organization! Finally, the figure of six million was declared to be “symbolic” and there have been many disagreements about the “problem of the gas chambers.”

Obviously surprised by this flood of information, Judge Ronald Thomas decided to be prudent and, after a delay for reflection, decided on the following definition; the Holocaust, he said, was “the extermination and/or mass-murder of Jews” by National Socialism. His definition is remarkable for more than one reason. We no longer find any trace of an extermination order, or a plan, or “gas chambers,” or six million Jews or even millions of Jews. This definition is so void of all substance that it no longer corresponds to anything real. One cannot understand the meaning of “mass-murder of Jews.” (The judge carefully avoided saying “of the Jews.”) This strange definition is itself a sign of the progress achieved by Historical Revisionism since 1945.

### Raul Hilberg Refuses to Appear Again

One misfortune awaited Prosecutor John Pearson: Raul Hilberg, in spite of repeated requests, refused to appear again. The defense, having heard rumors of an exchange of correspondence between Pearson and Hilberg, demanded and got the publication of the letters they exchanged and in particular of a “confidential” letter by Hilberg which did not hide the fact that he had some bitter memories of his

cross-examination in 1985. He feared being questioned again by Douglas Christie on the same points. To quote the exact words of his confidential letter, Hilberg wrote that he feared “every attempt to entrap me by pointing out any seeming contradiction, however trivial the subject might be, between my earlier testimony and an answer that I might give in 1988.” In fact, as I have already mentioned, Hilberg had committed perjury and he may have feared being charged with that crime.

#### Christopher Browning, Prosecution Witness

In place of Hilberg there came his friend Christopher Browning, an American professor who specializes in the Holocaust. Admitted as an expert witness (and paid for several days at the rate of \$150 per hour by the Canadian taxpayer), Browning tried to prove that the Harwood pamphlet was a tissue of lies and that the attempt to exterminate the Jews was a scientifically established fact. He had cause to regret the experience. During cross-examination, the defense used his own arguments to destroy him. In the course of those days, people saw the tall and naive professor, who had strutted while he stood testifying, seated, shrunken in size, behind the witness stand like a schoolboy caught in a mistake. With a faint and submissive voice, he ended up acknowledging that the trial had definitely taught him something about historical research.

Following the example of Raul Hilberg, Browning had not examined any concentration camps. He had not visited any facility with “gas chambers.” He had never thought of asking for an expert study of the “weapon of the crime.” In his writings he had made much of homicidal “gas vans,” but he was not able to refer to any authentic photograph, any plan, any technical study, or any expert study. He was not aware that German words like “Gaswagen,” “Spezialwagen,” “Entlausungswagen” (delousing van) could have perfectly innocent meanings. His technical understanding was nil. He had never examined the wartime aerial reconnaissance photos of Auschwitz. He was unaware of all the tortures undergone by Germans, such as Rudolf Hoss, who had spoken of gassings. He knew nothing of the doubts expressed about some of Himmler’s speeches or about the Goebbels diary.

A great follower of the trials of war criminals, Browning had only questioned the prosecutors, never the defense lawyers. His ignorance of the transcript of the Nuremberg trial was disconcerting. He had not even read what Hans Frank, former Governor General of Poland, had said before the Nuremberg tribunal about his “diary” and about “the extermination of the Jews.” That was inexcusable! As a matter of fact, Browning claimed to have found irrefutable proof of the existence of a policy of exterminating the Jews in the Frank diary. He had discovered one incriminating sentence. He did not know that Frank had given the Tribunal an explanation of that kind of sentence, chosen beforehand from the hundreds of thousands of sentences in a personnel and administrative journal of 11,560 pages. Fur-

thermore, Frank had spontaneously turned over his “diary” to the Americans when they came to arrest him. The sincerity of the former Governor General is so obvious to anyone who reads his deposition that Christopher Browning, invited to hear the content, did not raise the least objection. One last humiliation awaited him.

For the sake of his thesis, he invoked a passage from the well-known “protocol” of the Wannsee conference (20 January 1942). He had made his own translation of the passage, a translation that was seriously in error. At that point, his thesis collapsed. Finally, his own personal explanation of a “policy of the extermination of the Jews” was the same as Hilberg’s. Everything was explained by the “nod” of Adolf Hitler. In other words, the Führer of the German people did not need to give any written or even spoken order for the extermination of the Jews. It was enough for him to give a “nod” at the beginning of the operation and, for the rest, a series of “signals.” And that was understood!

#### Charles Biedermann

The other expert called by the prosecution (who had taken the stand before Browning) was Charles Biedermann, a Swiss citizen, a delegate of the International Committee of the Red Cross (ICRC) and, most importantly, the director of the International Tracing Service (ITS) in Arolsen, West Germany. The ITS has an unbelievable wealth of information about the fate of individual victims of National Socialism and, in particular, of former concentration camp inmates. I believe that it is at Arolsen that one could determine the real number of Jews who died during the war.

The prosecution did not benefit from this expert’s testimony. On the contrary, the defense scored numerous points on cross-examination. Biedermann recognized that the ICRC had never found any proof of the existence of homicidal gas chambers in the German camps. The visit by one of its delegates to Auschwitz in September 1944 had done no more than conclude the existence of a rumor on that subject. To his embarrassment, the expert was obliged to admit that he was wrong in attributing to the National Socialists the expression “extermination camps.” He had not noticed that this was a term coined by the Allies.

Biedermann said that he was not familiar with the ICRC reports on the atrocities undergone by the Germans just before and just after the end of the war. In particular, he knew nothing about the terrible treatment of many German prisoners. It would seem that the ICRC had nothing about the massive deportations of German minorities from the east, nothing on the horrors of the total collapse of Germany at the very end of the war, nothing about summary executions and, in particular, the massacre by rifle, machine gun, shovels and pickaxes, of 520 German soldiers and officers who had surrendered to the Americans at Dachau on April 29, 1945 (even though Victor Maurer, ICRC delegate, was apparently there).

The International Tracing Service included among those “persecuted” by the Nazis even indisputably criminal pris-

oners in the concentration camps. He relied on the information supplied by a Communist organization, the "Auschwitz State Museum." Beginning in 1978, in order to prevent all Revisionist research, the International Tracing Service closed its doors to historians and researchers, except for those bearing a special authorization from one of the ten governments (including that of Israel) which oversee the activity of the International Tracing Service. Henceforth the Tracing Service was forbidden to calculate and publish, as it had done until then, statistical evaluations of the number of dead in the various camps. The annual activity reports could no longer be made available to the public, except for their first third, which had been of no interest to researchers.

Biedermann confirmed a news story that had filtered out in 1964 at the Frankfurt trial: at the time of liberation of Auschwitz, the Soviets and the Poles had discovered the death register of that complex of 39 camps and sub-camps. The register consisted of 38 or 39 volumes. The Soviets keep 36 or 37 of those volumes in Moscow while the Poles keep two or three other volumes at the "Auschwitz State Museum," a copy of which they have furnished to the International Tracing Service in Arolsen. But neither the Soviets nor the Poles nor the International Tracing Service authorize research in these volumes. Biedermann did not even want to reveal the number of dead counted in the two or three volumes of which the ITS has a copy. It is clear that, if the content of the death register of Auschwitz were made public, it would be the end of the myth of the millions of deaths in the camp.

#### No "Survivor" Witnesses for the Prosecution

The judge asked the prosecutor if he would call any "survivors" to the witness stand. The prosecutor answered no. The experience of 1985 had been too embarrassing. The cross examination had been devastating. It is regrettable that at the trial of Klaus Barbie in France in 1987 and at the trial of John Demjanjuk in Israel in 1987-1988, no defense lawyer has followed Douglas Christie's example in the first Zündel trial (1985): Christie had shown that by carefully questioning witnesses about the gassing process itself, one could destroy the very foundation of the "extermination camp" myth.

#### The Witnesses and Experts for the Defense

Most of the witnesses and experts for the defense were as precise and concrete as people like Hilberg or Browning had been imprecise and metaphysical. The Swede Ditlieb Felderer showed about 380 slides of Auschwitz and of the other camps in Poland. The American, Mark Weber, whose knowledge of the documents is impressive, engaged in clarifications of several aspects of the Holocaust, in particular the Einsatzgruppen.<sup>1</sup> The German Tiudar Rudolph dealt

with the Lodz ghetto and visits by the ICRC delegates at the end of 1941 to Auschwitz, Majdanek and other camps.

Thies Christophersen had been in charge of an agricultural research enterprise in the Auschwitz region in 1944. He visited the Birkenau camp several times to requisition personnel there and never noticed the horrors usually described. On the witness stand he repeated point by point what he had written about the camp, starting in 1973 with a 19-page report (*Kritik*, Nr. 23, pp. 14-32). The Austrian-born Canadian Maria Van Herwaarden was interned at Birkenau starting in 1942. She saw nothing, either close up or from a distance, that resembled mass murder, although she confirmed that many of the inmates had died of typhus. The American Bradley Smith, a member of a "Committee for Open Debate on the Holocaust," spoke about his experience in more than 100 question-and-answer interviews on American radio and television on the Holocaust issue.

The Austrian Emil Lachout commented on the famous "Muller Document," which, since December 1987, has thrown the Austrian authorities into disarray. The document, dated October 1, 1948, revealed that even then, Allied commissions of inquiry had already rejected the stories of homicidal "gassings" in a whole series of camps, including Dachau, Ravensbrück, Struthof (Natzweiler), Stutthof (Danzig), Sachsenhausen, and Mauthausen (Austria). The document specifically confirms that confessions of Germans had been extorted by torture and that testimonies by former inmates were false.

Dr. Russell Barton recounted his horrified discovery of the camp at Bergen-Belsen at the time of liberation. Until that moment he had believed in a deliberate program of extermination. Then he noted the fact that, in an apocalyptic Germany, the piles of corpses and the walking skeletons were the result of the frightful conditions of an overcrowded camp, ravaged by epidemics, and almost entirely deprived of medicine, food, and water because of Allied bombings.

The German Udo Walendy outlined the many forgeries he had discovered, in wartime atrocity photographs and other documents, either altered or forged by a team headed by a British propagandist called Sefton Delmer. J.G. Burg, a Jew who lives in Munich, told of his experiences in the war and confirmed that there had never been any policy for the extermination of the Jews by the Nazis.

Academics like the Chinese professor Dr. K.T. Fann, a Marxist, and Dr. Gary Botting, who lost his teaching position at Red Deer College (Alberta) as a result of testifying at the Zündel trial in 1985, testified that the Harwood booklet was essentially a work of opinion, and hence not subject to legal prohibition. Jürgen Neumann, a close associate and friend of Zündel, testified as to Zündel's state of minds when the booklet first was published. Ernst Neilsen testified on the obstacles he encountered at the University of Toronto to open research on the Holocaust. Ivan Lagacé,

history of Revisionism; and the concessions made year after year by the Exterminationists to the Revisionist viewpoint.

<sup>1</sup> Weber also clarified the meaning of the term "Final Solution" (emigration or deportation, but never extermination of Jews): the testimony of Judge Konrad Morgen; the tortures of Rudolf Höss and Oswald Pohl; the true

director of the crematory at Calgary, demonstrated the practical impossibility of the numbers alleged by Hilberg to have been cremated at Auschwitz.

For my part, I appeared as an expert witness for nearly six days. I concentrated particularly on my investigations of the American gas chambers. I recalled that Zyklon B is essentially hydrocyanic acid and that it is with this gas that certain American penitentiaries execute those who have been condemned to death.

In 1945 the Allies should have asked specialists on American gas chambers to examine the buildings, at Auschwitz and elsewhere, which were supposed to have been used to gas millions of people. Since 1977, I have had the following idea: when one deals with a vast historical problem like that of the reality or the legend of the Holocaust, one must strive to get to the core of the problem; In this case the central problem is Auschwitz and the core of that problem is a space of 275 square meters: the 65 square meters of the "gas chamber" of crematorium I at Auschwitz and, at Birkenau, the 210 square meters of the "gas chamber" of crematorium II. In 1988, my idea remained the same: let us have expert studies of those 275 square meters and we will have an answer to the vast problem of the Holocaust! I showed the jury my photos of the gas chamber at the Maryland State Penitentiary in Baltimore as well as my plans for the Auschwitz gas chambers and I underlined the physical and chemical impossibilities of the latter ones.

#### A Sensational Turn of Events: The Leuchter Report

Ernst Zündel, in possession of the correspondence I had exchanged in 1977-78 with the six American penitentiaries outfitted with gas chambers, gave attorney Barbara Kulaszka the job of getting in touch with the chief wardens of those penitentiaries in order to see if one of them would agree to appear in court to explain how a real gas chamber operates. Bill Armontrout, chief warden of the penitentiary at Jefferson City (Missouri), agreed to testify and in doing so pointed out that no one in the USA was more knowledgeable about the functioning of gas chambers than Fred A. Leuchter, an engineer from Boston. I went to visit Leuchter on February 3 and 4, 1988. I found that he had never asked himself any questions about the "gas chambers" in the German camps. He had simply believed in their existence. After I began to show him my files, he became aware of the chemical and physical impossibility of the German "gassings" and he agreed to examine our documents in Toronto.

After that, at Zündel's expense, he left for Poland with a secretary (his wife), a draftsman, a video-cameraman and an interpreter. He came back and drew up a 192-page report (including appendices). He also brought back 32 samples taken, on the one hand, from the crematories of Auschwitz and Birkenau at the site of the homicidal "gassings" and, on the other hand, in a disinfection gas chamber at Birkenau. His conclusion was simple: there had never been any homicidal gassings at Auschwitz, Birkenau, or Majdanek.

On April 20 and 21, 1988, Fred Leuchter appeared on the witness stand in the Toronto courtroom. He told the story of his investigation and presented his conclusions. I am convinced that during those two days I was an eyewitness to the death of the gas chamber myth, a myth which, in my opinion, had entered its dead throes at the Sorbonne colloquium on "Nazi Germany and the Extermination of the Jews" (June 29 to July 2, 1982), where the organizers themselves began to grasp that there was no proof of the existence of the gas chambers.

In the Toronto courtroom emotions were intense, in particular among the friends of Sabina Citron. Ernst Zündel's friends were also moved, but for a different reason: they were witnessing the veil of the great swindle being torn away. As for me, I felt both relief and melancholy: relief because a thesis that I had defended for so many years was at last fully confirmed, and melancholy because I had fathered the idea in the first place. I had even, with the clumsiness of a man of letters, presented physical, chemical, topographical and architectural arguments which I now saw summed up by a scientist who was astonishingly precise and thorough.

Would people one day remember the skepticism I had encountered, even from other Revisionists? Just before Fred Leuchter, Bill Armontrout had been on the witness stand, where he confirmed, in every detail, what I had said to the jury about the extreme difficulties of a homicidal gassing (not to be confused with a suicidal or accidental gassing). Ken Wilson, a specialist in aerial photographs, had shown that the homicidal "gas chambers" of Auschwitz and Birkenau did not have gas evacuation chimneys, which would have been indispensable. He also showed that I had been right in accusing Serge Klarsfeld and Jean-Claude Pressac of falsifying the map of Birkenau in the Auschwitz Album (Seuil Publishers, 1983, p. 42). Those authors, in order to make the reader believe that groups of Jewish women and children surprised by the photographer between crematories II and III could not go any farther and were thus going to end up in the "gas chambers" and those crematories, had simply eliminated from the map the path which, in reality, led up to the "Zentralsauna," a large shower facility (located beyond the zone of the crematories), where those women and children were actually going.

James Roth, director of a laboratory in Massachusetts, then testified on the analysis of the 32 samples, the origin of which he was unaware of: all the samples taken in the homicidal "gas chambers" contained a quantity of cyanide which was either unmeasurable or infinitesimal, while the sample from the disinfection gas chamber, taken for comparison's sake, contained an enormous amount of cyanide (the infinitesimal quantity detected in the former case can be explained by the fact that the supposed homicidal gas chambers were in fact morgues for preserving bodies; such morgues could have been occasionally disinfected with Zyklon B).



### David Irving

The British historian David Irving enjoys great prestige. Zündel thought of asking him to testify, but there was a problem: Irving was only partly a Revisionist. The thesis that he defended, for example, in *Hitler's War* (New York, The Viking Press, 1977) can be summed up as follows: Hitler never gave an order for the extermination of the Jews; at least up to the end of 1943 he was kept in ignorance of that extermination; only Himmler and a group of about 70 or so persons were aware of it; in October 1944 Himmler, who wanted to get into the good graces of the Allies, gave an order to cease the extermination of the Jews.

I had met Irving in Los Angeles in September of 1983 at the annual convention of the Institute for Historical Review, where I challenged him by asking several questions about proof to support his thesis. Then I published an article entitled "A Challenge to David Irving" in *The Journal of Historical Review* (Winter 1984, pp. 289-305; and Spring 1985, p. 8 and 122). I tried to convince this brilliant historian that logically he could no longer be satisfied with a semi-Revisionist position. To begin with, I challenged him to produce Himmler's order to stop the extermination, an order which never actually existed. Later on, I learned from various sources that Irving was undergoing a change that moved him in the direction of Revisionism.

In 1988, Zündel became convinced that the British historian was only waiting for a decisive event to take a final step in our direction. After arriving in Toronto, David Irving discovered in rapid succession the Leuchter report and an impressive number of documents that Zündel, his friends and I had accumulated over the course of several years. The last reservations or the last misunderstandings

melted away in the course of a meeting. He agreed to testify on the stand. In the opinion of those who were present at the two trials (1985 and 1988), no single testimony, except that of Fred Leuchter, caused such a sensation. For more than three days, David Irving, engaging in a sort of public confession, took back all that he had said about the extermination of the Jews and without reservation adopted the Revisionist position. With courage and honesty, he showed how an historian can be brought to revise profoundly his views on the history of the Second World War.

### The Zündel Story

Ernst Zündel had promised that his trial would be "the trial of the Nuremberg Trial" or "the Stalingrad of the 'exterminationists.'" The unfolding of those two long trials proved him right, even though the jury, "instructed" by the judge to consider the Holocaust as an established fact "which no reasonable person can doubt," finally found him guilty. Zündel has already won. It remains for him to make it known to Canada and to the entire world. The media black-out of the 1988 trial was almost complete. Jewish organizations campaigned vigorously for such a blackout, and even went so far as to say that they did not want an impartial account of the trial. They did not want any account of it at all. The paradox is that the only publication which reported relatively honestly about the trial was *The Canadian Jewish News*.

Ernst Zündel and the Leuchter report have left a profound mark on history; both will be remembered for many years to come.

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First published in *The Journal of Historical Review*, Vol. 8, No. 4 (winter 1988), pp. 417-431.

IN THE DISTRICT COURT OF ONTARIO  
BETWEEN:  
HER MAJESTY THE QUEEN  
— and —  
ERNST ZUNDEL

BEFORE: The Honourable Judge H.R. Locke and a Jury

APPEARANCES:

P. Griffiths, Esq. For the Crown  
D. Christie, Esq. For the Accused

The Court House  
361 University Ave.  
Toronto, Ontario  
January 7, 1985 et seq.{1|2}

VOLUME I

**JANUARY 7, 1985**

MR. GRIFFITHS: The matter of Ernst Zundel, Your Honour. Please come forward.

MR. CHRISTIE: Your Honour, my name is Douglas Christie, and I represent Mr. Zundel. I advised my friend by letter on several occasions, and I think it comes as no surprise to him, that at the beginning of these proceedings I intended to raise a Charter argument.

I have written, on December 6th, to the Attorney General for Canada and the Attorney General for Ontario to advise him of my intentions to raise a very simple argument, which was s.2 of the Charter of Rights, the fundamental freedoms expressed therein in relation to s.177. I gather from my learned friend that he has no objection to my raising that argument.

MR. GRIFFITHS: That's quite correct, Your Honour.

MR. CHRISTIE: And I further have had communication with the Deputy Attorney General of Canada, who advised me that he did not particularly wish to be involved, and I think he was in communication with my learned friend as well with respect to this matter.

I intend to speak for about fifteen minutes on that very briefly. Then I propose to make a motion {2|3} with respect to the impanelling of the jury, which will raise some evidence which goes to show why I should be entitled to challenge for cause to try to establish the basis of my challenge, and in view of the evidence that I will lead, it will take approximately an hour and a half. Then I intend to, if I may, mention a couple of other matters, one being that in respect to an expert witness my friend has decided not to call, that I would be either asking for production of that witness at the end of Crown's case, or asking for commission to take his evidence. That, of course, is simply to put the Crown on notice.

Finally, I would be prepared to admit all the facts in the case to get directly to the point, and that, of course, I just intend to advise you of this now so that I can tell you that in respect to the brochure which is the subject of, I think, most of the contention, the brochure being called, "Did Six Million Really Die?", that Mr. Zundel will be admitting publishing that.

In respect to the letter entitled, "The West, War and Islam", Mr. Zundel

will be admitting that he wrote that, that he sent it to certain specific people. So I think the only issue, then, is does that constitute publication. I don't think there are any other facts that {3|4} I can assist you by admitting.

The proof of the falsehood, I think, of the subject matter, then falls to the Crown, and of course we can answer that, as we are prepared to do. And I would be making one other point to assist in explaining my position, I hope, Your Honour, that I will be taking a position in respect to the expert, or purported expert on history, Dr. Hilberg, that in respect to history it is not a subject upon which expert evidence can substitute for evidence of fact. We cannot, in my submission, at least, take expert testimony as to what happened in history because, of course, that is hearsay, as to the facts in the matter, but that would be my position.

Finally, My Lord – Your Honour, my friend indicated that he proposed to call a policeman to prove that my client published the articles, and I think I can assist by removing the necessity for that by admitting, as I have, the facts as I understand them, and as I am instructed to admit them, the publication of, "Did Six Million Really Die?", and the simple statement the author of "The West, War and Islam". So I hope that will obviate the necessity for a voir dire on that matter, at least, and I will leave that to my friend. {4|5}

I can explain, too, that my friend advised me that he wanted a witness to read the entire booklet, "Did Six Million Really Die?" to the jury. I hope that will not be really necessary, because first of all it will come up repeatedly, and my client will come up to the stand. So I hope that will assist my friend to speed matters up. That is my objective. And if I have explained myself simply and clearly, I would like to begin with the brief Charter argument.

THE COURT: Yes, you have. The only thing I have in my mind before I call on Crown for reply, he might have one or two things, first of all, before you commence your argument with respect to the Charter, that the accused might be arraigned – not plead, but arraigned.

MR. CHRISTIE: I see. Yes.

THE COURT: Secondly, would he like to take his coat off and be more comfortable?

MR. CHRISTIE: Yes, Your Honour. There is a question that, in the course of things, many things will arise in the course of the trial. I am well aware of the position we take, but as things develop, I wonder if it

will be possible for my client to sit beside me to discuss things in the course of the case, or do you wish him to sit in the accused's box? {5|6}

THE COURT: I think for the moment he should stay where he is, but as the evidence unfolds, if it does, in such a way that you reasonably require his presence at the table, that bridge can be crossed, and certainly I don't intend to be inflexible along those lines when the time comes.

MR. CHRISTIE: Thank you very much.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour. I appreciate my friend's admissions. I would still intend to lead certain statements to be made by Mr. Zundel, Your Honour. More than those admissions that are made are obtained within those statements, and if that causes a problem, I am prepared to handle them in *voir dire*.

I am obliged to my friend for his candour, and with respect to the other matters in the trial, I am sure that we will have an opportunity to address those as they arise one by one. I am prepared for a Charter argument, Your Honour, as my friend has correctly pointed out.

THE COURT: You agree with respect to my suggestion concerning the arraignment?

MR. GRIFFITHS: Yes, Your Honour. I do.

THE COURT: Arraign the accused. — {6|7}

THE CLERK OF THE PEACE: ERNST ZUNDEL, you stand charged that you did, during the year 1981, at the Municipality of Metropolitan Toronto in the Judicial District of York, did publish a statement or tale that you know is false, namely the article, "The West, War and Islam", and the said article is likely to cause mischief to the public interest in social and racial tolerance, contrary to the Criminal Code.

(2) You stand further charged that you did, in or about the year 1981 at the Municipality of Metropolitan Toronto in the Judicial District of York, did publish a statement or tale, namely, "Did Six Million Really Die?", that you know is false and that is likely to cause mischief to the public interest in social and racial tolerance, contrary to the Criminal Code.

THE COURT: You can be seated, sir.

MR. GRIFFITHS: Your Honour, just one other matter I did neglect. Sergeant Ron Williams will be assisting me at the counsel table and during the trial, and I have introduced him to the Court.

THE COURT: Is there any objection to that?

MR. CHRISTIE: No, I have no objection {7|8} to Mr. Williams being of assistance to my learned friend. I anticipate, at times during the trial, there will be a similar request from my part to have experts during the course of the development of certain matters.

THE COURT: Yes.

MR. CHRISTIE: I would like to raise the issue which came as somewhat of a surprise to me. As I was entering the Courthouse, some people were beaten among people that I was with, and I think that that is a very difficult situation to put upon accused persons when they enter the Courthouse. I am sure Your Honour would agree with that, and I know that the authorities have done their best to prevent that from happening, but I would like to put it on the record that some people were beaten as we entered this Courthouse.

MR. GRIFFITHS: I assure Mr. Christie that I share his concern in that regard. I would just like to advise the Court that four people were arrested who were involved in that matter this morning.

THE COURT: Gentlemen, this trial will proceed in a dignified and orderly manner according to the law. If there is any deviation from that, it will be handled quickly by me within the precincts of this Courtroom. {8|9}

MR. CHRISTIE: Thank you kindly, Your Honour. I think, then, I will just briefly embark on what I hope will be a very short Charter argument.

THE COURT: Thank you.

MR. CHRISTIE: I refer to the United Nations Declaration of Human Rights, Article 19, which says:

*"Everyone shall have the right to freedom of opinion and expression. This right shall include freedom to hold opinion without interference and to seek, receive and impart information and ideas through any media, and regardless of frontiers".*

To the principle, the Government of Canada, I believe, has subscribed. That, of course, was well before the Charter. The Charter probably has enshrined what rights we had previously, one of which is now articulated to be:

*"Everyone has the following fundamental freedoms: freedom of conscience and religion; freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication."*

That is the section of the Charter to which {9|10} I simply refer. Section 177 existed long before the Charter, and I suppose it's true to say that the section has roots that go well before the United Nations Declarations of Human Rights as well, but very simply put, it sounds as if it should be a legitimate restriction upon freedom of speech, but it has implications, in effect. It goes far beyond what, in my submission, as a reasonable limit upon freedom of speech.

There are many cases, of course, in which people might use freedom of speech to the disadvantage of others – might be critical, might create disagreements – but if we are to enshrine freedom of speech only insofar as it is popular, I wonder if we have enshrined freedom of speech at all.

I have heard, of course, being involved in the argument of the same matter in relation to s.178, the position of the Crown to be – in the Keegstra case, for instance – that, well, there must be limits on freedom of speech, and reasonable limits exist by virtue of being in the Criminal Code. My answer to that is, the Criminal Code, and each section of it, must now be tested in relation to the fundamental principles that are supposedly enshrined above the law as it previously was. It is true, of course, that {10|11} these laws that set out the right of freedom of speech are subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. My simple position is that it falls to the Crown to have to demonstrate why s.177 is a reasonable limit that can be demonstrably justified, and I submit so by the Crown, in this our free and democratic society.

Looking at the section:

*"Everyone who wilfully publishes a statement, tale or news that he knows is false and that causes or is likely to cause injury or mischief to a public interest is guilty of an indictable offence and is liable to imprisonment for two years."*

This section, in my respectful submission, is so ill-defined that it creates an inability to know in advance what one is free to say. Who can know with any specificity what is in the public interest? I suppose the answer then comes, they can find out in Courts; but if people's right to speak is limited by a law which has as its criteria or reference point a public interest which is never defined, the degree of apprehension and fear that the {11|12} general public will acquire as a result of having seen Mr. Zundel and others face the situation he's in will produce a great apprehension and fear of speaking out on controversial matters. That is not to say that anything someone says is necessarily polite or necessarily what everyone or anyone might agree with, but it is my submission that unless the law allows criticism of what even may be perceived as the public interest in a Court of law, no one can be free to speak their mind, because they do not know what will be circumscribed.

May I point out another result of this section, and I say it is obviously a limited freedom of speech. How is anyone able to know in advance so that they may not commit a crime that what they say or publish is likely to cause injury or mischief? Well, in view of the fact that most people would rather not wind up in a Court of law, I would suggest that if this section is free to stand, most people will keep quiet about controversial matters. It is true that the Court in the Keegstra case held that there was a reasonable limit against promoting hate, but this Court is unfortunately, by this section, put in the position of having to decide on what is false news.

Now, truth and falsity have been in {12|13} controversy both on matters of fact and history for a long, long time, and what I suggest happens by this section is that Courts, through this section, will be put in an absolutely impossible position of having to decide what is true or false about

something that happened forty years ago in which there's differences of opinion even today, and it is my submission the section is not really legally enforceable. It is a confusing, imprecise and vague limit on freedom of speech which, because it is as I described it, will create a great deal of fear, as I indicated, because people don't like to end up in Court having to justify what they say.

Now, it's true, my friend may reply, well, if they don't prove it, or don't publish it wilfully, or if they can show that it isn't false, or even if the Crown can't prove that it is false, they will be acquitted, and so their freedom of speech is still available to them; but it's not the inevitability of conviction that is dangerous, it is the prosecution, in this section, whenever you speak out to the distaste of this group of people.

How many newspaper publishers, how many book publishers will be caught by this section if it becomes widely used? And it's a very rarely used section, I concede that; but it will become more popular as time goes on and {13|14} people begin to see that if they don't like what somebody publishes, if they can say that it's false without anybody objecting, or if someone can get a charge laid, there will be a prosecution to which the accused has every right to apply, and has the benefit or protection of the law, and I don't hesitate to agree, but they will, nonetheless, be prosecuted.

It's my submission that if we are to have a real sense of freedom of speech and a confidence that we need not fear what we speak, what we believe, or whether we believe matters not at all, that when we speak we do not breach any section of the law, that if it happens to be questionable as to whether what we say is true or false, we can still speak – and many of the controversial issues of our time are disputes as to what is truth and what is falsity – the Court should not be put in a position of having to decide on the truth or falsity of the statements of citizens on all manners of subjects, and included among those such as we are today, dealing with something that is supposed to have happened approximately forty years ago.

In my submission, it is an abuse of the Court's process, in fact, to bring the matter into a Court of law as we are now, and to rehash history, and to deal with {14|15} it as if the truth of any particular matter that long ago, that widespread, can be dealt with by this Court or, really, any Court.

I think I've said all I wish to about freedom of speech, Your Honour.

THE COURT: Thank you. Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

Your Honour, my friend started off by quoting s.19 – Article 19 of the International Covenant, and in fact Article 19 is divided into three parts, and he quoted to you from the second part:

*"Everyone shall have the right to freedom of opinion and expression. This right shall include freedom to hold opinion without interference and to seek, receive and impart information and ideas through any media, and regardless of frontiers, either orally, in writing or in print in the form of art or through any other media of its choice."* {15|16}

Part 3 of Article 19, Your Honour, modifies that as follows:

*"The exercise of the rights provided for in paragraph 2 of this Article carries with it special duties and responsibilities. It may, therefore, be subject to certain restrictions, but these shall only be such as are provided by law and are necessary*

*(a) for the respect of the rights or reputation of others;*

*(b) for the protection of national security or of public order, or of public health or morals."*

Article 20, Your Honour, of that International Covenant, goes on in two parts to provide, Part 1:

*"Any propaganda for war shall be prohibited by law."*

Part 2:

*"Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law."* {16|17}

That International Covenant, Your Honour, clearly recognizes that there are limits to the freedom of speech.

As my friend rightly indicated, the matter of Keegstra, which was of a

very similar nature, was argued before Mr. Justice Quigley in Alberta – the case of R. v. Keegstra, which is still unreported. In that case, Your Honour, a pre-trial motion was brought before the Justice to deal with Charter issues and certain other pre-trial matters. Mr. Justice Quigley, in a judgment that runs some thirty-eight pages, passionately, at times, and eloquently and, I would submit, correctly analyzes the state of our law with respect to these matters. It deals, Your Honour, more specifically with s.281.1 of the Code dealing with hate propaganda. However, since this is a motion, Your Honour, brought at this stage of the trial to declare s.177, as it reads in the Code, unconstitutional, I would suggest that before it can be declared unconstitutional, all the various uses to which that section can be put must also be improper, or unconstitutional.

One of the uses to which that section can be put is before Your Honour today – a matter where the publishing of certain material is such that the public {17|18} interest and social tolerance between groups is adversely affected – very similar to the hate propaganda section, this particular charge, which is one of the charges that can be properly laid, one of the fact situations that can be properly brought within the terms of s.177.

Your Honour, I commend the reasoning of Mr. Justice Quigley to you. He divides the problem into two parts. Now, the first part of his judgment deals with the question of whether there is any limit to freedom of expression by s.281.1. Before deciding whether the limit is reasonable and proper, he considers whether, in fact, it constitutes any limit, and in that regard he considers and reviews the cases of Reference Re Alberta Legislation from 1938, page 5 of his decision, and the National Citizens Coalition under the Charter. He reviews as an authority The Special Committee on Hate Propaganda in Canada that, as Your Honour may recall, was chaired by Dean Maxwell Cohen of McGill Law School back in the sixties and had people on the committee such as the former Prime Minister, the former Justice Minister, now His Honour Judge MacGuigan. His Honour also considers certain cases from the United States.

We now have a Charter, and quite properly, look to it not to be bound, but for some guidance of how that {18|19} jurisdiction deals with this matter, and in particular, the case of Beauharnais v. The State of Illinois, which is found on page 12 of his judgment, certain experts from it going to page 13. That decision indicates that libellous utterances are not within the area of constitutionally protected free speech.

Well, I would suggest to Your Honour that lies are not within the area. Knowing falsehoods that cause damage to a public interest are also not within that area of constitutionally protected free speech. Mr. Justice Quigley goes on to examine the preamble of the Bill of Rights, and the specific words of the Charter of Rights, and finds that, in fact, the law as it existed in Canada at the time that the Charter of Rights was put into effect was being confirmed by the Charter of Rights, and the law as it existed in Canada, and certainly as it existed in the International Covenant, is the law well of the as international community of democracies, and is such that there are limits to the freedom of speech.

There are ab initio, from the beginning, absolute freedom of speech, absolute freedom in anything, and for one man who imports absolute slavery for another man – to protect us all there are some limits that are required, limits {19|20} that come within that basic definition of freedom of expression, without having reference to s.1 of the Charter.

Mr. Justice Quigley indicates that he finds that the hate propaganda section comes within those limits – I'm sorry, is something that deals with expressions that are excluded from the phrase "freedom of expression". He indicated that if he was wrong in that regard, he went on to consider whether or not it was a limit that was reasonable in a free and democratic society under s.1 of the Charter. He indicated that there are three areas to be considered when looking at s.1. First of all, whether it was a matter proscribed by law – it is a limit proscribed by law. We know it is in s.177. That is the limit proscribed by law; so that is the criteria. Whether it is a reasonable limit demonstrably justified in a free and democratic society. If Your Honour holds that s.177 does

limit freedom of expression, then the onus would be on me, the Crown, to satisfy you that s.1 should apply, since I am raising that issue.

There have been a number of court decisions in Canada where some consideration has been taken of what a reasonable limit is. Chief Justice Evans of our Supreme Court in *Re Federal Republic of Germany v. Rauca* and this is cited at page 25 of the Quigley judgment, {20|21} reported at 1983, 141 D.L.R. (3d) – I'm sorry, Volume 141 D.L.R. (3d) page 412, at 423, says as follows:

*"The phrase 'reasonable limits' in section 1 imports an objective test of validity. It is the Judge who must determine whether the 'limit' as found in legislation is reasonable or unreasonable. The question is not whether the Judge agrees with the limitation but whether he considers that there is a rational basis for it – a basis that would be regarded as being within the bounds of reason by fair minded people accustomed to the norms of a free and democratic society. This is the crucible in which the concept of reasonableness must be tested."*

The judgment goes on to also look at some factors as to reasonableness, at page 27, as a guideline for a court to consider.

THE COURT: Are we looking at —

MR. GRIFFITHS: I'm sorry, not Mr. Justice Evans, Your Honour. sorry. It's Quigley's. And {21|22} that is the objective or rational basis for the limitation, rationality of it, the extent to the limitation which is to be balanced against its rationality and the laws and practices in other jurisdictions generally regarded as free and democratic societies for comparison.

We have already considered the international community for comparison which suggests that that is a proper limit. As to its rationality, Your Honour, I'd suggest that it would not be entirely rational to permit, not false news to be published, but influences that the publisher knows is false at the time of publishing. These are wilful, deliberate lies being published that cause a mischief to a public interest.

There is a very helpful article, Your Honour – at least, I found it helpful – in the Canadian Bar Review, Volume 30, at page 37, entitled, "Publishing false news", written about 1952 by Professor F.R. Scott from the University of McGill, Montreal, where Professor Scott analyzes the false news section, gives some of the history of that section, and indicates some of what he expects to be the possible future of the section, and I would rely on that article, Your Honour, as an indicator of the rationality of this section. The page numbers are chopped off. Page 44, {22|23} Your Honour, just towards – there is a long paragraph in the middle of the page down, and the last couple of sentences in that paragraph, starting at Footnote No. 30, the inclusion of the word "tale" as well as "news" suggests that something more than stories of current events are intended. To take a specific example, the publication of the protocols of the elders of Zion by someone knowing the fact that they are forgery, would clearly be the publication of a false tale. It cannot be considered news, for the book purports to tell what happened at a secret meeting of Zionists.

Page 47, Your Honour, including the paragraph that Professor Scott writes, he says one final question of more immediate importance deserves consideration. 'Would s.136 make illegal false and libellous statements about a race or group of persons? It has been pointed out already that these publications can constitute a criminal libel known to the law apart from s.136. There seems no reason to suppose that they might not also be the crime of false news and mischief to the public interest for the maintenance of rational and religious harmony in Canada. Attacks on races or religious groups taking the form of extreme opinion and comment only would not be within the scope of the section. {23|24}

And that seems to be the concern of Mr. Christie, that people would be worried about extreme opinions; but if the attack concerns statements of fact known to be false, all the elements of the crime would seem to exist, and that is really the rationality, Your Honour, of the section and, indeed, of this prosecution, that this isn't just an unpopular opinion.

It's not Crown's position that this is an unpopular opinion, but it is an opinion that is presented as truth when it is false, and it is known to be false by the publisher. That is not enough. Not only must it be wilfully

published, but it must also cause some damage to the public interest.

I would respectfully suggest, Your Honour, that the criteria set out as to what is a reasonable limit are met, that there is a rationality, that those various elements of the offence that I have just referred to indicate proportionality. It is not every false statement that comes within this section, and it is a law such as one would expect to find in a free and democratic society, as indicated by the International Covenant and the restrictions that are placed by the International Community on the freedom of expression. {24|25}

MR. CHRISTIE: Brief reply, Your Honour. I submit that my friend says this is a reasonable limit such as is ordinarily acceptable in a free and democratic society, but I point out the distinction in the Keegstra case was that the Crown demonstrated to the satisfaction of His Lordship, Mr. Justice Quigley, that in other jurisdictions including England, Australia, Denmark, Federal Republic of Germany, France, Greece, India, Netherlands, Norway, Sweden and four States of the United States of America, similar legislation existed.

My friend, I would submit, has not demonstrated one such instance in respect to the allegation of a publication of false tale or news, whether wilfully or knowingly, or likely to cause injuries or otherwise. I suggest that that is a fairly significant distinction.

I point out further that, as I said earlier, my friend – I think Crown, in the Keegstra case and here, has taken the position by quoting from articles previous to the Charter that nothing has changed, that the Charter has not made any significant difference in respect to the matter of what is a lawful limit to freedom of speech, because they quote Professor Scott as if it was today. That was 1952, I believe, a long time ago. Now, if our law has {25|26} not changed as a result of the Charter, my friend is right, but if I am right that the Charter has given us certain freedoms, then I don't think the Article of 1952 is a helpful or binding criterion.

Now, my friend referred to the various points that Mr. Justice Quigley considered – rationality being one – and in his analysis of rationality he did point out that hatred, per se, was something that was identifiable in a sense. However, that judgment stands. No one can say that truth or falsity is somehow identifiable a priori until we go to Court and find out what the jury decides is the truth.

My submission is, too, that it is not the danger of conviction that imposes silence on the citizens of a country. It is the fear of prosecution, and it may very well be legitimate to prosecute those that promote hate. That is not the issue. Mr. Justice Quigley dealt with that issue. The issue is publishing something false.

My friend says it must be true that every possible application of the section would be unconstitutional. There may be some people who constitutionally could be prosecuted under the section; but there are many who, though they might be acquitted in the end, who will be {26|27} dissuaded from speaking out in such a manner that is far beyond the proportion of damage that can ever be done from a truth being told.

Let our constitution be a safety from which error of opinion can be tolerated when freedom of expression can be free. In other words, if someone tells a lie, there's lots of freedom in society for the truth tellers, because they have every right to speak, as everybody else, and in a free and democratic society, in the proper debate that takes place on issues every day; and if the State imposes a limit on that freedom, it creates, in my submission, far more damage to freedom of speech than any falsehood ever could.

THE COURT: Thank you, gentlemen. It will take more than a few minutes for me to read thirty-eight pages of Mr. Justice Quigley's reasons and the other material referred.

I have in mind, it now being eleven o'clock, I have in mind that the earliest I can come to any conclusions on this motion would be two-thirty this afternoon. Is that convenient? {27|28}

MR. CHRISTIE: Yes, Your Honour. It certainly is. I was of a mind to suggest – and I don't know if this is a practical suggestion, that I could proceed with a motion which I intended to try and raise, and Your Hon-

our could reserve on that point to such time as Your Honour felt you wished to decide.

THE COURT: What is the motion all about?

MR. CHRISTIE: The motion is to put before you evidence that would bring me within the ambit of the cases pertaining to challenge for cause, specifically the *R. v. Hubert* case which, I think, the Ontario Court of Appeal has enunciated what my rights are.

I think I certainly agree with my friend, I believe, who is involved in that case. That was a definitive position on law, but the Supreme Court of Canada has ratified that. It is a very helpful case for trial judges.

I wanted to put before you evidence of pre-trial publicity in newscasts against my client – fairly extensive. I also wanted to place before you what may be, in fact, a rather novel issue of whether I ought to be entitled to raise questions pertaining to the prejudice of particular groups against my client. That would involve {28|29} evidence that the issue that is to be debated in this Article, the essential thesis of, “Did Six Million Really Die?”, for instance, is a matter upon which certain groups in society would find it very difficult to be objective, because it involves them.

Now, if that was Anglicans or Catholics or any groups whatsoever, it wouldn't matter to me whether it was religion or any group, if it was a group whose essential interest is at stake, I think it would be difficult for them to be objective as to the issues in question. So where there's a high degree of publicity against my client's interests, and against the position taken in the Article, it would demonstrate that we should be entitled to challenge for cause those who have firmly fixed opinions of which it will be difficult for them to disabuse their mind.

I would like to lay before you evidence that shows that the issue has been, from one point of view, extensively presented in the media and that, therefore, I would hope to be able to argue that there is reason to believe that those people, maybe many, maybe few, but I think most, have a very firmly fixed idea on the matter. So I should be entitled to ask of the prospective juror, “Can you look objectively on this issue and decide this case on the {29|30} evidence in Court, putting from your mind all the opinions you may have acquired from what I will show you exists in the media?” That is the second part of my motion.

So I will be producing evidence pertaining to my client in the media, and evidence of very negative views of the position taken in the Article. That's what I would like to do. And to enable me to do that, I have video tapes of newscasts, and I have them here. I have the television set and the player. I would call my client and ask him to explain, “What is this?”, “What took place here?”. I would then show you certain media presentations of the very issue in this Article that are very strongly against the position taken in this Article, and I would ask you to find, then, that – I have fourteen copies for my friend and the jury: he said he didn't have more than one and I agreed to produce fourteen copies so that Your Honour can have one, my friend, and the jury. I would like to produce evidence that we must try – it will be difficult to find, and we must try to hope to find a jury that will be prepared to put out of its mind what the media has often presented on this issue. Very fairly, that is what I would like to put before you. {30|31}

THE COURT: Have you compiled the questions that, if you are permitted to do so, you are prepared to put to every juror?

MR. CHRISTIE: Yes, I have, Your Honour, and I have attempted to work out an agreement with my friend, and we came close to agreement, but my friend takes the view that my questions are not ones that he can agree to, and I should be able to give them to you and maybe you can look at them while taking a break, and I can have this set up to enable me to produce the evidence that I propose, then I can give you all the questions that I would be endeavouring to ask of prospective jurors.

THE COURT: Just before you sit down, Mr. Christie, you should know that my manner in conducting jury trials is, I hope, well-known. I am in the usual habit, when the jury panel at large is convened in this courtroom, occupying most, if not all, of the seats contained herein, to say to the panel at large in any criminal case, not necessarily just the one at bar, but in anyone where a jury is going to be selected, pretty well all of

the essential elements of what you have submitted here. I can, if you wish – and I don't know that you do at the moment – but I might – I can indicate in more specific detail to the jury panel at {31|32} large, and the fact is that I have found that many prospective jurors, in certain types of cases, are winnowed out without having the use of the challenge at that stage. I have not had problems of other counsel for the defence or for the Crown in that regard. If objection is taken, of course, I would not do it, but you should know that in advance, now, so that that may have some effect on your thoughts as we proceed along these lines.

MR. CHRISTIE: Yes, Your Honour. I had precisely phrased questions which I had hoped Your Honour would ask the general panel, that they would excuse themselves if they held these particular views. I think that was the procedure which was followed by His Lordship – his name, I'm sorry, escapes me – in the *Morgentaler* case, that certain questions were asked generally of the panel. I have the transcript of proceedings.

THE COURT: Associate Chief Justice Parker.

MR. CHRISTIE: I have the transcript as best I could of the proceedings in that case, and I hope to follow the similar procedure, if I can give that to Your Honour now.

THE COURT: I should add that very {32|33} often it is the view of counsel that, subject to what I say, the somewhat tedious and long process of challenge for cause is avoided, and in addition to that, judicial rulings on the basis of *R. v. Hubert* becomes unnecessary.

MR. CHRISTIE: Yes, I can see that potentially prejudiced people can excuse themselves without going through a person-by-person examination. I think that highly preferable [sic], although I think there are some questions which I should ask that must be addressed by each person which, regrettably, might lead to some duplication; but I have prepared two categories of questions – one that I would like Your Honour to address to the panel as a whole, the second category of questions I would like to ask each prospective juror, and then, of course, I have four peremptory challenges.

I have provided these to my friend by letter of January 2nd, so he knows what questions I propose to ask. So if I may, I will give you these, Your Honour.

THE COURT: You have seen them, Mr. Griffiths?

MR. GRIFFITHS: I have, Your Honour. I have no objection.

MR. CHRISTIE: And then, if Your Honour {33|34} could assist me with your views of the matter, perhaps, after I have shown what I propose to show – is that expeditious?

THE COURT: Yes.

MR. CHRISTIE: So I will provide these, which are the proposed questions I would like to ask.

MR. GRIFFITHS: Just so I am clear, I don't object to Your Honour seeing the proposed questions. I do object to the proposed questions.

THE COURT: Oh, I know you do.

MR. CHRISTIE: So if this would be, then, appropriate, Your Honour, that I might set up this information, and I will be —

THE COURT: Before you do that, I will hear Mr. Griffiths, not necessarily on any substantive matter contained in the questions, but with respect to what you've just heard from Mr. Christie.

MR. GRIFFITHS: I was aware that Mr. Christie was intending to proceed in that manner, Your Honour. I had no objection if he wishes to produce some material for Your Honour to see on the issue of pre-trial publicity. As I read *R. v. Hubert*, that is a matter that is discretionary, at the discretion of the trial judge. You {34|35} can require to see that material or not. That is up to you whether you do or not. And I really take no position on it one way or the other. I will have some very extensive comments on the questions to be asked, Your Honour, and I don't agree with them, although I can say to Your Honour that questions seven and eight in category two, I think, are the closest to the type of questions that were being asked in the *Morgentaler* case. Question seven is re-worded so that, “Have you, because of any beliefs or opinions you may have, or because of what you have heard, read or seen in the media, formed any opinion as to the guilt or innocence of the accused?”, and then Question 8, whether, “In spite of that,

can you form a verdict based solely on the evidence that you hear in the Courtroom?”

THE COURT: I have not read any of these questions, of course. Is there any question that asks a prospective juror whether he or she has read anything about this case in the media?

MR. GRIFFITHS: No, Your Honour. Questions one through six generally deal with areas where people would have beliefs or particular prejudices. Some of the beliefs are historical, some of them are religious.

I take the position that all of one through {35|36} six are improper.

MR. CHRISTIE: I would like to defer argument upon the matter until we are able to put evidence before Your Honour.

MR. GRIFFITHS: I understand.

THE COURT: Mr. Christie, I cannot come to any conclusion until I have heard all of the submissions, so that subject to that, you can proceed as you shall see fit with respect to setting up any of this equipment. In the meantime, I will read what material I have been provided with.

Does twelve o'clock sound reasonable to you?

MR. CHRISTIE: Yes, sir. To proceed with this motion.

THE COURT: Yes.

— Short adjournment.

— Upon resuming.

MR. CHRISTIE: Your Honour, I didn't want to get into this subject, but I am forced to now. As {36|37} we were coming in this morning, we were all assaulted by a mob – that is, the accused and I – and we were carrying a television set; it was a different one. A new one came in at twelve o'clock. We haven't had a chance to set this one up, but it just indicates, I hope, the effect of the assault upon us, that that television set was broken. So we replaced it, but that is why we can't proceed immediately with what I promised three quarters of an hour ago. I think it indicates the difficulty I am facing. When we were assaulted like that, things happen. I don't mind nearly being hit by flying objects. I don't nearly mind being punished and people snickering, but I don't think it's funny.

MR. GRIFFITHS: I didn't snicker.

MR. CHRISTIE: I didn't suggest my friend was snickering, but I heard snickering. Now, in order not to waste time, I want to do something else, and do this at lunchtime. I have my client ready to give you the clippings and other things, but I will proceed with him. May I do that?

THE COURT: Yes

MR. GRIFFITHS: If I may, Mr. Christie, just before calling your client, I would like to speak to another matter.

— Other matter spoken to. {37|38}

THE COURT: You may proceed.

MR. CHRISTIE: Yes, Your Honour. Thank you.

What I propose to do then, Your Honour, is to lead evidence from the accused as to media coverage, both tape-recorded radio coverage, and newspaper coverage. So I'd like to be able to call the accused to testify where this comes from, please, Your Honour.

THE COURT: Yes. I propose that, no plea having been taken, this is a voir dire prior to trial.

MR. CHRISTIE: Yes, Your Honour.

THE COURT: Do you disagree with that?

MR. CHRISTIE: No, Your Honour, I don't, but I think it's a matter of record, of course.

THE COURT: Certainly it is a matter of record. This is a court of record, and the record is in the person of our reporter, who will take down everything that is being said. I have never done it quite that way before, because on a motion such as this, no evidence ever having been called to my knowledge, I am unaware of any other precedent. That is the way I propose to do it. Otherwise, we will become involved in legal entanglements which, in my respectful view, will do nothing but waste the taxpayers' {38|39} time and money.

MR. GRIFFITHS: That was the procedure that was attempted to be followed in R. v. Hubbard, Your Honour, a doctor having been sworn before a plea, prior to arraignment before a plea.

THE COURT: Swear him on a voir dire.

## ERNST ZÜNDEL, sworn on voir dire

### EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. Mr. Zundel, I believe the first file of newspaper clippings you have pertains to publicity about yourself. Is that correct, sir?

A. That's right.

Q. Could you begin by indicating and filing for Madam Registrar the first article pertaining to yourself, identifying it as to its source and date?

A. It's an article which appeared in the Globe and Mail, October 7, 1983. It is headlined, "Canada called a hub of neo-Nazi literature".

Q. Could you proceed to read any parts referable [sic] to yourself, please, sir?

A. It's the entire article.

Q. Read it, please.

A. Dated, "Ottawa (Canadian press)": {39|40}

*"Canada has become the biggest exporter of anti-Semitism to West Germany because of inadequate controls on hate literature in this country, a parliamentary committee was told yesterday. The Canadian Jewish Congress told the Commons committee on racism that the literature, which is also distributed in Canada, originates from Ernst Zundel of Toronto, under the corporate name Samisdat or Concerned Parents of German Descent. This literature, which Congress officials said has caused considerable concern in West Germany, denies that Nazis killed millions of Jews during the Second World War. Mr. Zundel was prohibited by Canada post from disseminating such literature in 1981, but the ban was lifted a year ago. 'Canada has earned the unenviable reputation in the Federal Republic of Germany as the major source of neo-Nazi materials entering that country,' a Congress brief said."*

The article then goes on and talks about other individuals, churches and so on.

Q. Yes. I think you read that which is referable [sic] to you. Is that right?

A. Yes.

MR. CHRISTIE: Can that be filed? {40|41}

THE COURT: Have you read it, Mr. Griffiths?

MR. GRIFFITHS: No, but I have no objection.

THE COURT: Exhibit A on the voir dire.

— EXHIBIT "A" (Voir Dire) Newspaper article from Globe and Mail dated October 7, 1983.

Q. MR. CHRISTIE: Were you, or have you ever been convicted of purveying literature?

A. No, I have not.

Q. Were you accused of such a thing in West Germany?

A. Yes, I have.

Q. Were you convicted?

A. No. I was cleared in two levels of two courts in Germany.

Q. In Canada were you ever accused of disseminating hate literature?

A. By the media, yes, but not the Court.

Q. Were you charged with hate literature?

A. By the Postal Tribunal, that I asked —

Q. And what happened?

A. I won my case, and it was reinstituted.

Q. Were you allowed to read the reasons for judgment?

A. No.

Q. Have you asked for them?

A. I have asked the Postmaster, Canada Post. I asked Pierre Trudeau, when he was Prime Minister, {41|42} and I have been refused.

Q. You have not seen the reasons for judgment?

A. I have not.

Q. Do you have another article in your possession?

A. I do. It is an article which appeared in the Toronto Sun.

Q. Date, please.

A. Monday, March 30, page 27. It's headlined —

THE COURT: March 30, what year?

THE WITNESS: 1981. It's headlined, "City man link to Nazis". And the

sub-headline reads, "Raids Reveal Right-Wing Network". I'm afraid the type is too small. I can't read that. It's in reduction.

Q. Yes. Proceed to the next article. We will file that, please.

THE COURT: Exhibit B.

THE WITNESS: There is another article on the same piece.

Q. MR. CHRISTIE: Yes.

A. And it's again an article appearing in the Toronto Sun, March 25th, 1981, and again it's headlined, "Metro man branded a Nazi", and sub-headlined, "His Pamphlets Nabbed In W. German Raids". And again, the type is too small. I can't read it.

MR. CHRISTIE: If that can be filed, Your Honour, which is, I believe, B, Your Honour.

THE COURT: Exhibit B, yes. {42|43}

— EXHIBIT "B" on voir dire: Photocopy of newspaper articles from Toronto Sun dated March 30, 1981 and March 25, 1981, respectively.

Q. MR. CHRISTIE: Next title, the date, name and place of publication, and the year.

A. I have an article from the Globe and Mail, Wednesday, June 15, 1983, headlined, "Merchants of tracts should be charged, Liberal tells Tories". It's an article by John Cruickshank.

Q. Are you mentioned in it?

A. Yes, I am.

Q. Read the part that refers to you, please.

A. *"The Ontario Government should prosecute two merchants of 'vicious anti-semitic' tracts who are giving the province the reputation as a national centre for hate literature, Liberal Leader David Peterson says. In the Legislature yesterday, Mr. Peterson called on the Government to consider prosecuting Ron Gostick of Plesherton, Ont., who runs an organization calling itself the Canadian League of Rights, and Ernst Zundel of Toronto and his company, Samisdat Publishing Ltd. The Liberal leader told the Legislature that Mr. Zundel's company has been called 'one of the world's big purveyors of Nazi propaganda.' Attorney-General Roy McMurtry said his {43|44} ministry was monitoring the publications of Mr. Zundel's Samisdat Publishing. 'If we have evidence upon which we have a reasonable chance of a successful prosecution of Mr. Zundel, who we do believe to be behind a lot of the very vicious type of material that has been disseminated, we will certainly encourage the laying of charges and there will be a vigorous prosecution,' Mr. McMurtry said."*

Q. Thank you. Is that all?

A. It goes on about other individuals.

MR. CHRISTIE: Exhibit C, please?

THE COURT: Exhibit C.

— EXHIBIT "C" on voir dire: Photocopy of newspaper article from Globe and Mail dated Monday, June 15, 1983.

Q. MR. CHRISTIE: The next item, the date and the publisher, please.

A. It's the Toronto Sun, Wednesday, June 15, 1983.

Q. Headlined?

A. Headlined, "Ontario Called: Home of hate lit". There is a picture of David Peterson.

Q. Does it refer to you?

A. Yes, it does, and he says:

*"Some of the most vicious hate literature produced in the world is coming from {44|45} Ontario, Liberal Leader David Peterson charged yesterday.*

*In the Legislature, Peterson named Ernst Zundel of Toronto, who owns Samisdat Publishing Ltd., and Ron Gostick of Flesherston, head of a group called the Canadian League of Rights, as two people who should be prosecuted under the hate literature provisions of the Criminal Code.*

*Peterson described Zundel as 'one of the world's big purveyors of Nazi propaganda' and he said Gostick distributes hate literature across Canada.*

*Attorney-General Roy McMurtry agreed with Peterson's assessment of Zundel. McMurtry said that in Zundel's case, as in others, 'if we have evidence upon which we have a reasonable chance of a successful prosecution... we will certainly encourage the laying of charges and*

*there will be very vigorous prosecution.'*

*But McMurtry rejected a call from Peterson to prosecute distributors. He said if the prosecution failed, it would 'only serve as an encouragement to other like-minded people, other lunatics but very dangerous lunatics, who want to attack the relatively {45|46} fragile social fabric of our community by engaging in this type of activity.' Last night, Zundel said 'Peterson's a typical political hack. He's just trying to get funds for the Liberal party.'*

*Zundel, 44, who maintains that the massacre of six million Jews in the Holocaust of World War II did not take place, added: 'I don't hate Jews. I work with them. There are some Jews I would not go near with a 10-foot pole, but others like.'"*

Q. And is that an accurate and truthful representation of the facts as you know them?

A. As far as my quotes that I have said are concerned? Yes. As far as the rest, I don't publish hate literature.

MR. CHRISTIE: Could that be Exhibit D?

THE COURT: Yes.

— EXHIBIT "D" on voir dire: Photocopy of newspaper article from The Toronto

Sun dated Wednesday, June 15, 1983.

Q. MR. CHRISTIE: The next item, please, Mr. Zundel.

A. The next article appeared on page 14 in the Ottawa Citizen, Tuesday, February 23, 1982.

THE COURT: I'm sorry. The date again, please? {46|47}

THE WITNESS: Tuesday, February 23rd, 1982, headlined, "Anti-Semitic publisher fights mail service cutoff". And it's written by Regina Hickl-Szabo, Citizen staff writer.

Q. MR. CHRISTIE: What paper is that?

A. It is The Ottawa Citizen.

Q. Thank you. And the reference to you, please?

A. It's again the entire article, I'm afraid.

Q. Then could you read it?

A. *"A German-born publisher armed with a copy of Hitler's 'Mein Kampf' and a stack of other anti-Semitic tomes launched a fight Monday to force the post office to keep delivering his mail.*

*Postmaster-General André Ouellet cut off mail service for Ernst Zundel's Toronto-based company Nov. 13 on the grounds it contravened parts of the Canada Post Corporation Act.*

*Zundel, owner of Samisdat Publishers, was in Ottawa to appeal his case before a government-appointed review board. Postal legislation allows the minister in charge of the post office to suspend mail service to a company if the mail deliberately promotes hatred against an identifiable group, or if the mail incites race hatred that could lead to a disturbance of the peace. {47|48}*

*The order to halt Zundel's service followed an inquiry by a team of post office investigators that lasted nearly a year.*

*Zundel is expected to testify Wednesday. Although Zundel is the author of the anti-Jewish and anti-Communist leaflets the government objects to, the order to stop using the mail is being directed at his firm.*

*Zundel's lawyer, Lynn McGaw, told the board her client's business has suffered because of the government order and he should be allowed once again to use the mail to send out his writings. 'He does not intend to promote hatred against anyone, McGaw said. His position has been to fairly, actively combat the stereotype of the German people as a group.'*

*In one of his leaflets, Zundel calls Jews 'vicious,' 'greedy,' and 'militant people.'*

*In another tract, he asserts that Jewish businessmen control the media and over the years have used their influence to 'inflame (Westerners) with a 'murderous hatred' for Germans.*

*Rene Jean Ravault, a communications professor from the University of Quebec in Montreal, testified against Zundel. {48|49} Ravault said '...It is quite possible that the content of these documents makes some frustrated readers believe that violent actions and discriminatory behaviour against members of this ethnic religious group (Jews) could be legitimized...'*



Ian Scott, a lawyer for the Canadian Civil Liberties Association, argued on Zundel's behalf that it is against the law for the government to deny a company or person mail service without first proving that person was breaking the law. Scott underlined, however, neither he nor other members of his association was taking a stand on the content of Zundel's publications."

MR. CHRISTIE: I believe that is Exhibit F, please, Your Honour?

THE COURT: I thought it was E.

MR. CHRISTIE: My apologies.

THE COURT: Mr. Christie, just in passing, I am referring to Exhibit B. I am afraid the aging process makes it impossible for me to read the reduced writing.

MR. CHRISTIE: I understand.

THE COURT: If you and Crown counsel can get together and agree on a method by which the reduction can be increased, I'd be grateful, but not now.

MR. CHRISTIE: No. Thank you, Your Honour. I believe we can produce the originals. At least, that is my {49|50} understanding. My client indicates he can produce the originals, so we will.

— EXHIBIT "E" on voir dire: Photocopy of newspaper article from The Citizen, Ottawa, Tuesday, February 23, 1982.

Q. MR. CHRISTIE: Next article, please, Mr. Zundel —

A. It's from the California Daily Courier, Wednesday, December 7, 1983, and it's headlined —

Q. I don't think we need that. That is not in Ontario. Go to anything in Ontario.

A. It's an article from the Ottawa Citizen, Saturday, June 2nd, 1984, page 15, "MacGuigan plans tough laws on hate literature", an article by Jim Coyle of the Canadian Press:

"Federal Justice Minister Mark MacGuigan announced proposed amendments to the Criminal Code on Friday that he says will make it easier to convict purveyors of hate literature.

As he spoke, a man who claims the Holocaust was a hoax taunted him from the audience.

MacGuigan told a news conference the amendments would delete the word 'willfully' from current legislation on the promotion of hatred (relieving the Crown of the responsibility to prove intent); shift the onus of proof to the accused to defend his actions; and eliminate the {50|51} requirement that a provincial attorney general consent before a prosecution for disseminating hate literature can be launched.

At the very least, MacGuigan said hate literature may be driven underground and accorded status as 'wrong, shameful' rather than a matter which 'is in any way countenanced by the majority of people in Canada.'

Legislation is prepared and will be introduced if a deal can be worked out with the opposition parties for its quick passage, he said, but it 'may or may not' be introduced if they indicate it will not be received as consensus legislation.

The changes 'will make the law more effective while at the same time not posing any additional threats to civil liberties,' he said.

Ernst Zundel, a German citizen and Toronto resident charged with spreading false information about the Nazi destruction of European Jewry, sat in the audience wearing the same blue construction helmet he has donned to prevent injury from opponents when he shows up for court.

Zundel, 44, who told reporters later he believes the Holocaust was 'absolutely, {51|52} totally' an exaggeration, said he is the person for whom the amendments were written and asked MacGuigan whether he classifies Jews as a race or religion and how the move affects 'people who question the Holocaust.'

MacGuigan told the man 'you flatter yourself if you think this legislation was intended for you, but to the extent that the shoe fits I hope that you will wear it.'

Zundel, described in court as a major worldwide distributor of Nazi propaganda, operates Samisdat Publishers and was charged in connection with two articles published in 1983 entitled 'Did Six Million Really Die?' and 'The West, War and Islam'. He is to appear in provin-

cial court June 13."

The rest has to do with other matters.

MR. CHRISTIE: Could that be an exhibit?

THE COURT: Exhibit F.

— EXHIBIT "F" on voir dire: Photocopy of newspaper article from The Citizen, Ottawa, Saturday, June 2, 1984.

Q. MR. CHRISTIE: Are there any others that are referable [sic] to you personally, Mr. Zundel?

A. Yes, there are.

Q. Please read the next one out. {52|53}

A. This is from the Vancouver Province.

Q. You are not producing the one from the Vancouver Province.

A. No, I am not.

Q. Thank you very much.

A. This is from The Oshawa Times, Oshawa, Ontario, Thursday, October 12, 1978. It has a photograph on it showing some demonstrators demonstrating against The Boys from Brazil, and it quotes an interview with me, and I quote the headline, "The Boys From Brazil... depicts cloning of Hitler", sub-headline, "Protest went very well: Zundel":

"Although a demonstration against a movie depicting the cloning of Hitler failed to dissuade anyone from attending the film Wednesday, organizers consider the protest a success.

Ernst Zundel, spokesman for Concerned Parents of German Descent, said last night's demonstration against the movie The Boys From Brazil 'went very well' and pickets generally were favourably received by persons attending the showing at the Oshawa Centre cinema.

Headline, "Police Called":

"Zundel said his group was not hassled or interfered with in any way by moviegoers. However, their protest had to be cut short when Oshawa Centre management called police to remove pickets from the premises. 'The theatre manager complained to the shopping mall manager and he called {53|54} police,' said Zundel. 'The police were understanding, but we were not interested in getting involved in legal, complications, so we cut it short.'

During the time the 10 demonstrators marched around the theatre they distributed literature and made people aware of their position.

The film, starring Gregory Peck, Sir Laurence Olivier and James Mason, is based on a novel by Ira Levin and depicts the cloning of the former German dictator. It is set in modern-day Brazil.

Zundel's group previously demonstrated against the movie in Toronto and Hamilton."

New headline, "Others, Too":

"They claim it and similar motion pictures such as Marathon Man and Holocaust are part of a growing trend to portray Germans as monsters and history's villains.

Zundel, a 39-year-old businessman who emigrated to Canada in 1958, said pickets talked to several people who proved quite receptive and were not aware of the group's feelings. 'There were many young people who could not find it in their hearts and heads {54|55} to come to grips with it; no one ever talked to them about it.'

Zundel said the group's aim is not to stop people from viewing the film, but to present all sides. More demonstrations are planned in Toronto and one at the movie distributor's office in Burlington. Also taking part in the Oshawa demonstration was mayoralty candidate Rudi Maeder, who has received hate mail recently because of his German background."

MR. CHRISTIE: That would be Exhibit G, I believe.

— EXHIBIT "G" on voir dire: Photocopy of newspaper article from The Oshawa Times, Thursday, October 12, 1978.

Q. MR. CHRISTIE: Is that the extent of the coverage you wish to put in?

A. There are a spate of letters to the local media, I think.

Q. You mean letters to the editor from people.

A. That's right.

Q. You or anyone that you know?

A. About me.

Q. About you?

A. Yes.

Q. All right. If they are referable [sic] to you, please read them and give the date, the publication {55|56} and the year.

THE COURT: Just before we do that, as a matter of housekeeping, are those documents all on one sheet, photostated, or are they individual?

THE WITNESS: I believe they are individual. In some cases they are duplicated. THE COURT: We will proceed. The ones that refer to Mr. Zundel.

MR. CHRISTIE: Yes, Your Honour.

Q. please read the ones that refer to you, Mr. Zundel.

A. I'm afraid the date is cut off from the copy machine. It says, "Tuesday, May 2nd". It must be '77, but I am not sure of the date.

Q. We will proceed with something more recent, Mr. Zundel, if there is something more recent.

A. Toronto Star, Monday, November 23rd, 1981. It's an article in bold headline entitled, "Nazi, KKK hate literature brings appeal for McMurtry to act". It's by Michael McAteer, Toronto Star, and it says:

*"Attorney-General Roy McMurtry is being pressed by a Jewish organization to prosecute a Toronto-based organization and the Ku Klux Klan for disseminating hate literature."*

*The literature was described yesterday by a spokesman for the Canadian Holocaust Remembrance Association as an incitement to hatred, violence and genocide. Sabina Citron, a founding member of the remembrance association, said it {56|57} hopes to meet with McMurtry within two weeks.*

*McMurtry confirmed at a public meeting sponsored by the Toronto Zionist Council that he would meet with association representatives. He did not elaborate."*

Sub-headline, "To 45 countries":

*"Citron told The Star that the Toronto based Concerned Parents of German Descent, headed by Ernest Zundel, has been sending anti-Jewish literature to 45 countries. She said her association has asked Canada's postmaster-general, Andre Ouellet, to revoke Zundel's postal privileges."*

*In a telephone interview yesterday, Zundel told The Star he is appealing a postal ban put on him by the postmaster general. He said he was visited by a postal inspector and told that someone in Vienna had lodged a complaint against him.*

*Zundel denied ever inciting violence or calling for the extermination of Jews. He said that, while he has sold and distributed Nazi literature, He did so to raise money for his organization. Zundel said that in his writings he has never called for the 're-Nazification' of Germany, or the renaissance of Nazism. {57|58} Zundel said 'every time the Zionists need a bogey man' they attack him and his organization. Citron said the association wants the Klan prosecuted because it has been distributing in Metro an anti-Jewish booklet..."*

and so on. The rest doesn't refer to me.

Q. Do you take issue with the truth of those statements?

A. I certainly do.

Q. And was anything done to rectify those statements by you?

A. I appealed my postal ban and won my case.

Q. In respect to any other statement in that article, was there anything that you took issue with?

A. I don't send out anti-semitic or anti-Jewish literature. Never did. And where that question came from, whether I called for the re-Nazification of Germany, is completely new to me. I have never asked for that.

MR. CHRISTIE: Could that be an exhibit, please?

THE COURT: Exhibit H.

— EXHIBIT "H" on voir dire: Photocopy of newspaper article from the Toronto Star, Monday, November 23, 1981.

Q. MR. CHRISTIE: Is there anything else there, Mr. Zundel, that you would like to introduce? {58|59}

A. There is an advertisement in the Canadian Jewish News, Thursday, May 28, 1981, page 9. It is headlined, "Neo-Nazism In Canada":

*"Why is Canada the export centre for Nazi propaganda?*

*Why can hatemongers freely spread the lie that there was no Holocaust? Why do war criminals go unpunished?*

RALLY

*To protest racism and hatemongering*

*Allan Gardens*

*Carleton at Sherbourne Street*

*Sun., May 31, 2:00 p.m.*

*Speakers:*

*Rabbi W. Gunther Plaut*

*Hon. Bruce McCaffrey, MPP*

*Bob Rae, MP"*

*New headline:*

*"Value Your Freedom — Come En Masse! Carleton cars to Jarvis St. Buses available from Earl Bales Park 1:00 sharp (Sheppard and Bathurst)."*

And the sponsors of the ad were Canadian Jewish Congress and B'nai Brith, Jewish Student Network, Jewish War Veterans, Bergen-Belsen Association.

Q. Why does this relate to you, sir?

A. Because this ad produced a disturbance and a mass demonstration outside my home.

Q. Where is your home in relation to the rally? {59|60}

A. It is just around the corner.

Q. How did they get to your home?

A. In a long march.

Q. How many people?

A. Between one thousand five hundred and two thousand.

Q. What did they do?

A. Shouted obscenities, death threats, bomb threats, arson threats.

Q. Against who?

A. Against me.

Q. Why?

A. My postal case was pending at the time, and they thought that I should not be given the postal privileges back, and I am the publisher of hate literature — just the summary of news literature which had the same line.

Q. Did you hear that on videotape?

A. Yes, I do.

Q. And that is one of the tapes you are prepared to show the Court?

A. Yes, I could.

THE COURT: What day in January of 1981?

THE WITNESS: No. This was May 28, 1981.

Q. MR. CHRISTIE: Now, have you other paper articles that you would like to introduce to demonstrate the publicity against yourself?

A. Yes. I have one here from the Globe and Mail.

Q. Date?

A. Tuesday, December 6th, 1983. {60|61}

Q. By whom was it written?

A. By Michael Tenzon.

Q. What does it say about you?

A. It is headlined, "Hate literature factory in a congenial setting", and it shows me in the picture with a copy of Macleans magazine showing a swastika.

Q. Was this in your home?

A. Yes.

Q. So they showed you as the origin of hate literature?

A. Yes.

THE COURT: Is the article of May 21, 1981, to be an exhibit?

MR. CHRISTIE: Yes, Your Honour.

THE COURT: Exhibit I.

— EXHIBIT "I" on voir dire: Photocopy of advertisement in The Canadian Jewish

News, Thursday, May 28, 1981.

Q. MR. CHRISTIE: Could you proceed to say what the Globe and Mail article says about you?

A. It starts by saying:

*"Portly, balding Ernst Zundel looks the congenial guy-next-door as he pads about his comfortable and cluttered Victorian home in downtown Toronto. So why does the 44-year-old commercial artist not leave his*

'bunker' without a bullet-proof vest and bodyguards?

'Some people want to kill me.'

Some call Mr. Zundel a hate-monger; he {61|62} sees himself as 'a deeply involved activist.' His detractors say Mr. Zundel's activism involves the dissemination of hate literature.

In fact, Mr. Zundel is accused of running a highly productive propaganda factory, the products of which – anti-Semitic and neo-Nazi hate literature – are distributed across the world. He is head of his own successful advertising firm that he operates from his home, but works only half-time at that. The rest of the time, Mr. Zundel is in his basement grinding out pamphlets on his printing press, making movies, holding meetings, giving lectures.

His long marriage to 'a wonderful French-Canadian girl' failed eight years ago because of his activities. His 'apolitical' wife was afraid of death threats to her and her family, he says.

On May 31, 1981, a large demonstration made up of five Jewish groups met in Toronto and marched on Mr. Zundel's home. They called him a Nazi and hatemonger; 'They were saying they wanted me dead.'

On June 14, 1983, Ontario Liberal Leader David Peterson said in the Legislature: 'Mr. Ernst Zundel and his company, {62|63} Samisdat Publishing Ltd., have been described as one of the worlds biggest purveyors of Nazi propaganda.' Ontario Attorney-General Roy McMurtry told the House: 'We are, of course, aware of Mr. Zundel's activities... If we have a reasonable chance of a successful prosecution of Mr. Zundel, whom we do believe to be behind a lot of the very vicious material that has been disseminated, we will certainly encourage the laying of charges...'

Famed Nazi hunter Simon Wiesenthal wrote in 1980 to Canada's Solicitor-General, Robert Kaplan: 'As you know, Europe is swept by an anti-Jewish, neo-nazistic wave. We are deluged with publications... that call up race hatred and neo-nazism. Right now we came across leaflets and circular letters that are dispatched in Toronto, Ontario. The sender is a certain Ernst Zundel ...'

A recent brief by the Canadian Jewish Congress to a Commons committee on racism said that, because of Mr. Zundel, Canada has become the biggest exporter of anti-Semitic literature to West Germany.

Even some who despise what Mr. Zundel does feel reticent about commenting on {63|64} his activities, because of the publicity it gives him.

'Mr. Zundel is a peripheral character who is venting his anti-Semitic sentiments,' says Alan Borovoy, of the Canadian Civil Liberties Association. 'He would probably have trouble filling a telephone booth with his constituency.' Nevertheless, Mr. Borovoy's organization intervened just before the Canadian Post Office revoked Mr. Zundel's mailing privileges in 1981. The civil liberties group argued that despite Mr. Zundel's message, a Cabinet minister, under the Post Office Act, should not be able to remove mail privileges.

Inviting Mr. Zundel to discuss his views in the popular media 'is a fatuous exercise. It puts a person in a forum of legitimate debate which conveys the impression that his is a legitimate point of view,' Mr. Borovoy says.

In Mr. Zundel's basement is a scale model of the Auschwitz concentration camp. It has one oven.

Auschwitz – where millions of Jews were gassed – had only one oven, Mr. Zundel insists. It had no gas chambers, and no Jews were exterminated there.

Mr. Zundel says he is not an anti-Semite {64|65} not a racist, not a Nazi.

Others feel differently.

'The man is a propagandist in the worst possible sense,' says Sabina Citron, spokesman for The Canadian Holocaust Remembrance Association.

In 1981, Mrs. Citron's group had Mr. Zundel's mailing privileges revoked, but after a year a federal review board ruled he could not be denied use of the mails.

Mrs. Citron says Mr. Zundel's propaganda distorts the fact of the Holocaust by denying it.

Mr. Zundel's pamphlets declare:

'Nobody was gassed in any German concentration camp – no Jews, no gypsies, no murderers, no Communists, etc., nobody...' 'The Holocaust is a hoax, a money-making Zionist hoax...' 'The Six Million Story is a swindle, a Big Lie...'

Mr. Zundel estimates that each year he sends 'tens of thousands of letters' to dozens of countries, concentrating on West Germany and the United States. His mailings go to 'decision-makers,' historians, government prosecutors, politicians, and to high school and university students.

Last week he mailed copies of the book, {65|66} *Allied War Crimes*, to each of the 550 members of the West German Parliament. The name of his firm, Samisdat, is a Russian word meaning 'self-published by the author in the underground,' he says.

Mr. Zundel also sells Nazi art. One of his brochures reads: 'Send for your copy now, Nazi secret weapons art posters. Large, beautiful illustrations of Nazi secret weapons suitable for framing.'

Why does Ernst Zundel spend half his working life reworking history, fighting Zionists and mailing out his views?

'The absolute God's honest truth is that it was a reaction to the incessant anti-German propaganda stereotyping the Germans,' he says.

Mr. Zundel was born in a village in the Black Forest region of Germany. He is the son of a lumberjack who served as a medic during the Second World War."

Q. That was in the Globe and Mail, was it?

A. Yes. I am not quite finished. Just about through.

"He is the son of a lumberjack who served as a medic during the Second World War. The family had lived on the same farm for 300 years." {66|67}

Q. Mr. Zundel —

A. It's not quite finished.

"He says his father was a pacifist, like himself, and that both his parents were apolitical. He says he has a sister who is a Christian missionary in Africa, and a brother who is a lawyer in the United States.

Mr. Zundel came to Canada at the age of 18 as a commercial artist. He chose Canada because he knew the country did not have peacetime conscription. When he came, he held no strong anti-Zionist views and was politically naive, he says. 'I think I knew only one Jew when I was growing up.' He remains a German citizen because of the pride he feels as a German.

He says the 'most powerful impact' on his becoming an anti-Zionist was men's adventure magazines of the 1950s and 1960s. But he says he was never able to associate Zionists directly with publication of such articles. He tried: 'I used to work at Simpsons Sears (his first job in Toronto as an artist) and a fellow would bring in these magazines during lunch break. The stories mentioned German cruelty...

I said, this is ridiculous. I knew German soldiers in our village, my {67|68} father and his brother were ones and they never talked about stories like this.'

Mr. Zundel says that he hits at Zionism because Zionists hit at Germany.

Mr. Zundel's activities are financed by private donations, estimated by the West German Government at about \$50,000 a year. He refuses to say who donates the money, but claims it is 'many individuals.'

Mr. Zundel believes Adolph Hitler was a great man. 'I admire him. I think he was a completely misunderstood political genius. Look, I am not a neo-Nazi. If I wanted to be a Nazi, I would be a real one. I am not intending to set up any Nazi parties in this country, otherwise I would have had 25 years to do it. Nazism is only tied to the personality and the moustache of Adolph Hitler. There are not enough Germans today who could walk half a mile down the block without tripping over their fat beer bellies.'

End of quote.

Q. Is that an accurate representation of what you said?

A. Quite close. It is one of the best articles that has ever been written about me. {68|69}

Q. It was fairly widely distributed, I suppose?

A. It was indeed. National Geographic and the Globe and Mail, yes.

Q. Were the references made to you by other people in that article correct, and did you agree with those?

A. It was just standard Zionist rhetoric. I've gotten used to that.

Q. Have you any other article, please?

MR. CHRISTIE: Could that be an exhibit, please?

THE COURT: Exhibit J.

— EXHIBIT "J" on voir dire: Photocopy of newspaper article from the Globe and Mail, Tuesday, December 6, 1983.

THE WITNESS: I have an article from the Canadian Jewish Congress, and another one from the Ottawa Citizen on the same page.

Q. Well, how is the Canadian Jewish Congress — where was it published?

A. In Toronto.

Q. In what newspaper?

A. The Canadian Jewish News is the flagship publication for it in Canada.

Q. So —

THE COURT: There will be no more of that. One sound, and whoever makes it, leaves. Proceed.

MR. CHRISTIE: Thank you. {69|70}

Q. Could you read what that article says, please?

A. It must have been —

THE COURT: May I have the date, please?

THE WITNESS: Your Honour, the date is missing on this copy. It was in December '82.

Q. MR. CHRISTIE: Of '82. Carry on.

A. It comments on the postal ban. "Ban on Zundel's mail is lifted, CJC is critical of board's decision". Toronto.

*"The Canadian Jewish Congress last week condemned as 'deplorable' the lifting of Canada's year-long ban on the mailing privileges of Ernest Zundel, Toronto-based publisher of doubtful literature. Zundel, who operates as Samisdat Publishers Ltd. out of 206 Carlton Street in Toronto and also out of a postal box number in Buffalo, is the author of a book titled The Hitler We Loved And Why and has admitted in his autobiography published in Germany that he advocated the 'truths' he learned from Adrian Arcand, the late leader of Canada's Nazi movement in the 1930s. Following complaints made in the West German Bundestag that Zundel was responsible for Nazi propaganda being mailed to Germany, Canada Post issued an interim prohibitory order in November, 1981, prohibiting Zundel use of the mail. {70|71} However, a 3-man board of review recently heard his appeal and Postmaster-General Andre Ouellet signed an order revoking the ban, based on their recommendation. Ben Kayfetz, executive director of the National Joint Community Relations Committee of the Canadian Jewish Congress, told the CJN he considers that decision 'deplorable as it permits a known propagandist to proceed with his offensive attacks with impunity.' Kayfetz said he particularly found 'appalling' this statement in the adjudication of the board of review: 'The board believes that what is before it is a much larger problem or struggle between two peoples, i.e. the Germans and the Jews, and is reluctant to recommend to the minister that the interruption of mail services be continued.' Kayfetz said this revealed that the board had no real understanding of the issues involved. 'It assumes that attacks on a religious or ethnic group are the concern of that group alone and no one else's,' he said. 'It disregards the lessons of World War II and the impact of Hitlerism whose 50th anniversary is coming at {71|72} the end of January.' Kayfetz said he 'found it passing strange' that Zundel should disavow being a Nazi, and yet for years has been distributing Concerned Parents of German Descent. Kayfetz said this is a book promoting the thesis that there was no Holocaust and that the entire 'story was concocted by the Zionists for the purpose of extracting money from Germany.'"*

End of quote. And the next article is from the Ottawa Citizen, December 11, 1982, headlined, "Anti-Zionist regains right to mail service". It is

by Michael Prentice:

*"Canada Post has been told it had no right to stop delivering a Toronto man's mail because it believed he was sending hate literature. The landmark case has ended in victory for 43-year-old Ernst Zundel, a fierce critic of the state of Israel. Zundel, who runs a small publishing and advertising business, had his mail service cut off in November, 1981, on grounds he was using the mails to spread anti-Jewish propaganda. Following a five-day hearing early this year, a post office review board decided Canada Post erred in refusing to deliver Zundel's mail. {72|73} Postmaster-general André Ouellet, who appointed the board, has accepted its decision and ordered Canada Post to restore mail service to him, post office officials said Friday. The decision to restore Zundel's mail service has 'appalled' the Canadian Jewish Congress, said Ben Kayfetz, national director of community relations for the Jewish organization. In his fight to have his mail restored, Zundel had the support of the Canadian Civil Liberties Association, which argued Canada Post had no right to deny mail service to anyone who hadn't been convicted of a crime. Zundel estimates the post office spent well over \$100,000 in investigating him and hiring lawyers to argue its case. He said Ouellet 'apparently felt called upon to represent narrow, Zionist sectarian interests in this matter, rather than the human rights of the public at large.' The 43-year-old, who came to Canada from Germany when he was 18, is an avowed opponent of Israel, but denies he is anti-Jewish. 'I don't think any group in society ought to be beyond scrutiny or question,' he says." {73|74}*

Q. Other than the reference in that first article you read to the judgment of the postal tribunal, have you ever heard anything other than that?

A. The only thing that I have ever heard about my — the verdict in my case, was what I read in this article in the Canadian Jewish News.

MR. CHRISTIE: Could that be an exhibit, please?

THE COURT: Exhibit K.

— EXHIBIT "K" on the voir dire: Photocopy of two newspaper articles: Canadian Jewish News, December 1982, and the Ottawa Citizen, December 11, 1982.

Q. MR. CHRISTIE: Anything in 1983 or '84?

A. Yes, I have. I have, yes.

Q. Please proceed.

A. It's an article in the Toronto Sun. The title page has a picture of me being trapped in a taxi outside the Courthouse, and it's headlined, "JDL fracas spills onto street", and the caption of the photograph reads, "Demonstrators chase taxi carrying accused".

THE COURT: The date, please.

THE WITNESS: January 17th, 1984. The caption reads: "A Jewish Defence League member pounded his fist against the cab carrying publisher Ernst Zundel yesterday while others spat on it and shouted. A Metro cop held back one woman from the taxi door {74|75} outside the Old City Hall courthouse".

And inside, another article with a picture of me going up the Courthouse step, and it is headlined, "Accused publisher".

Q. MR. CHRISTIE: The date?

A. Toronto Sun, Tuesday, January 17, 1984. The photograph is captioned: "Hard Hat and bulletproof vest were worn to court yesterday by publisher Ernst Zundel, accused of spreading false information about the murder of Jews in Hitler's Germany. A fracas between his security men and militant Jewish Defence Leaguers was broken up by Metro Police." Then a sub-headline, underlined, "Death Threats Alleged", and there is a bold lead line, "Courthouse clash". The article is by Sara-Jane Bourgon, Staff Writer:

*"Violence erupted at the Old City Hall courthouse yesterday as publisher Ernst Zundel appeared on a charge of spreading false news about the Holocaust. Shouting 'Prosecute Nazis now' and 'Never again,' about 30 Jewish Defence League members clashed with Zundel's security men on the steps of the courthouse.*

Zundel, wearing a hard hat and bulletproof vest, said he carried a tape recorder to monitor death threats. The fracas was broken up by police, {75|76} but the confrontation moved inside where angry words were exchanged between the two groups.

In the packed courtroom, Judge William Ross remanded Zundel to February 6 to set a date for trial, but he said the specifics of the allegation must be provided to the defence by January 31.

Zundel, 44, of Carlton Street, operates Samisdat Publishers, which distributes material worldwide claiming fewer Jews were killed in the Holocaust than is documented.

The charge was laid by Sabina Citron, 55, founder of the Toronto-based Canadian Holocaust Remembrance Association. Citron's lawyer, Bob McGee, said he would be assisting the Crown attorney in presenting the case. Volumes of material have already been given to the prosecutor, court was told.

Defence lawyer Lauren Marshall said her client must fight through a mob every time he comes to court.

In a trembling voice, Marshall said she and her client and their families are harassed daily and have received death threats.

Later she told reporters one caller told her seven-year-old, 'If your mommy goes to court, she'll be killed.' {76|77}

About 10 uniformed police ushered Zundel from the courtroom to a side door, where he jumped into a cab. One of his supporters was chased by demonstrators and punched."

Q. Anything more recent?

MR. CHRISTIE: Could that be exhibited, please, I'm sorry?

THE COURT: Exhibit L.

EXHIBIT "L" on voir dire: Photocopies of articles from The Toronto Sun dated Tuesday, January 17, 1984.

Q. MR. CHRISTIE: Proceed with a more recent article.

A. An article from The Toronto Sun, Monday, September 10, 1984, and it's sub-headlined, "Man Charged Under Hate Law", underlined, "Pipe bomb a warning?":

"Metro Police are investigating the bombing of a garage at the home of a man accused of saying there was no Holocaust.

Toronto publisher Ernst Zundel, 44, of Carlton Street, is to stand trial in York County Court January 7 on two charges of publishing false news causing mischief to the public interest of social and racial tolerance.

Police said about \$3,000 damage was caused at 4:20 a.m. yesterday when what's believed to have been a pipe bomb exploded near Zundel's two-car garage, {77|78} at the rear of his home.

The bomb destroyed the garage door and damaged Zundel's luxury car, as well as three cars parked 15 feet away in a neighbor's drive.

Bomb fragments also pierced a house next door and a fence separating the properties.

Metro Police bomb squad has seized evidence.

Zundel said yesterday he spent a 'sleepless night' after the blast but he was grateful for the security devices installed around his Victorian-style home.

He has installed outdoor video cameras, search lights, barbed-wire fences and has around-the-clock security guards.

'Everybody laughed at me when I was preparing for this,' Zundel said. 'They said I had a bunker mentality. But I know what I'm up against... and they're afraid of the outcome of the trial.'

The bomb was to signal to me to watch it but I won't back down,' Zundel said. 'I expect there will be some arrogant, snickering calls to me in the next few weeks.'

Zundel, who operates Samisdat Publishers, could face up to two years in jail in {78|79} connection with the publication of two flyers entitled 'West, War and Islam' and 'Did Six Million Really Die?'"

Q. Do you have a luxury car?

A. It's a medium-sized Chrysler Le Baron.

THE COURT: Mr. Christie, that is like beauty – it is all in the eyes of the beholder. What is your next question?

Q. MR. CHRISTIE: Was your garage bombed?

A. Yes, it was.

Q. Tell us whether you did receive any threatening phone calls such as

you indicated.

A. I certainly did.

Q. Did you keep tape-recordings of them?

A. Yes, I do.

Q. And do you have those tape-recordings here today?

A. Not the one pertaining to the bomb, no. Just other death threats and so on.

Q. I see. You turned over the tape-recordings of any reference to a bomb to the police, did you?

A. Yes, I did.

Q. Were you referred to in the National Evening News?

A. Many times, yes.

Q. I have a tape-recording of an interview on the 27th of the eleventh month, 1981. I would like to play this and ask you if you can identify this as an interview or comment about yourself. Or, excuse me, are there any other news articles you wish to introduce? {79|80}

A. Just the last one.

MR. CHRISTIE: My apologies, I am getting ahead of myself. May the last article be marked as an exhibit?

THE COURT: Exhibit M.

— EXHIBIT "M" on voir dire: Photocopy of newspaper article from The Toronto Sun, Monday, September 10, 1984.

Q. MR. CHRISTIE: You have one more. Please give the date and the publication.

A. It is a publication put out by the Canadian Holocaust Remembrance Association of 788 Marlee Avenue, Toronto, Ontario, and underneath the address it gives a place where you send charitable cheque donations to.

Q. And how is this published, sir?

A. It was published by the Canadian Association. One can find it at their headquarters on displays, and it specifically mentions me in saying, under the headline "Stopped" —

Q. Excuse me, how do you know this to be distributed, and how is this distributed?

THE COURT: That is a good question.

THE WITNESS: Because other German people and other ethnics have brought this thing to me.

Q. MR. CHRISTIE: Where did they get it?

A. I have no idea.

Q. So you've received this from a number of sources? {80|81}

A. That's right.

Q. Do you have any personal knowledge as to how this particular publication was ever distributed?

A. It is on display, lying somewhere at 788 Marlee Avenue, where visitors can pick it up.

Q. At the Holocaust Remembrance Association headquarters; is that it?

A. That's right. It is headlined, "Hate Propaganda" "Is anything being done?" "Yes!" "These are the Facts:" And they mention under a new headline called, "Stopped":

"the mailing of vicious hate propaganda to 45,000 addresses in 47 countries including Arab countries – by Ernst Zundel, a Neo-Nazi in Toronto. The Canadian Holocaust Remembrance Association is now pressing legal action against Zundel."

The rest pertains to other people.

Q. So this is something available to others who visit that centre, to your knowledge?

A. Certainly.

MR. CHRISTIE: Could that be an exhibit?

THE COURT: For what it's worth, yes.

— EXHIBIT "N" on voir dire: Photocopy of Canadian Holocaust Remembrance Association leaflet.

Q. MR. CHRISTIE: Any other publications pertaining to the publicity? {81|82}

A. About myself?

Q. Yes.

A. I didn't bring all of them. There's many.

Q. There are many more?

A. Yes, there are.

Q. Now, I'd like to deal with matters pertaining to you directly of an audible nature. That is the tape-recordings.

THE COURT: We will do that at two-thirty.

— Discussion concerning release of jury panel at large for the day.

THE COURT: They can be released until tomorrow morning. The only statement I have to make is this – that this Court considers that a fair trial does not necessarily commence within the confines of a courtroom. Certainly fairness begins there, but it begins well in advance of an accused entering a courtroom.

MR. GRIFFITHS: Thank you, Your Honour.

— Luncheon adjournment.

— Upon resuming.

MR. GRIFFITHS: Your Honour, if I may, before Mr. Zundel resumes testifying, there are several members of the Press today, not all of them are from Ontario, and they have asked me to request of Your Honour a clarification {82|83} of the material that you heard so far this morning, whether or not it can be reported upon.

We are in the stage of a voir dire. I should say, Your Honour, that I take the position that in light of defence contention that because of pre-trial publicity a challenge for cause is necessary, to report on that prior to the selection of the jury simply compounds that problem, and I am going to suggest that there be a ban until, at least, the jury is selected, or the end of the trial, whatever Your Honour indicates.

THE COURT: What is my authority?

MR. GRIFFITHS: I think s.442, Your Honour. We are also on a voir dire, Your Honour, which are matters traditionally, not in camera, but in the absence of jury are matters not to be published. The section doesn't help Your Honour. It talks about exclusion, and that is not what I am asking for.

I think the authority, Your Honour, is the fact that it is a voir dire, and not the trial proper. These are proceedings being taken in the absence of a jury and may be prejudicial if they are heard by a jury prior to the case being heard and, as in any other voir dire, all matters can be reported upon at the end of the trial.

THE COURT: Mr. Christie?

MR. CHRISTIE: Your Honour, my general tendency in regards to these matters is that they should be public. I can see my friend's concern, and I think it is a legitimate one, and I agreed with him when we began today, but I had a second more to think about it, and I feel, frankly, that no greater prejudice can be done, really, if any, than has already been done. {83|84}

So I take a neutral position on the matter, and I leave it to Your Honour's discretion.

THE COURT: Any reply to that?

MR. GRIFFITHS: Your Honour, it's a problem. The question was raised by the reporters. I don't take a strong position one way or the other. My concern is that the trial be properly conducted. I know, Your Honour, Mr. Christie's concern is the same. I will leave it in Your Honour's hands.

THE COURT: Gentlemen, I am not prepared to make any further order or clarification one way or the other. I have said what I said, and I intend saying nothing further at this time.

MR. CHRISTIE: May I proceed, Your Honour?

THE COURT: Yes, you certainly may.

Q. MR. CHRISTIE: I asked you earlier about a news broadcast, CBC National News, on the 27th of November, 1981. I now produce and show to you a tape. Is this a tape of such a broadcast?

A. Yes, it is.

THE COURT: What is the date, please?

THE WITNESS: The 27th of November, 1981.

Q. MR. CHRISTIE: Was this a national broadcast?

A. Yes, it is.

Q. Was it an interview with you? {84|85}

A. The broadcast was based so it alleges [on] a one hour and fifteen minute press conference, and it's a wild distortion of virtually everything that I said.

— Discussion concerning courtroom location of equipment.

MR. CHRISTIE: I will put it in the machine and play it.

Q. Do you know how long this interview is?

A. Approximately five minutes.

Q. About five minutes. Thank you. You can tell me right away if I've got this right, will you, please?

— Tape recorded proceedings.

Q. MR. CHRISTIE: I believe that was The National?

A. That's right.

Q. That was the CBC National News on that date?

A. Yes.

Q. What do you think of that report, Mr. Zundel? Was there anything false about it?

A. The report had very little to do with the press conference that was called with the specific purpose of talking about alleged Nazi War Criminals in Canada, throughout the case in particular at the time – it was before Helmut Rauca was extradited to Europe, and I had produced —

Q. Mr. Zundel, in that tape it said you {85|86} readily admitted being a hate merchant, or something to that effect. Did you say that?

A. Absolutely not.

Q. Were there any other statements in there that you can take issue with that you can recall?

A. There's so little truth in it.

Q. So little truth in it. Did you take issue with it, with the CBC?

A. I certainly did.

Q. What happened?

A. The usual stone wall answers by the CBC whenever you complain about something like that. There is nobody in authority, nobody responsible, and the claim is usually that this is the side effect of having a free press in Canada, and we have to bear it. When I pointed out that the Radio and Television Commission was established to have very firm guidelines, we never get anywhere near these people.

Q. So do you think that was a fair and objective report?

A. Completely distorted. It did not raise itself to the purpose of the press conference.

Q. I am now going to play – you are going to play this tape. Is this a tape that you have made of threats upon you?

THE COURT: This is a separate tape, is it?

MR. CHRISTIE: Yes, Your Honour.

THE COURT: The last tape, madam clerk, will be Exhibit O.

— EXHIBIT "O" on voir dire: Tape Recording of CBC – The National – broadcast November 27, 1981. {86|87}

Q. MR. CHRISTIE: Do you recognize that tape?

A. Yes, I do.

Q. Who made it?

A. I did.

Q. Where?

A. In my office, my shop.

Q. By what means?

A. By...

Q. Tape recording of phone calls. Right?

A. Right.

Q. Thank you.

MR. CHRISTIE: May I play that, please, Your Honour?

THE COURT: You do have knowledge of its contents?

MR. CHRISTIE: Yes, I do, Your Honour.

THE COURT: What's it about?

MR. CHRISTIE: It involves threats about Mr. Zundel by certain members of a group.

THE COURT: I want to know the date he made it, please.

MR. CHRISTIE: Yes.

Q. Could you tell us what date?

A. It is a collection of death threats, bomb threats and hate calls spreading over a period of about a year in 1981, and some previous to

that. I made it for the purposes of turning it over to the Metropolitan Police and the Attorney General's Office to explain to them, in accompanying letters, what our problem was.

THE COURT: Mr. Christie, if I am going {87|88} to attach weight, and I must consider doing that, as part of my duty, I would have to know more than what year it was made, because the witness indicated, as I understand his reply, that it's a compilation, a potpourri of a number of individual conversations, I assume, put upon one tape from others.

MR. CHRISTIE: Yes, Your Honour.

THE COURT: If that's the case, then 1981 may have been the time that it was compiled, but 1981 may or may not have been the time that the conversations occurred.

MR. CHRISTIE: I think they should be identified as to the date they occurred, then, Your Honour.

THE COURT: That would be helpful.

Q. MR. CHRISTIE: Can you tell us between what days or, rather, months, perhaps, and what year these conversations took place?

A. I couldn't recall, but they are tapes available with the Metropolitan Toronto Police Force of whom I signed an official intercept, and they have these tapes in custody.

Q. What year did these conversations occur?

A. These ones? 1980, beginning of 1980, '81.

Q. These conversations occurred in 1980 and '81?

A. Yes.

MR. CHRISTIE: May I, Your Honour? Perhaps they may have no weight. I don't know.

THE COURT: Yes. I think they are {88|89} admissible.

MR. CHRISTIE: All right.

— Tape recorded proceedings.

Q. MR. CHRISTIE: Would you explain what that noise is on the tape?

A. This lady kept calling me night after night after one o'clock, and sometimes she would make fifteen, twenty phone calls, and a man would also come on an extension call and, with the radio, blast this music into the telephone. I tried to talk her down, but she wouldn't be reasoned with.

THE COURT: Before you play it on, I want to know how long this tape will be, and whether or not you propose to put in as exhibits further tapes along these lines.

MR. CHRISTIE: It is virtually over.

THE COURT: Where does it lead?

MR. CHRISTIE: It shows an animosity of a particular group against Mr. Zundel — the group that I would like to have excused from the jury because they have been involved in this controversy.

THE COURT: What group is that?

MR. CHRISTIE: The group that identify themselves with the Jewish Defence League. There will be evidence on the video tapes. I would be asking that Jewish people generally, in view of the controversy involved in the booklet, be excused. This is simply to demonstrate that, unfortunately —

THE COURT: Are these voices that I am {89|90} hearing — I presume that one of the voices I am hearing is your client, your witness.

MR. CHRISTIE: Yes.

THE COURT: Are these other voices other than those of your client, are they identified?

MR. CHRISTIE: Not in all cases, no. In fact, I haven't heard anyone identify themselves in any way.

THE COURT: And how is the exclusion of, as you say, Jewish people from being prospective jurors — what is the evidentiary nexus?

MR. CHRISTIE: That's correct, Your Honour, there is none, unless the accused can identify, in some way, some of the callers, and I was going to ask him about that.

THE COURT: Then you can continue.

— Tape recorded proceedings.

MR. CHRISTIE: Your Honour, I would be arguing the relevance of that in relation to animosity in the community and the German feeling, of which this accused happens to be, rightly or wrongly, a representative. If I could file that as an exhibit.

— EXHIBIT "P" on voir dire: Tape recording of telephone conversations.

MR. CHRISTIE: I would now like to show the video tape of the news coverage on the video machine, please, Your Honour. I need the help of a gentleman to make {90|91} it operate, if I may.

THE COURT: Yes. Do you have one in mind?

MR. CHRISTIE: He is right here, Your Honour. He operates this machine.

THE COURT: Tell me, is it one continuous newscast, or —

MR. CHRISTIE: No, Your Honour. It is a collection of the news coverage and events surrounding Mr. Zundel's house, and it starts with the march on Mr. Zundel's house which took place in 1981, and the footage of that is the first thing that I think you will see. I would, perhaps, stop the tape to have the accused identify what is being shown.

THE COURT: As long as you lay the basis either before, as you go, or at the end, as you proceed.

— Video tape proceedings.

Q. MR. CHRISTIE: Could you describe, as we go along, what this is, Mr. Zundel?

A. It is a demonstration that resulted from the Canadian Jewish News, May 28, 1981, that advertisement that called for a mass rally. And this is the result. After the mass rally agitational speeches were over in Allan Gardens, these people marched to my house.

Q. How do you know they were agitational speeches?

A. Because I had the speeches recorded. I was picked out as the target of the march.

Q. And this is the tape recording of that rally? {91|92}

A. It is a video tape recording of that, yes, of the end of the march.

Q. So after the rally they marched on your house.

A. That's right.

Q. Could you describe what is to the right of the iron fence?

A. Some of my friends opposing the demonstrators. They are there to help me protect my building, and we were carrying signs.

Q. Where is your building in this picture?

A. On the right hand side of this dark area. There is the white building in the picture.

Q. How long were these people in front of your house?

A. From the beginning to the end. One and a half to two hours.

Q. What were they saying while they were there?

A. Chanting, "We want Zundel. We want Zundel. We want Zundel dead. Kill him. Kill him. Burn him down. Bomb him."

Q. Did you say how many people were there?

A. Fifteen hundred; according to some other people, two thousand.

MR. CHRISTIE: I won't have the sound up for these sounds, Your Honour, but I will have it up for the news broadcast.

Q. And the police were there to protect {92|93} you; is that right?

A. Yes. I had found out about the meeting and phoned them and was grateful for the help.

Q. Had you done anything visibly at this time to incite this gathering outside your home?

A. No. This was as a result of the publicity received, due to the postal dispute.

— Further video tape proceedings.

Q. Excuse me for interrupting. I would like you to tell us which publications in that story you, yourself, published.

A. None.

MR. GRIFFITHS: Are there dates on these?

MR. CHRISTIE: There are dates on the stories in the news, Your Honour. They are indicated at the beginning of the story.

— Further video tape proceedings.

Q. MR. CHRISTIE: Could you identify where this took place?

A. Outside the City Hall Courthouse, December 28, 1983.

Q. Thank you.

— Further video tape proceedings.

Q. Who are the people demonstrating there? {93|94}

A. Members of the Jewish Defence League.

— Further video tape proceedings.



Q. Was this on the day that you were supposed to go to Court?  
 A. That's right.  
 Q. Did you arrive there?  
 A. After I was knocked down on the Courthouse steps, spat at.  
 Q. Did it show here?  
 A. No, it never made any ...  
 — Further video tape proceedings.  
 Q. Do you recognize the person there in the right centre of the picture?  
 A. Mair Halevi, the leader of the Jewish Defence League.  
 — Further video tape proceedings.  
 Q. Where are you in this picture? How can we identify you?  
 A. I am the man behind Sergeant Bowerman.  
 Q. Are you wearing a hat?  
 A. Yes, I am.  
 Q. Thank you.  
 — Further video tape proceedings. {94|95}  
 Q. I just want to ask you one question. Do you say the Holocaust never happened?  
 A. Not in that many words, no.  
 — Further video tape proceedings.  
 Q. Did you ever say that?  
 A. Never in my entire life. Never said it. Never thought it.  
 — Further video tape proceedings.  
 Q. By the way, is it your contention, or the contention of the booklet that 3.5 million died in the Holocaust?  
 A. It is not the intention of the booklet, but I have heard the figure mentioned, yes.  
 Q. Is that a true statement? Have you been charged with distributing hate literature before?  
 A. In Canada, no. In Germany, yes, and I won my case in two court levels.  
 — Further video tape proceedings.  
 Q. These films that follow are taken from outside of your window in your house?  
 A. No. From inside the house with our own video camera.  
 Q. Do you recognize any of the people on the street?  
 A. Yes, I do. {95|96}  
 Q. Who are they?  
 A. Some of them were in court this morning.  
 Q. Some of them were in court this morning?  
 A. That's right. They are the ones that were assaulting me as I was coming in here.  
 Q. Right. Since there is no audible sound, can you tell us what happened here?  
 A. For a number of days – well, for a number of days there was people standing outside my house, and shouting of threats.  
 Q. Did you have a tape-recording device underneath where they were standing?  
 A. We had a camera directly on the mike – a mike directly on the camera, excuse me.  
 Q. And the sounds picked up were of the people on the street an —  
 A. And they were being filmed and recorded, yes.  
 — Further video tape proceedings.  
 Q. There is a sign on a pole there. What does the sign say?  
 A. I couldn't see it. If you could re-wind it, I can...  
 — Further video tape proceedings.  
 THE WITNESS: Belzec. Six Million. {96|97}  
 Q. Who is the person going across the street?  
 A. She was a Jewish girl that came from my advertising agency to pick up a job, and she was trapped in our building for three quarters of an hour before police arrived to rescue her, because members of the Jewish Defence League said that they had a court order to inspect all parcels and material leaving my building. So finally police came and escorted her to the door.  
 — Further video tape proceedings.  
 Q. Who was walking by when they shouted, "Nazi"?  
 A. It was my nephew's wife, their child, and my nephew. And they said

they had a court order, and they called they were going to get them.  
 — Further video tape proceedings.  
 Q. Did you hear that? What was it?  
 A. "I dance the Horra on your grave", and then he goes obscenities.  
 — Further video tape proceedings.  
 Q. What did that gesture signify?  
 A. To cut my throat.  
 — Further video tape proceedings. {97|98}  
 Q. Is that somebody you know that lives in your neighbourhood?  
 A. No. These are passersby, and they get accosted and they point and say, "Look. There's a Nazi living there."  
 — Further video tape proceedings.  
 Q. See the person gesturing down to the right hand corner of the picture? What direction is he gesturing in?  
 A. The entrance to my home. It is Mair Halevi.  
 Q. And who is he?  
 A. The leader of the Jewish Defence League.  
 — Further video tape proceedings.  
 — Short adjournment.  
 —  
 — Upon resuming.  
 MR. CHRISTIE: If I can proceed, Your Honour.  
 THE COURT: Yes. How long does this take?  
 MR. CHRISTIE: I think it's only fifteen or twenty minutes more, but I can't swear to that.  
 THE COURT: Go ahead. {98|99}  
 — Further video tape proceedings.  
 Q. MR. CHRISTIE: These people that are standing on the street, do you recognize them?  
 A. I've got to know some of them visually, yes.  
 Q. Are they promoting or putting their signs toward the street as well?  
 A. Irregularly.  
 Q. What's the light shining in your window, and what time of day was it?  
 A. It was after midnight and it's known to video people that you can burn the tube by a powerful light shining into a lense – you destroy the image in the camera.  
 Q. And that was what time of night?  
 A. After midnight. It went on twenty-four hours, but this is after midnight.  
 — Further video tape proceedings.  
 Q. What's that sound from?  
 A. I have a wrought iron gate at the entrance to my place, and they kept banging it constantly.  
 Q. What time of night would that be?  
 A. It was in the night. It went on twenty-four hours. It went on many times.  
 — Further video tape proceedings.  
 Q. What was that remark? Do you know {99|100} what it was?  
 A. A Nazi remark.  
 Q. Pay attention and tell me.  
 — Further video tape proceedings.  
 THE WITNESS: I think he said, "Nazi swine".  
 — Further video tape proceedings.  
 Q. Did you ever complain about this to the police?  
 A. I'm not one to run to the authorities. I usually realize that they have their hands full to do. I did make one or two calls. Ultimately I ran down to the station myself to speak to the ranking police officer when it got out of hand.  
 Q. What did you ask him to do?  
 A. I said that I am willing to swear out a kind of a nuisance or a trespassing charge, and I was told they are perfectly within their rights – they are not causing a nuisance.  
 Q. Did you ask or approach the Jewish community in any way to ask them – officially – to ask them to intercede, or ask these people to stop?  
 A. For many years I have been trying to do that. I did not get anywhere.



— Further video tape proceedings. {100|101}

Q. Did you get hit on this occasion?

A. Yes, I did. Over the head.

Q. How?

A. With demonstrators' signposts. Twice. You can see it later on in the newscasts.

— Further video tape proceedings.

Q. Do you know the date of this broadcast?

A. In the evening of January 16th.

— Further video tape proceedings.

Q. Is that the issue in this case?

A. No.

Q. Does that have anything to do with this case?

A. No.

Q. Did you publish that book?

A. I did not.

Q. Thank you.

— Further video tape proceedings.

Q. Do you know who that man is that was knocked down in the corner?

A. Yes, I do.

Q. Who is he?

A. He is an elderly pensioner who came to watch the proceedings. {101|102}

Q. Is he a friend of yours?

A. Only an acquaintance.

— Further video tape proceedings.

Q. Could you tell me who is lying on the ground in these photographs?

A. He is an associate of mine who was there as my advisor.

Q. Who was that?

A. His name is Thomson (ph). He is not in this room.

Q. And what happened to him when he was on the ground?

A. Due to a mix-up with the police officials inside the Courthouse —  
THE COURT: Just a moment. Turn it off. Set it a little back. I want to know what was going to emanate from the witness. I want to know if it is from his own knowledge, now that he is under oath. If it is what he was told, I don't want to hear it. In other words, if it is hearsay, it is not admissible.

MR. CHRISTIE: No.

Q. Do you recognize

A. Yes. He went to Court with my evidence in the attache case. He carried my attache case with him.

Q. All right.

MR. CHRISTIE: I apologize for any hearsay.

— Further video tape proceedings. {102|103}

Q. MR. CHRISTIE: Did you ask around to see if any of your people had suggested bringing canes?

A. Not to my knowledge.

Q. Did you at any time suggest bringing canes?

A. Absolutely not. I would not permit anything like that amongst my friends.

— Further video tape proceedings.

Q. What's this broadcast, please?

A. CBC National News.

Q. When?

A. January 16th.

Q. Thank you.

— Further video tape proceedings.

Q. Why did you wave like that on that occasion?

A. These people had been terrorizing me for weeks, and always calling me with the single slogan, "Nazi. Nazi. Nazi", day and night, and when I went there again I heard again, "Nazi. Nazi. Nazi". Once I got down and got back on my feet, I thought the only way I could show defiance to those people that might hurt me psychically but not physically was to raise my hand and show them I was on my feet.

MR. GRIFFITHS: Is this the 28th of December, or the 16th of January?

THE WITNESS: Oh, excuse me. This is {103|104} the 28th. You're right, Mr. Griffiths. This is the 28th.

MR. CHRISTIE: Okay.

— Further video tape proceedings.

Q. Is this still part of the same national news broadcast?

A. Yes.

— Further video tape proceedings.

Q. Are any of the organizations depicted so far associated with you in any way?

A. Absolutely not.

— Further video tape proceedings.

Q. Have you in any way been associated with such publications yourself?

A. Absolutely not.

— Further video tape proceedings.

Q. Are you in any way associated with that organization?

A. None.

— Further video tape proceedings.

Q. Are you charged with or associated with distributing white power telephone messages? {104|105}

A. Absolutely not.

— Further video tape proceedings.

Q. See the canes in this photograph?

A. Yes, I do.

Q. How many people carried canes?

A. Possibly a dozen.

Q. Thank you.

— Further video tape proceedings.

Q. Did you arrange the bus the people are getting into?

A. Yes. I leased the bus from the TTC, because we had been waylaid the last time with taxis — pounding on the roof and so on — so I was afraid somebody might get hurt, so I leased the bus.

— Further video tape proceedings.

MR. GRIFFITHS: Excuse me, Mr. Christie. Was all this on the news-cast?

MR. CHRISTIE: No. This is a video tape...

Q. ...is it not, Mr. Zundel, at your request?

A. That's right.

MR. CHRISTIE: I'm sorry if I did not make that clear.

— Further video tape proceedings. {105|106}

THE COURT: Turn it over for a moment, please, that last picture. I didn't seem to recognize the area. It seems to me that it might have been around the Canadian National Exhibition, but I am not sure.

I'd like you to ask the witness, if you will, whether the tape that I just saw (a) is taken around that area, or an area other than at the Old City Hall; (b) where.

MR. CHRISTIE: I will run it back, if I may, Your Honour. That portion, sir?

THE COURT: Yes. And take it along from there.

Q. MR. CHRISTIE: Mr. Zundel, can you tell His Honour where that is?

A. Yes. Your Honour, we were going towards New City Hall on Bay Street, turning right on Bay Street.

THE COURT: Thank you. I recognize it now.

MR. CHRISTIE: I'll see if I can go forward to where we were, Your Honour.

— Further video tape proceedings.

Q. MR. CHRISTIE: Did you recognize the person that had the glasses knocked off?

A. It was Mair Halevi.

Q. And who knocked them off?

A. This I don't know, but the man in the foreground is Sergeant Maywood.

— Further video tape proceedings. {106|107}

Q. Now, this is a film that was made by someone other than a news broadcast, is that right?

A. That's right. Our own teams.

Q. Who is the person in the centre?

A. Mair Halevi, the leader of the Jewish Defence League.

— Further video tape proceedings.

Q. Is that picture referable [sic] to your case, the word "Hate" on it?

A. I don't think so.

— Further video tape proceedings.

THE COURT: Date, please.

Q. MR. CHRISTIE: Can you tell us the date?

A. I think it is September 9, if I am not mistaken.

THE COURT: Of 1984?

THE WITNESS: 1984.

THE COURT: Go ahead.

— Further video tape proceedings.

MR. CHRISTIE: That is the extent of the tape, Your Honour, if I may propose to adjourn now.

THE COURT: Step down, Mr. Zundel.

— The witness stands down

— Whereupon the hearing is adjourned to January 8, 1985.

—{107|108}

## JANUARY 8, 1985

— Upon the hearing resuming.

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: Please Your Honour, yesterday I showed the video tape of publicity. If I may file that as an exhibit in this motion.

THE COURT: Yes.

MR. CHRISTIE: Thank you, Your Honour.

EXHIBIT "Q" on voir dire: Video tape made by the defence.

MR. CHRISTIE: Your Honour, I would like to call my client to explain what he did to try and correct some of the publicity that we will be submitting was erroneously pertaining to alleged hate charges by informing the media of precisely what he was facing.

I will be introducing evidence of letters written to every media outlet to correct the impression repeatedly indicated in the video tape that he was being charged with hate propaganda. So for that reason, I would like to recall him to the stand.

THE COURT: Mr. Griffiths, do you take issue with any of this?

MR. GRIFFITHS: Well, I don't really see how that is relevant, Your Honour. R. v. Hubert talks about widespread publicity. We are really at the stage of laying a foundation.

Mr. Christie has been challenging for cause. Mr. Zundel's correspondence on the issue, unless it was made public, I don't think is relevant. {108|109}

MR. CHRISTIE: Excuse me. My purpose, Your Honour – and I appreciate my friend's concern – is not public correspondence, but I will endeavour to correct false allegations made about him in the media that he was facing charges under a different section, and it was written by his lawyer, and I can explain, basically, what it said.

THE COURT: You haven't seen this?

MR. GRIFFITHS: No, I haven't.

THE COURT: Perhaps, would you like to show it to Mr. Griffiths?

MR. CHRISTIE: And just file it. Yes.

THE COURT: I will reserve on the relevancy aspect, Mr. Christie.

MR. CHRISTIE: These letters, I may explain, are written to every newspaper, radio and television from Mr. Zundel's lawyer advising that at certain stages prior to this proceeding public statements were being made that indicated hatred as the substance of the charge, and I think I can argue fairly substantially that that information was conveyed on a video tape on a number of occasions as specified.

So the letters basically indicate long ago, in fact, the 14th of October, 1984, that this concern was of interest to Mr. Zundel, and he instructed his lawyer to write to all the media, and if my friend has no objection —

MR. GRIFFITHS: I have no objection, Your Honour. I do question the relevancy of it. There's no tapes that postdate that.

THE COURT: I will look at it and I will leave this proposition with you, gentlemen. If you agree with it, then that is what I will do; if not, I will {109|110} hear your submissions.

I will look at it and, in the event that, in my view, it is relevant, I will consider it. In the event that I think it is irrelevant, I will say so and not consider it. Fair enough?

MR. GRIFFITHS: Content, Your Honour.

MR. CHRISTIE: I also intend to lead evidence that the commission of hate offence is still being made. In fact, it was made last night, and it was on the television news last night, and I have a tape of that, too. So therefore, I tender on the record, for the record, letters to CBC-TV News, The Globe and Mail, to the attention of Cameron Smith, Managing Editor, to Barbara Amiel, Editor of the Toronto Sun, Global-TV News Director, News Director CITY-TV, CKEY-Radio News, News Director CFRB Radio, CHIN-Radio News, The Jewish Times, the Editor of The Toronto Jewish Press, and to the Editor of the Globe and Mail again.

These are copies for my friend. So I think that's all I have to file.

THE COURT: Thank you kindly.

MR. CHRISTIE: The letter speaks for itself. I don't think I have to read it.

I also have registered date receipts showing that they were sent on the date specified. I haven't had time to show them to my friend.

MR. GRIFFITHS: On the same ground, Your Honour, I have no objection to them going in.

MR. CHRISTIE: Thank you.

— EXHIBIT "R" on voir dire: Copies of letter dated October 14, 1984, sent to various media. {110|111}

— EXHIBIT "S" on voir dire: Registered date receipts.

MR. CHRISTIE: Now, I would like to call my client, Your Honour, on the issue of his attempts to bridge the gaps between himself and the Jewish community in respect to media allegations against him, letters that he wrote. I would like to introduce those as evidence of a continuing dispute between a particular group of people and the accused, in view of the fact that I am suggesting that that group should not properly be involved in trying the issue, unless my friend objects.

THE COURT: You take the position that the Jewish Defence League should have no part in the jury —

MR. GRIFFITHS: Your Honour, it would be that I would stand aside any member of the Jewish Defence League. However, in the Morgentaler case members who belonged to the Right to Life Organization were not automatically excluded from that jury, were not disenfranchised by reason of their membership, nor were Catholics or other people who hold religious beliefs about abortion.

MR. CHRISTIE: All I am trying to do now is establish my right to question the prospective jurors on their potential prejudice, and I am not asking that my challenge be ruled upon now in any way, just for the right to challenge. And I suppose I am laying a foundation for the suggestion that potential prejudice exists sufficient to enable me to ask questions pertaining to that matter.

THE COURT: The evidence that you propose to lead from the witness essentially would be what?

MR. CHRISTIE: Communications that he undertook to attempt to rectify media representations of {111|112} himself as a Nazi, where he disseminated the verbatim transcript of the judgment of the District Court of Stuttgart which cleared him of charges of dissemination of hate literature, and he sent that, together with the clippings, to various members of the Jewish community and to the Ethnic Squad, the Rabbis and leaders of the Jewish community of Canada, and to the media as well.

So that he was attempting to rectify the impression that had been left in the media.

THE COURT: How does his attempt to rectify the perception in the eyes of the persons that you and the organizations that you just mentioned — how does that in any way further your position with respect to whether or not you should be permitted to, pursuant to R. v. Hubbard, be permitted to ask the questions that you propose to ask of these various jurors as to whether they adhere to any such organization?

MR. CHRISTIE: If I can show a potential prejudice in the organization against the accused such that they are unprepared to accept invitations to discuss the matter of what had been previously printed of a false nature against the accused in an open and free discussion, I think I can demonstrate that members of those particular groups seem to bear

illwill towards the accused and, therefore, seem ill-suited to be dispassionate and impartial jurors.

THE COURT: By reason of their refusal to talk with them.

MR. CHRISTIE: Well, I think I can show more than that, Your Honour.

THE COURT: What more can you show?

MR. CHRISTIE: I can show publication {112|113} of what, in effect, is one side of the issue, one side of the story by him, and the refusal to correct, with the proper legal judgment, or with the proper information, in fact, false information disseminated about the accused where he was "branded a Nazi". He responded by sending the transcript or information from the court which acquitted him of that charge. This was in an attempt to rectify the impression left that, I think, was probably false.

THE COURT: So that your position has two elements. The first is, they wouldn't meet him.

MR. CHRISTIE: Correct.

THE COURT: And the second is what you just mentioned. They take the position that they want him charged.

MR. CHRISTIE: Yes, and left the impression that his conviction, or his charge, still stood. And so I am trying to rectify that by showing that the proper attempt to balance that impression was not made.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Well, Your Honour, if this is, as I understand it, laying the groundwork not on the basis of publicity but laying the groundwork to show some animus of all the people that are Jewish against Mr. Zundel, I would suggest that that doesn't begin to do that, that it's not proper according to the cases, that the fact that the press made some indication or expressed some opinion as to Mr. Zundel and he sent around material to correct that so it doesn't lead one to the only conclusion that all Jews should be excluded from the panel or to be called to the book. You saw evidence right here, Your Honour, of a Jewish girl that was in delivering goods to Mr. Zundel who was being {113|114} kept inside by members purporting to be from the Jewish Defence League out on the sidewalk. Not all Jews are biased here, Your Honour. I don't think any evidence could be called to establish that, certainly not the evidence my friend proposes to call. It's not relevant to the issue at hand.

MR. CHRISTIE: Well, it could only be decided whether it was relevant after the evidence was heard, I think. My friend may be right that I may not be able to demonstrate any such proposition, but I hardly agree with the proposition that I shouldn't be allowed to try.

THE COURT: I am very dubious about the relevancy of what you are about to propose, but I think I should exercise my judicial discretion.

However dubious I may be in your favour, you may call the evidence. I am not interested in having a trial before the trial commences. I am getting to the point where I think that we should get on with the administration of justice and not become like a number of American courts, which I don't propose this Court will ever resemble, where we spend weeks trying to pick a jury. That will not occur if I can possibly help it in this country.

So that having said that, call your witness.

MR. CHRISTIE: Thank you.

#### **ERNST ZÜNDEL, previously sworn**

{114|115}

CONTINUED EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. I'd like, now, to play the tape of a video recording of the broadcast last night.

— Video tape proceedings.

MR. CHRISTIE: I'm sorry, I haven't started at the beginning, and I would like to do that, Your Honour.

— Video tape proceedings.

Q. Could you tell His Honour what this broadcast is of?

A. Of the news last night.

Q. What station?

A. I can't identify yet. The station wasn't mentioned.

Q. Oh, I see.

— Further video tape proceedings.

MR. CHRISTIE: I would like to re-wind that and play the last part again and ask the accused if he has ever been convicted of distributing hate literature.

THE COURT: He already said he has not.

MR. CHRISTIE: Yes. That's right.

— Further video tape proceedings. {115|116}

Q. Mr. Zundel, did you hear reference in that to hate as being a substance of the charge?

A. Yes, I did.

Q. Have you tried to tell the media that that is not a substance?

A. Every person responsible for every major media outlet, especially in this City and Province, were sent letters specifying the charges from my Attorney, and instructions. They had ample time to acquaint themselves with them. They obviously chose to ignore them.

Q. I now produce and show to you an article dated January 7, 1985, in the Toronto Star, a copy of which I am now giving to my friend, which indicates, "Disturbance outside hate literature trial". Did you see that published in the Toronto Star yesterday?

A. Yes, I did.

Q. Were they one of the outlets that you advised about the difference between section 177 and hate literature?

A. Yes, I did.

Q. Thank you.

MR. CHRISTIE: May that be the next exhibit?

THE COURT: Exhibit T.

— EXHIBIT "T" on voir dire: Photocopy of newspaper article from the Toronto Star, Monday, January 7, 1985.

Q. MR. CHRISTIE: I now produce and show to you a copy of the Globe and Mail, Monday, January 7, {116|117} and that is also publicity referable [sic] to you?

A. Yes, it is.

Q. Is there any reference to hatred in there?

A. May I take a moment to read it?

Q. Have you looked at it? Thank you.

MR. CHRISTIE: I won't file that, Your Honour. If you wish me to file it, I will file it. My friend indicates he would like me to file it. I will file this exhibit then, if I may. THE COURT: Exhibit U.

— EXHIBIT "U" on voir dire: Photocopy of newspaper article from the Globe and Mail, Monday, January 7, 1985.

Q. MR. CHRISTIE: I now produce and show to you an article from the Globe and Mail, Tuesday, January 8. And that is referable [sic] to your case as well?

A. Yes, it was.

Q. And there's no reference in there to hatred, either, is there?

A. No.

Q. Thank you very much. And which newspaper, to your knowledge, has the largest circulation in Toronto?

A. The Toronto Star.

Q. Thank you.

— EXHIBIT "V" on voir dire: Photocopy of newspaper article from the Globe and Mail, Tuesday, January 8, 1985. {117|118}

Q. I'd like to produce and show to you an article published in the Toronto Star on January 8, on page A11. Have you seen that article?

A. Yes, I did.

Q. And do you know if it refers to hate?

A. The headline has been changed.

Q. The headline has been changed from the 7th to the 8th, is that right?

A. Yes.

Q. All right. Instead of referring to hate, it now refers to, "Fight breaks out at start of trial of man who says Holocaust was a hoax". Is that right?

A. Yes.

THE COURT: Exhibit W.

— EXHIBIT "W" on voir dire: Photocopy of newspaper article from the

Toronto Star, Tuesday, January 8, 1985.

Q. MR. CHRISTIE: And have you ever said that the Holocaust was a hoax?

A. This is verbal shorthand.

MR. CHRISTIE: I'd like to file an article of January 2nd of the New York Times which is indicating – and I am giving my friend a copy – which is indicating that there will be shown very soon on a station in the area a particularly offensive movie, if I may. That will only be for later reference.

THE COURT: Why do you want to file it now? {118|119}

MR. CHRISTIE: Because it will be part of my argument, Your Honour.

THE COURT: You mean something that may occur in the future is part of your argument in the present?

MR. CHRISTIE: It may happen Monday – Of course, it will happen in the course of this trial. That is what concerns me. The movie will be shown.

THE COURT: Yes, but when the jury is selected, it will be indicated clearly by me, Mr. Christie, what their duties will be, and I remind other counsel, and I respectfully remind you, that jurors are not stupid, and jurors are quite able to follow the reasonable instructions of the bench and, in my experience, of counsel.

MR. CHRISTIE: Thank you, Your Honour. Just for the record, I would like also to file, to show to the witness and file a transcript of the judgment translated by him, and he can swear to its truth, of the Court in Germany that acquitted him of any charge.

THE COURT: Is that a matter of contest?

MR. GRIFFITHS: No problem if my friend wants to file it, but the evidence has been given four times.

THE COURT: Why do I want to see that? I think everyone agrees that he was acquitted.

MR. CHRISTIE: Very well, Your Honour. Those are my questions to the witness.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour. {119|120}

#### CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. I just have a couple of questions, Mr. Zundel. In addition to the material that you've shown here, is it fair to say that you've appeared on a number of opinion programmes on television to state your case that six million Jews did not die in the Second World War?

A. Very, very few.

Q. So the answer is yes, but not many?

A. I can only name one, and that's the Tom Charrington Show with Mrs. Sabina Citron, the lady who laid the charge initially, where she told Mr. Charrington that she had, in fact, laid the charge. So whether it was concocted to give the excuse that I have appeared on opinion programmes, I don't know.

Q. But you have appeared on that programme.

A. On that one.

Q. And is it fair to say that you also were granted interviews on quite a number of occasions here, and invited people to your home to show them the process and tell your side of the story?

A. I have made the media welcome in my place. Unfortunately, we have seen, by the results, that the media have been very biased.

Q. All right. And is it fair to say, in fact, that you have welcomed whatever publicity, whether positive or negative, that puts your ideas before a large number of people?

A. No, Mr. Griffiths. I welcome, naturally, that my views be represented properly.

Q. Yes. {120|121}

A. But if I have a choice of being totally censored and blacked out or having only partially my viewpoint reported, I take the second.

Q. You take the second.

A. That's right.

Q. And is that what we saw here, was the second option, that you are telling your story as well as you can?

A. I can tell it better, but it was reported worse.

Q. All right. That's fair. That's fair. And in fact, one of the exhibits we had was quite a lengthy interview that you granted – I think it was Exhibit J – that was in the Globe and Mail, December 6, 1983, and that you granted that interview.

A. I did, yes.

Q. On the video, in addition to various items, some of which arose out of press conferences that you called...

A. Yes.

Q. ...and some of which arose out of other matters through the years – the postal authorities there was a fairly extensive tape of rowdy – or a group of people outside of your house. I think you said fifteen hundred to two thousand people.

A. That's right.

Q. There was nothing in the advertisement from the Jewish Jews, Exhibit I, indicating that this would be a rally about you, or going to your home. Is that right?

A. Nothing in the advertisement, but {121|122} the speakers specifically mentioned my name and asked the crowd, after the speeches were over, to march on my house, and it was by one of the organizers of the meeting. I have that speech on tape.

Q. All right. And at your house I believe that we saw on the picture that there were a number of individuals who are not Jewish, who I think you said were friends of yours that were on the front yard confronting the crowd. Is that right?

A. That's right.

Q. Were you expecting the crowd to come over that day? Is that why you had some friends over?

A. I knew there was a meeting held at Allen Gardens, and I surmised, certainly, that based on past experience and past rallies in Allen Gardens, that these people were going to come and demonstrate in front of my house.

Q. All right. Now, the people that you said were your friends that were in front of the house seemed to be holding placards and we couldn't read on the film what their placards said. What do their placards say?

A. I don't recall, Mr. Griffiths.

Q. Were the placards hanging from the house?

A. Certainly were.

Q. And what did they say?

A. "Six million Jews did not die." "The Holocaust is a hoax", one said, and "Call Ernst Zundel for further information", stating my telephone number.

Q. And did you put that up specifically for the purpose of the rally that day? {122|123}

A. No, for the purpose of informing the media who gave me a virtual boycott, to give me an opportunity, since I was going to be slandered again, to inform the citizens of this City what my viewpoints were.

Q. And you were anxious to do that. Did you think that would be provocative to the crowd that was going to be there?

A. If the crowd hadn't chosen to come, it wouldn't have provoked them.

Q. That doesn't answer my question, Mr. Zundel.

MR. CHRISTIE: I think it does, Your Honour. The question was, was it to provoke the crowd, and he said they wouldn't be provoked unless they came to see the signs.

THE COURT: Mr. Griffiths, you may rephrase the question, if you wish to do so.

Q. MR. GRIFFITHS: Mr. Zundel, do you think your signs and the pickets and the people that were holding the signs outside the house had any influence on the crowd outside your house?

A. That crowd was so agitated by the speakers, the speeches which I have on tape, that when they came to my place they were so unruly that they broke a promise to the authorities to stay on the other side, broke through police barriers and could only be restrained from coming to my place by force. And I had agreed with the police before, that as soon as the media had taken opposite my viewpoint, I would personally rip down those large signs that you refer to, remove the picket signs, and I did. {123|124}

Q. As soon as what?

A. As soon as the media had removed those signs and the signs on the wall.

Q. So you wanted the media to show that?

A. Yes, I did.

Q. And to show the crowd in front of your house?

A. I had no control over that. I wanted to use an occasion where my name was going to be slandered that I also should have an opportunity to show my side of the story.

Q. All right. On the video tape, Exhibit Q, and again that's the one that has all these newscasts on it, my recollection is there was an article from City Pulse News – and I regretfully didn't get the date – but it was the third article where it was announced that a good deal of the world hate literature was published from here, showed a picture of the house, and also publications.

A. Mm-hmmm.

Q. And there was one particular publication you were asked about twice by Mr. Christie, as I recollect...

A. Mm-hmmm.

Q. ...which was a little pamphlet called, "The Best of Both Worlds".

A. That's right.

Q. And on each occasion you were asked if you published that, and you said no. Did you write that?

A. No, I did not. {124|125}

Q. You did not write that.

A. No.

Q. Was it written by a man by the name of Christof Friedrich?

A. That was the name that appeared under the article, yes.

Q. And that was a pen name that you used?

A. That I have used for some flying saucer books.

Q. That is the only thing you have used that for?

A. That's right.

Q. Is that your middle two names – Ernst Christof Friedrich Zundel?

A. Yeah.

Q. Thank you, Mr. Zundel. I have no further questions.

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: I would like to complete my motion by filing —

THE COURT: Do you have any questions in re-examination?

MR. CHRISTIE: None. I apologize.

THE COURT: Thank you, Mr. Zundel. You can step down.

— The witness stands down.

MR. CHRISTIE: I would like to complete my motion by filing the two articles that are the subject {125|126} – the substance of the alleged charge, or the charge, rather.

THE COURT: They can be one exhibit.

THE CLERK OF THE PEACE: Exhibit X.

— EXHIBIT "X" on voir dire: Pamphlets entitled, "Did Six Million Really Die?" and "West, War and Islam", respectively.

MR. CHRISTIE: May I make a brief submission, please?

THE COURT: You may not only make a brief submission, you may make any submission that you may wish to make.

MR. CHRISTIE: Thank you, sir. I have placed before you all the evidence which, I submit, indicates that the accused is a controversial person against whom a great deal of publicity of a very negative nature has been created. My friend may argue that some of that is my client's fault. His alternative to that publicity may very well have been silence, but he chose to avail himself of the opportunity to communicate his views. Whether it's his fault or not, that there is publicity, and whether or not the publicity is negative as I allege, or {126|127} neutral as my friend may allege, it cannot be denied that he is a controversial person. I am not here to say who is at fault for the publicity, if anyone is at fault, but I am here to say that where a controversial person is in issue, and the truth of the statements that he made is in issue, certain circumstances prevail because of their controversial personality.

My friend, I think, is prepared to accept a proposition that I ask in the form of two questions, and that is, "Are you impartial between the Crown and the accused, and if not, can you decide the case on the

evidence before the Court alone?" – two very technical and very proper questions, I concede; but I think to really get to the substance of the matter, I should be allowed to ask more than that. I should be entitled to ask the questions that I have laid before Your Honour and that I have provided to my friend, because the issue in this case is the truth or falsity of an article, one being, "Did Six Million Really Die?", and the other being, "The West, War and Islam".

These articles' controversial views are expressed – the issue in the first article is, did six million Jewish persons die. In such a question, I {127|128} would submit that if it were, did six million Catholics, Protestants, or any other group, it would be important for any member of that group not to sit in issue on the fact of whether the statement is true or false. And it is not to say that this is a discrimination on any basis of race or religion to say that a member of any group whose position is in issue should not be the judge in their own cause. This equally applies to the issue of free masons, because in "The West, War and Islam" allegations are made about free masons, whatever they are, whomever they may be, and I am not authority, but my friend may reply, yes, Mr. Christie is correct that the issue is very important to Jews and very critical of free masons, and perhaps it can be taken as critical of Jews, is in issue; but how do we define or identify such groups?

Well, I don't think we have to for the purposes of the question that I propose to ask. If a person wishes to identify themselves with such a group, I am prepared to accept their honest answer and to be guided by that. If they wish to say that, "I have loyalty to this group", which I think it would be fair to say if you are a member of it, then properly and fairly you should be excused, and that is not to say that the group is right or wrong, but {128|129} only to say that they should not be judge in an issue where their position is the subject matter of the inquiry.

I would say the same of any group in this country or any other country, that none of us are qualified to be the judge on any particular cause. Now, that is my submission on the substance of any question relating to any of the Jewish persuasion or Freemasons being allowed to sit — THE COURT: What in the world is a Freemason?

MR. CHRISTIE: There is a clear answer. A Freemason is a member of a masonic order, and I am sure that in the course of the trial that will be indicated. I have many authorities I could put before you of what a free mason is, but a Freemason knows what a Freemason is. I am not a Freemason, so I can't give you an authoritative answer except from a secondary source, but I can say there are free masons of which I am aware from reading, and I can say that they are a very tightknit group of people who practise certain secrets, and they do exist, and I have read many books about them, some by masons, some not by masons. One gentleman right here could answer {129|130} that question, I'm sure, the gentleman I spoke to earlier, who is sitting with my learned friend, and he has told me about this; but the answer to the question, "What is a Freemason?" is not for me to answer. I simply say that when the issue is, as I expressed, that in "The West, War and Islam" allegations are made against freemasons, they are also made against international Zionists and also made against Jews, and if the issue is to be tried fairly on whether those allegations are true, then members of those groups should not sit as judges of the fact of whether they are true or not. That is not to be taken as criticism of Jews or Freemasons from me or from anyone else, but it should be —

THE COURT: Excuse me for a minute. There is some electronic noise periodically occurring. If any of these proceedings are being recorded on tape, they will cease and desist, and the equipment will be removed from the courtroom now. Any alarms or things of that nature on watches or other things will be put in such a position that they don't disturb the proceedings to the Court.

Proceed.

MR. CHRISTIE: Thank you, Your Honour. {130|131}

I hope I have expressed myself simply to the point that when an issue of fact arises in the trial that involves the honour, shall we say, or beliefs of a group, whatever the group may be – and free masons I don't think are a religion – the group should not sit in judgment and should be excused.

I am not asking for a favourable jury. I am not trying to accomplish a favourable jury by saying that those that are involved in the issues of fact should not judge the facts. I am simply asking for an impartial jury who are not involved in the facts themselves.

Now, I must say that's why I would like to exclude those people who are, in my submission, involved in the facts by being members of groups that truth or falsity of their views being the issue.

Respecting Mr. Zundel himself, I have tried to put before you some substantial evidence that there is prejudice against him by virtue of the fact that it has been repeatedly said falsely – I should say by false news – that he is facing hate charges. Now, there is a section that the media knows quite well, because they are not stupid, either involving hate – and they keep – even after Mr. Zundel provides from a lawyer a letter with fairly {131|132} clear indication that there is a distinction between s.177 and hate charges, they persist in publishing false statements about him.

I am not here to seek any remedy against them. I am here to ask that when my client is being tried on a charge involving false news, that I be entitled to ask the jurors questions whether they have formed negative opinions about him from the erroneous, shall we say, media coverage.

I submit that it really should be fair for me to ask questions of these prospective jurors. I realize that it causes delays, and I don't like delays any more than anyone else, because we have a substantive matter to try and let's get on with it, I quite agree with that position, but in this particular, rather unusual case, I ask for the privilege to ask more questions about impartiality. They are the basic issue, I quite concede that, and I wish I could have found the process by which, for example, in the Morgentaler case the transcripts of the jury selection which I tried to provide – they don't help me at all. I have tried diligently to find out how we should proceed if we do what I request. I concede that our country has not dealt with this issue in great {132|133} detail, perhaps, and I'd like to hear Your Honour's views, and the jurisprudence of our country will benefit from some guidance at this stage, because it appears likely that these controversial questions are going to proceed if we are going to proceed with cases of this nature, and I should be grateful for guidance in respect to what Your Honour will say, because I will face the same problem in another province when I am confronted with a jury in another rather controversial case.

For these reasons, I would like to put before you some substantive issues to support my contention. I am sure my friend will put forward his views, and I would ask that we be able to find out from Your Honour what questions I may put, if any.

I think my friend concedes I should be able to put some. I am asking for more latitude than two. I have asked for what I have written down, and in one instance I thought, in the course of the evidence, that it might be proper to ask one more, and that is, "Whether you have any abiding prejudices against German people because of the publicity that has been circulated about them".

I have not, in fact, gone so far as to put before you many of the negative stereotypes about German {133|134} people, because I think we have gone, perhaps, as long as we ought to in this regard, but I would now submit that there has been, over the last forty years, substantial negative media coverage about German people, and I'd like to find a jury that didn't have a deep-seated hatred of Germans, or a deep-seated hatred or prejudice against either of the parties that will be, shall we say, disputants in this rather complex issue.

This is not a simple matter of did somebody do something. It's a very complex matter of what happened forty years ago, and if the parties who, shall we say, were involved in a dispute at the time are going to be still imbued with deep-seated views derived from that time, I'm afraid impartiality will be rather difficult. So I am asking for the right to question these prospective jurors with somewhat more latitude than has been indicated by my friend, and I hope to be allowed to ask the questions that I have submitted to Your Honour. Thank you very much.

THE COURT: Thank you. Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour. {134|135} If I can deal first with those matters set out in category one by Mr. Christie, he is sug-

gesting that Your Honour excuse anyone from the panel who is (1) a Jewish person or is employed by Jewish persons or is a close friend or relative of a Jewish person.

Your Honour, I will deal with the cases in a moment, but quite frankly, what is a Jewish person? Are we talking about a race? Are we talking about a religion? Are we talking about a cultural heritage? Are we talking about a linguistic heritage? What is a Jewish person?

Your Honour is being asked to define it by using the same definition Adolph Hitler used. I don't know, Your Honour, but that is the first thing we are being asked to consider here; and being asked to consider that, Your Honour, you are being asked to disenfranchise, in essence, one vast segment of our citizenship from performing their rights, obligations and duties as citizens – that is, sitting on a jury. It is an ancient right and one not to be taken away lightly. I know of no case in Canada where it's ever been done before.

My friend has quite candidly admitted that – and I would agree with him – there is no case, Your Honour. If Your Honour were to feel that a Jewish person {135|136} – any Jewish person – could not try this case fairly and honestly, notwithstanding what that person said or what the triers of fact may say on any challenge, then you are asked also to exclude somebody who is employed by Jewish persons. What if he hates his employer, Your Honour? It's silly. Or somebody – what about somebody who is an employee of Jewish persons, or as a close friend or relative of a Jewish person?

I will come back to the case law in a moment, Your Honour, but in essence I suggest what you are being asked to do is to disenfranchise a whole segment of our community, and the cases indicate quite clearly that that is improper and should not be done.

The same comments apply, Your Honour, to the second group that are being asked to be excused from the panel – anyone who is a Freemason, or is employed by a Freemason, or is a close friend or relative of a Freemason.

Well, Your Honour asked the question, what is a Freemason? A "mason" is more commonly used as a short form today, but as Mr. Christie pointed out, to some extent it's a group that, while they might wear a lapel pin, they don't advertise themselves widely. How do you know if you know a Freemason, or are employed by a Freemason, unless {136|137} you ask about him? And if a juror finds out, at the end of three weeks, is he disqualified? I ask Your Honour that that is something that disenfranchises a whole section of our population for no reason, and there has been not one iota of evidence that all Jewish people or free masons in particular are biased against Mr. Zundel such that they can't give him an impartial trial.

The questions themselves, Your Honour – and again, I will deal with them by way of comment and then get to the cases – the first question that is suggested, "Can you consider and will your mind allow consideration of the question of whether there were gas chambers in Germany for the extermination of Jews? Yes or No"; question 2, "Can you impartially consider the question of gas chambers and the Holocaust and remove from your mind the massive publicity of it to decide the case on the evidence put before you in this case and only on such evidence?"; and question 4 – I will come back to 3 in a moment, Your Honour – "Do you believe the Holocaust happened as depicted by the media, and would you be able to remove that idea from your mind and consider the question solely on the evidence presented in Court?" – I'd suggest that each of those three questions, Your Honour, deal with matters of history that are taught in {137|138} public school or high school and university, that are the subject matter of thousands of books by some very distinguished authors, that as such, Your Honour, they are as true as who won the Second World War, or who is the Prime Minister of Canada and, as such, it would be open to Your Honour, I would suggest, to take judicial notice. It has been done before in a court of law in California in 1981. I do not have the case here, although I expect it is coming in the next day. It is a ruling in the case of *Mermelstein v. The Institute of Historical Review*.

In that case the Institute of Historical Review offered, I believe it was a \$50,000 reward – somebody here can correct me if I'm wrong –

\$50,000 reward to anybody who could prove that there were gas chambers in Germany. Mr. Mermelstein came forward, offered his proofs, the proofs were not accepted by the Institute, and he sued the Institute, I believe, for \$1.7 million to recover his losses. That lawsuit is still going in the States. However, the preliminary matters in that lawsuit, in 1981 Judge Thomas Henderson of the Superior Court of California took judicial notice of the fact of the Holocaust. It will be open to Your Honour as well.

Your Honour, the case of *R. v. Hubert*, {138|139} of course; is the leading case and I commend it to you.

THE COURT: I have it here.

MR. GRIFFITHS: Yes, sir. There are two other cases that I will commend to you.

THE COURT: Mr. Justice Osler.

MR. GRIFFITHS: Yes, I have that, Your Honour. Thank you. Mr. Justice Osler, in the case of *R. v. Crosby*, cited at 49 C.C.C. (2d) at page 255, a decision of our Ontario Supreme Court, and *R. v. Racco*, No. 2, Your Honour, at 23 C.C.C. (2d) page 205, a decision of...

THE COURT: Judge Graburn.

MR. GRIFFITHS: ...Judge Graburn, Your Honour, yes. And I have one other case that I will put to you, Your Honour, although I don't know whether I have copies, but I will be pleased to send out my copy. It is *R. v. Salvador*, et al, 1981, 59 C.C.C. (2d) page 521.

If I can deal with those in order, *R. v. Hubert*, a unanimous decision that was, I believe, appealed to the Supreme Court of Canada, was refused. So that can be taken to be the law of Canada. At page...

THE COURT: 289.

MR. GRIFFITHS: Thank you, Your Honour. Page 289, halfway down: {139|140}

*"There is another broad principle involved. There is an initial presumption that a juror not disqualified by the statute under which he is selected, will perform his duties in accordance with his oath."*

That is the presumption that every juror is entitled to. A little further on:

*"Challenge for cause is not for the purpose of finding out what kind of juror that person called is likely to be his personality, beliefs, prejudices, likes or dislikes."*

Page 290, at the top:

*"The challenge must never be used by counsel as a means of indoctrinating the jury panel to the proposed defence or otherwise attempting to influence the result of the eventual trial. In this regard we respectfully adopt the views of Mr. Justice Seaton in R. v. Makow, supra, page 518."*

As he puts it, an accused is entitled {140|141} to an indifferent jury, not a favourable one.

Also cited with approval is the practice direction for jurors issued by Lord Chief Justice Widgery, also on page 290, three quarters of the way down [down]:

*"It is contrary to established practice for jurors to be excused on more general ground such as race, religion or political beliefs or occupation."*

That is what we are being asked to do, Your Honour. That is contrary to law, as I understand it.

*R. v. Hubert* goes on to indicate, page 291, about three quarters of the way down, that even the holding of a tentative opinion about it does not make partial a juror sworn to render a true verdict according to the evidence. *R. v. Makow* was again cited with approval, and I won't read the whole citation – I know Your Honour is familiar with it – but today's juror is intelligent and well able to judge a case on the merits of the courtroom, rather than merits outside the courtroom.

Your Honour, *R. v. Crosby* that I have given you a copy of, Mr. Justice Osler in that case was asked to exclude black people from a jury, and he indicates at page 256: {141|142}

*"It seems to me that, in the absence of any notorious episode in a community of the type I have mentioned, to permit challenges of this kind to go forward simply on the ground that man is prejudiced and that black and white may frequently be prejudiced against each other is to admit to a weakness in our nation and in our community which I do not propose to acknowledge."*

I would respectfully suggest that Your Honour not acknowledge a purported weakness. There has been no evidence of anything that would amount to a widespread, notorious incident in the community.

*R. v. Racco*, No. 2, there were questions that were suggested in that case going to the Italian heritage of the accused. "Do you have any prejudices against Italians?" was suggested: "Do you know any Italians?" "Do you fraternize or are you friends with any Italians?", etcetera. All those were disallowed by His Honour, leaving only the more general question about evaluating police officers' evidence, making no reference to race, religion, nor beliefs. {142|143}

Finally, Your Honour, in the case of *R. v. Salvador*, et al – and I will pass this up to you in just a moment – it is a decision of the Nova Scotia Supreme Court Appeal Division. There was a challenge for cause that was made. It was the case of drug importation. The questions that were proposed to be asked were, amongst others, Question Number 5, "Do you have any fixed notions regarding drugs?". That was the proposed question. And the judge there said, of course, everyone has fixed notions about drugs; in this day and age it is hard not to have a fixed notion about drugs; the only question is whether "You are prepared to try the case on the evidence before the Court". That's the *R. v. Salvador* case.

On Question No. 3, if I can return to it, then, in the second category, "Do you believe that Jews of today are God's chosen people and are especially favoured by God?" – Your Honour, it's in the Christian's Old Testament as well as in the Torah that Jews are God's chosen people, certainly in the Old Testament. Are we going to eliminate all questions as well as all Jews who may have read their Bible recently?

THE COURT: What about atheists and agnostics? {143|144}

MR. GRIFFITHS: Well, Your Honour, they are coming next, because in the article, "The West, War and Islam" – and I am not sure whether, Your Honour, I passed you up a copy of that or not, for your consideration – four groups are being attacked in that article, Your Honour, and it said that those four together form an unholy conspiracy for all that is evil in the world today. Those four groups, Your Honour, are the International Zionists, first, and they are defined not only as International Zionists, but also, about three quarters of the way down the page, under the paragraph, "International Zionists":

*"Just as mistakenly, the brainwashed Christians of the West have been led to believe that vicious, greedy and militant people who call themselves 'Jews' are 'good', because the Christian Bible mentions 'Jews' as 'God's Chosen People'. Ever since 1945, the Zionists and their hirelings have used this self-serving myth as a tool for the deception of the Western Christian masses."*

That is what we are getting at in this {144|145} question, Your Honour, which is totally improper. If we are going to exclude Freemasons and Jews, Your Honour, I would suggest that also mentioned in the article under, "International Secret Societies", it says:

"Freemasonry and all its cover organisations like the Kiwanis, Rotary, Lions, etc."

MR. CHRISTIE: I didn't ask for the challenge of Kiwanis, Rotary and Lions.

MR. GRIFFITHS: I understand, but it is the same rationale, Your Honour. So are communists, international bankers – anybody who works for a bank we can't have.

I suggest that the proper questions, Your Honour, if there is to be a challenge for cause – and that is for Your Honour to decide, is on questions number 7 and 8: "Have you, because of any beliefs or opinions you may have or because of what you have heard, read or seen in the media, formed any opinion as to the guilt or innocence of the accused?"; and then, "Despite any beliefs or opinions, would you be able to set aside any belief or opinions and reach a verdict of guilty or not guilty solely on the evidence and the law you receive in this courtroom?" {145|146}

That is the nature of the question that was approved by Chief Associate Parker in *Morgentaler*.

There was no exclusion of Catholics from the *Morgentaler* jury, no ex-

clusion from the Right to Life organization, no exclusion, indeed, of Hasidic Jews who believe that abortion is wrong, or anyone – quite a number of other religious groups who hold strong religious and moral beliefs. None of them are excluded ab initia, Your Honour.

That will be my submission.

THE COURT: Mr. Christie, you have the last word.

MR. CHRISTIE: Yes. First of all, Your Honour, I did not ask for any outrageous proposition such as my friend suggested of defining Jews according to the categories of Adolph Hitler or any other category. I have asked that those who consider themselves Jews be excused, not because of their status or religion, but because the very issue in the case is, did six million really die, and we are not talking about apples, we are talking about Jews. Therefore, that is a very core issue to the case and that is why I asked for that. {146|147}

THE COURT: Is that the issue?

MR. CHRISTIE: Yes.

THE COURT: Is that the only issue?

MR. CHRISTIE: It will be a major issue. Well, there's two pamphlets, So I have to deal with both of them, but surely the first one is coming first, and I have to deal with it, and I don't know how to define which is major and which is minor: and whether it is true or false is the issue and the Crown has to prove that it's false. They also have to prove that my client knew it was false, and also have to prove that my client intended to create mischief to a public interest by telling what he knew to be false. So I suggest that to determine whether the statements in that brochure are true or false is a major issue in the case. So we are not talking about apples; we are talking about did six million Jews really die.

I am asking that it is not the case such as might occur when a Jew or a gentile or any group, or a Kiwani or somebody else is charged with an offence. I am not asking that members of that group or some other group be opposed, but when an issue – and my friend did not address this – involves the very beliefs of a group, what {147|148} ever that group is, my friend should not excuse them.

My friend did not seem to notice that by agreement with the Crown, a group were disenfranchised in the case of Morgentaler, and I quote from the little bit of information I have, and that group my friend may consider worthy of being on a jury, as do I. The group is any person on a trial who is related to a police officer, or anybody employed in a law enforcement agency, or any friend of a person employed in a law enforcement agency. Well, I followed that verbatim except that I went from police officers to Jews, and from Jews to free masons, because they happen to be Jews involved in the case. I don't think police officers, as a group, are more worthy to be disenfranchised than anybody else; but if a group happens to be involved very closely in the issue of fact to be tried, yes, they are not qualified – I don't care who they are – to judge their own cause.

I go on. Why did I chose those questions for general excuse rather than general exclusion, or shall we say that I ask Your Honour to excuse them, because in the Morgentaler case the second question was, "Any person who is personally acquainted with or related to the accused, please raise your hand", and they would be excused. The {148|149} Crown agreed to that. "Is there anyone who speaks or understands English but has difficulty understanding it fully?"

MR. GRIFFITHS: I am content with that.

MR. CHRISTIE: Well, I didn't hear you say that.

MR. GRIFFITHS: I'm sorry, Mr. Christie.

I am content with number three and four of your exclusions.

MR. CHRISTIE: Well, that is in addition to my friend's agreement, but it comes as a surprise, because it seems to imply that I seek to exclude just with the definition of Adolph Hitler, and I did not suggest that; but I am suggesting free masons because they are accused of doing wrong and should not be judging the cause, that's all.

Similarly in respect to the question in the first brochure. My friend alluded to and thought we should take judicial notice of the Holocaust. I don't know what he means, because I don't know how to define the

Holocaust, but I don't think we should take judicial notice of all the facts referred to in the brochure. I hope we are going to be looking at the case with an open mind.

I am not asking to have the jury excluded {149|150} on the second category of questions because they happen to fit within the category. I don't decide that. The triers will decide that. I may argue that these people, because they answer in this way, are not qualified to be jurors, but I don't decide that. All I am asking is the right to ask a question. My friend won't even accede to that. He said I shouldn't be able to ask that question.

THE COURT: Which question is that?

MR. CHRISTIE: The second category of question, with the exception of the one he agreed to.

Now, if the triers are as sensible as he says they are, then – because I am unable to demonstrate bias – then they will be accepted and I fail; but they should be asked the question. That is the first question to be decided by Your Honour.

He says that history taught in public schools and universities establishes the Holocaust as a fact. I don't know whether to agree or disagree, but that is not that I should be asked that I shouldn't ask the question whether they have firmly fixed opinions that they can't remove on the Holocaust. I am not asking that they agree with me. I am asking, "If you have firmly fixed opinions that you cannot put aside and hear the case on the {150|151} evidence, please, Mr. or Mrs. Trier of this jury, please excuse them". And if the trier says, "Mr. Christie, these are impartial, whether you like it or not", then they be on the jury. That's all.

He says thousands of books by distinguished authors decide the case. Well, maybe they do, but that is not for the jury to decide, and I am asking for the right to get an impartial jury that hasn't made up its mind already. I am not asking that the jury decide who won the Second World War, or what the Holocaust is. That is not what I asked to be allowed to question of any prospective juror. I think we should have confidence in the impartiality of the trier, and Your Honour, if I go beyond the realm of what is beyond the issue of impartiality, Your Honour will stop me; but I don't like to start a process of inquiry with a restriction on my right to question. I am surely not going to go on too long about it, because if I do, you will stop me. So my friend can, at any stage, if I ask a question that he considers improper. All I am fighting for, now, is a right to ask eight questions.

THE COURT: Nine.

MR. CHRISTIE: Sorry. I guess the first three are verbatim with the exception of what I consider {151|152} to be an appropriate amendment from the Morgentaler agreement of counsel to excuse police officers, law enforcement agencies or friends of such persons. Maybe that wasn't right, I don't know, but I am asking for the same privilege.

Then, when I went on to my further questions, I am sure you will concede that I followed very closely the allowed questions in Morgentaler, but this is a little more complicated than even the Morgentaler case, because we are trying, here, the issue of truth or falsity of a brochure that, rightly or wrongly, has many, many, many facts, and I am asking a question that goes a little deeper than, "Do you have any religious, moral or other beliefs relating to abortion such to acquit regardless of the law or the evidence?"

Well, abortion is not the issue alone in the case. It is a much more complicated series of questions. Now, what am I supposed to do – not be allowed to ask them whether they have fixed opinion on the pamphlet and its subject? My friend says, yes, don't allow Mr. Christie to go beyond these two questions. Well, if those two questions are the only questions, I am sure it will be very brief, but I don't know that it would be very fair, because I can't find out if there is prejudice in order {152|153} demonstrate it to a potential trier. I wish with all my heart that we could get right to the issue of a case, dispense with all this talk, and get to the issue of proving the fact of truth or falsity; but if we had ideal people who were impartial in this world who didn't have fixed opinions on these very controversial issues, I wouldn't argue the point; but unfortunately, we do have firmly fixed prejudices in our society.

My friend refers very aptly to R. v. Crosby, but he ignored a part that I



think is relevant, and I will read it. Mr. Justice Osler said:

*"From time to time something in the nature of a cause celebre arises in a given community which indicates that passions are running high and that hate and prejudice regarding one or other segments of the community is rampant in the community."*

I don't know because I don't live here, that people are, as you could have seen, Your Honour, that we were attacked on the way to the Courthouse, every day. Maybe it happens more often than I know, but I have shown before Your Honour substantive proof that this man, rightly {153|154} or wrongly, has a focal point – and now the Crown will say it's his fault, anyway, because he says things other people don't like – the focal point of some very high passions; and I am asking that if people have those high passions because they belong to members of groups, now, what groups, you might say? "Is Mr. Christie creating an illusion of a group that doesn't have high passions? Well, Your Honour, the people who held the sign of the Jewish Defence League didn't say by anyone in authority that, "We of the Jewish community don't agree with that". Everyone is free to disassociate themselves from violence. If someone says, "The Jewish community is doing this", the German community says, "We disassociate ourselves from our action" – no such word is produced anywhere that I know of. I looked hard and everywhere for it. So does this group have high passions? Are they qualified to be objective?

Now, I don't know, because maybe passions run high here more than they do where I come from, but surely the type of attack that you can see in these video tapes is high passion that demonstrates this group that calls itself the Jewish Defence League somehow or another is attached to, we can – where associative signs are in that group – perhaps we can have a right to say that the {154|155} group appears to have an interest.

And Mr. Justice Osler says, it seems to me, that "in the absence of any notorious episode in the community of the type I have mentioned" – what type had he mentioned? The type of passions running high, and hate and prejudice and a cause celebre.

Well, I don't know many cases that have had as much media celebration as this one, for some reason. Then he says it's a little different than just trying someone who has to be black or white or yellow or whatever other colour. That is not the case here. We are trying a very difficult issue, a very complex issue. I wish it was a simple issue, but it isn't, and it is going to involve people who are going to come to us with the prejudice that exists in our community, and I feel that I should be entitled to ask about those prejudices in order that a trier of fact may say yeah or nay to our argument that they have these deep-seated beliefs. And as I say, we should trust the impartiality of these triers and allow something more extensive in the way of questions than what should be pro forma questions that my friend accedes to.

I realize it is a difficult decision. I am glad that, for once, we will have some kind of pronouncement {155|156} on these questions. I am well aware my friend is right that it seldom arises that an argument comes so early, and it does seem to, but I am sure Your Honour will agree that it is an important issue, and I am sure Your Honour will address it with the appropriate degree of concern as you have been very patient in hearing me. I appreciate it.

My friend was very kind to enable me to overcome a difficulty that I had the other day when I raised my Charter argument. My authorities were somewhere between Calgary and here, and they arrived just as I finished. My friend has allowed me, and I have prepared copies for him, and prepared copies of what is really the argument in the Keegstra case, which may be totally irrelevant. I can't see the differences. If it is, Your Honour will just disregard it; but it has many authorities that tend to deal with these issues. And I also have the National Citizens' Coalition case which upheld the Charter. For that reason, I give my friend a copy.

MR. GRIFFITHS: I think you did already.

MR. CHRISTIE: Thank you. I will leave that with Your Honour, but I will try, somehow, to incorporate that information in my argument. Thank you very much for hearing me, Your {156|157} Honour.

THE COURT: Gentlemen, am I correct in taking it that all submissions have been made that are going to be made with respect to the motion, as it were, concerning what questions may be put to a prospective juror, if any, by way of a challenge for cause, and the Charter argument that was put yesterday? Is there anything further on either one?

MR. CHRISTIE: Not from me.

MR. GRIFFITHS: I won't if he won't, Your Honour.

MR. CHRISTIE: All right. We've agreed.

THE COURT: It is now eleven-thirty. I hope to be in a position to give either or both rulings at two-thirty. I want to give it some thought. There is a great deal that I have to read between now and then. If I am not ready, I will let you know.

MR. GRIFFITHS: Thank you, Your Honour.

MR. CHRISTIE: Excuse me, Your Honour, but I forgot to file this video of the news reports from last night, if I may.

THE COURT: Thank you for reminding me. I should have thought of that myself. That will be Exhibit Y. {157|158}

— EXHIBIT "Y" on voir dire: Video tape of news broadcasts.

— Discussions regarding adjournment.

— Whereupon the hearing is adjourned to January 9, 1985, at twelve o'clock.

—— {158|159}

## JANUARY 9, 1985

— Upon the hearing resuming.

## REASONS FOR RULING

THE COURT: The accused stands charged with two counts of wilfully publishing a statement or tale that he knows is false and that causes or is likely to cause injury or mischief to a public interest, contrary to s.177 of the Criminal Code. That section reads as follows:

*"Everyone who wilfully publishes a statement, tale or news that he knows is false and that causes or is likely to cause injury or mischief to a public interest is guilty of an indictable offence."*

Counsel for the accused challenges the validity of s.177 on the grounds that its provisions are inconsistent with s.2(b) of the Canadian Charter of Rights and Freedoms. Section 2(b) states:

*"Everyone has the following fundamental freedoms:*

*(b) Freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication."*

Counsel for the accused essentially contends the Charter guarantees an absolute right to express any view, and should not be limited to those views that are popular. Furthermore, he submits that the wording of s.177 {159|160} is vague, imprecise and confusing. In the result, the submission is that it is unclear to ordinary Canadians as to what behaviour will be found to contravene this section.

I am of the opinion that freedom of expression as guaranteed by s.2(b) of the Charter is not absolute. This is also the view expressed by Professor Clare Beckton in the article, "Freedom of Expression found in Canadian Charter of Rights and Freedoms: Commentary (1982)", edited by W.S. Tarnopolsky, as he then was, and G.A. Beaudoin, at page 76:

*"At the same time, freedom of expression is not absolute. In defining its ambit, principles must be evolved to reconcile the rights of different individuals and groups to free expression. Further, the rights of freedom of expression must be reconciled with other valued individual and societal interests, such as the right to privacy, the right to a fair trial and the nation's right to security against hostile forces."*

In the recent decision of R. v. Keegstra, Mr. Justice Quigley of the Alberta Queen's Bench found that {160|161} s.281.2 of the Criminal Code did not contravene s.2(b) of the Canadian Charter of Rights and Freedoms. Section 281.2 provides as follows:

*"(1) Everyone who, by communicating statements in any public place, incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace, is guilty of*

*(a) an indictable offence and is liable to imprisonment for two years; or*

*(b) an offence punishable on summary conviction.*

(2) Everyone who, by communicating statements, other than in private conversation, wilfully promotes hatred against any identifiable group is guilty of

(a) an indictable offence and is liable to imprisonment for two years; or  
(b) an offence punishable on summary conviction.

(3) No person shall be convicted of an offence under subsection (2) (a) if he establishes that the state-ments communicated were true;

(b) if, in good faith, he expressed or attempted to establish by argument an opinion upon a religious subject;

(c) if the statements were relevant to any subject of public interest, the discussion of which was for the public benefit, and if on reasonable grounds he believed them to be true; or

(d) if, in good faith, he intended to point out, for the purpose of removal, matters producing or tending to produce feelings of hatred towards an identifiable group in Canada.

(4) Where a person is convicted of an offence under section 281.1 or subsection (1) or (2) of this section, anything by means of or in relation to which the offence was committed, upon such conviction, may, in addition to any other punishment imposed, be ordered by the presiding magistrate or judge to be forfeited to Her Majesty in right of the province in which that person is convicted, for disposal as the Attorney General may direct."

"Identifiable group" has the same meaning as it has in s.281.1.

A "public place" includes any place to which the public have access as of right or by invitation, express or implied.

"Statements" includes words spoken or written or recorded electronically or electromagnetically or otherwise, and gestures, signs or other visible representations.

His Lordship concluded at page 22 with the following passage:

"In my opinion, the words 'freedom of expression' as used in Section 2(b) of the Charter does not mean an absolute freedom permitting an unbridled right of speech or expression. In particular, I hold that section 281. 2 (2) of the Criminal Code does not infringe upon the freedom of expression granted by section 2(b) of the Charter." {163|164}

In support of this conclusion His Lordship, in part, relied upon two pre Bill of Rights decisions of the Supreme Court of Canada. In Switzman v. Elbling (1957) S.C.R. 285; 7 D.L.R. (2d) 337, the Supreme Court of Canada declared Quebec's "Padlock Act", which made it illegal to propagate communism or bolshevism as ultra vires the provincial government. Mr. Justice Rand accepted that freedom of expression was limited when he said at page 305:

"For the past century and a half in both the United Kingdom and Canada, there has been a steady removal of restraints on this freedom, stopping only at perimeters where the foundation of the freedom itself is threatened. Apart from sedition, obscene writings and criminal libels, the public law leaves the literary, discursive and polemic use of language, in the broadest sense, free."

In Reference Re Alberta Legislation (1938) S.C.R. 100 at page 133, Mr. Justice Duff had the following to say:

"The right of public discussion is, of course, subject to legal restrictions; {164|165} those based upon considerations of decency and public order, and others conceived for the protection of various private and public interests with which, for example, the laws of defamation and sedition are concerned. In a word, freedom of discussion means, to quote the words of Lord Wright in James v. Commonwealth (1), 'freedom governed by law'."

In Boucher v. R. (1951) 99 C.C.C., a decision of the Supreme Court of Canada not referred to in Keegstra, Chief Justice Rinfret made the following comment on the restriction of free speech:

"I would not like to leave this appeal, however, without stating that to interpret freedom as licence is a dangerous fallacy. Obviously pure criticism, or expression of opinion, however severe or extreme, is, I might almost say, to be invited. But, as was said elsewhere, 'there must be a point where restriction on individual freedom of expression is justified and required on the grounds of {165|166} reason, or on the ground of the democratic process and the necessities of the present

situation'. It should not be understood from this Court – the Court of last resort in criminal matters in Canada – that persons subject to Canadian jurisdiction 'can insist on their alleged unrestricted right to say what they please and when they please, utterly irrespective of the evil results which are often inevitable'."

In the United States, Mr. Justice Quigley observes in Keegstra, freedom of speech is not absolute. Restrictions are permitted in cases of obscenity or libelous and insulting words. As the cases note, "such utterances are no essential part of any exposition of ideas and are of slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality." See for example: Chaplinsky v. The State of New Hampshire 315 U.S. 568 (1942); Roth v. The United States 354 U.S. 476 (1957); Beauharnais v. Illinois 343 U.S. 250 (1952).

I also note that Article 19 of the {166|167} International Covenant on Civil and Political Rights, which Canada has agreed to comply with, places limits on freedom of expression. In my opinion, the intended purpose of both s.177 and s.281.2 is the same. Those sections seek to prohibit the wilful promotion of ideas that are designed to cause injury or mischief to a public interest, or to promote hatred. The conclusion reached in Keegstra should, therefore, be applied in the case at bar and s.177 should be found to be valid legislation.

I am also of the view that s.177 is not vague or imprecise. The section applies only to statements that are known to be false and that cause or are likely to cause injury or mischief to a public interest. A "well-intentioned citizen" could consider the criteria established by the section and determine whether his or her behaviour is unlawful. (See R. v. Reed, (1983) 8 C.C.C. (3d) 153 (B. C. Co. Ct. ); 10 C.C.C. (3d) 573 (B.C.C.A.); R. v. Red Hot Video Ltd., (1984) 11 C.C.C. (3d) 389 (B.C. Co. Ct.)). If the above conclusion is found to be incorrect and s.177 is held by a Court senior to this to prima facie infringe the guaranteed fundamental right of freedom of expression, I must consider whether the denial or limit is a reasonable one, a demonstrably {167|168} clear point of view, and justified in a free and democratic society pursuant to s.1 of the Charter. That section states:

"The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society."

The burden of proof lies with the party claiming the benefit of the section. In this case, the onus is on the Crown. I refer to Southam Inc. v. The Queen, (No.1) (1983) 3 C.C.C. (3d) 515 (Ont. C.A.).

Section 1 can be broken down as follows:

(a) Is s.177 a reasonable limit?

(b) Is it prescribed by law?

(c) Can it be demonstrably justified in a free and democratic society?

In Re Federal Republic of Germany And Rauca, (1983) 141 D.L.R. (3d) 412 Chief Justice Evans stated as follows at page 423:

"The phrase 'reasonable limits' in s.1 imports an objective test of validity. It is the judge who must determine {168|169} whether a 'limit' as found in legislation is reasonable or unreasonable. The question is not whether the judge agrees with the limitation but whether he considers that there is a rational basis for it – a basis that would be regarded as being within the bounds of reason by fair-minded people accustomed to the norms of a free and democratic society. This is the crucible in which the concept of reasonableness must be tested."

In determining whether legislation limiting a fundamental freedom is reasonable, the Court must consider three factors: rationality, proportionality, and comparison to other free and democratic societies.

The rational basis for the legislation is to control the mischief and injury caused by the spreading of false information. Ordinary Canadians would, I think, find the dissemination of this type of material offensive. Furthermore, recent history has shown the danger of permitting an unlimited right to freedom of expression.

The limitation imposed by s.177 of the {169|170} of the Code has a very minimal effect on the overall right of freedom of expression. It limits only those expressions that are wilfully published by a person

who knows they are false, and that are statements that cause or are likely to cause injury. I am aware that no evidence was led by the Crown of similar legislation in other jurisdictions of free and democratic societies. However, as the Ontario Court of Appeal in the case of *Re Southam Inc.* noted:

*"...the court must come back, ultimately, having derived whatever assistance can be secured from the experience of other free and democratic societies, to the facts of our own free and democratic society to answer the question whether the limit imposed on the particular guaranteed freedom has been demonstrably justified as a reasonable one, having balanced the perceived purpose and objectives of the limiting legislation, in light of all relevant considerations, against the freedom or right allegedly infringed."*

Returning to the situation in Canada, I {170|171} would conclude that the limitation imposed by s.177 on freedom of expression as guaranteed by s.2(b) of the Charter is reasonable, is prescribed by law, and is demonstrably justified in a free and democratic society.

This motion is, therefore, dismissed.

I turn now to my ruling with respect to the right of this accused to challenge for cause.

———{171|172}

#### REASONS FOR RULING

THE COURT: The indictment charges Mr. Zundel with two criminal offences pursuant to s.177 of the Criminal Code. The indictment reads as follows:

*"1. ERNST ZUNDEL stands charged that he, during the year 1981, at the Municipality of Metropolitan Toronto in the Judicial District of York, did publish a statement or tale that he knows is false, namely the article, 'The West, War, and Islam', and the said article is likely to cause mischief to the public interest in social and racial tolerance, contrary to the Criminal Code.*

*2. ERNST ZUNDEL stands further charged that he, in or about the year 1981, at the Municipality of Metropolitan Toronto in the Judicial District of York, did publish a statement or tale, namely 'Did Six Million Really Die?', that he knows is false and that is likely to cause mischief to the public interest in social and racial tolerance, contrary to the Criminal Code."*

After arraignment, before plea, and in the absence of any member of the jury panel at large, defence {172|173} counsel has requested that I permit prospective jurors yet to be called to be challenged for cause. He seeks leave to ask each prospective juror the following questions:

1. Can you consider and will your mind allow consideration of the question of whether there were gas chambers in Germany for the extermination of Jews? Yes or no.
2. Can you impartially consider the question of gas chambers and the Holocaust and remove from your mind the massive publicity of it to decide the case on the evidence put before you in this Court and only on such evidence? Yes or no.
3. Do you believe that the Jews of today are God's chosen people or especially favoured by God? Yes or no.
4. Do you believe the Holocaust happened as depicted by the media, and would you be able to remove that idea from your mind and consider the question solely on the evidence presented in {173|174} court? Yes or no.
5. Do you have any moral, religious or other beliefs relating to Jews or the Holocaust such that you would convict or acquit regardless of the law or evidence? Yes or no.
6. Do you have any moral, religious or other beliefs relating to Freemasons such that you would convict or acquit regardless of the law or evidence? Yes or no.
7. Have you, because of religious or moral beliefs, or because of what you have heard, read or seen in the media, formed any opinion as to the guilt or innocence of the accused? Yes or no.
8. Despite any beliefs or opinions, would you be able to set aside those beliefs or opinions and reach a verdict of guilty or not guilty solely on

the evidence and the law you receive in this courtroom? Yes or no. {174|175}

9. Do you have any abiding prejudices against German people?

That last question, I might state, came to me during the course of argument. The words, "Yes or No" were not put to me by conscious decision. I deliberately put them there now.

In addition to the nine questions I have just set out, counsel for the accused has requested, in opening remarks to the jury panel at large before the jury panel is chosen, that I excuse anyone from the jury panel who:

- (1) is a Jewish person or is employed by Jewish persons or is a close relative of a Jewish person;
- (2) is a Freemason or is employed by a Freemason or is a close friend or relative of a Freemason;
- (3) is personally acquainted with the accused in such a way that he favours or dislikes the accused so much that he would be unable, through prejudice, to look impartially upon the accused or judge his guilt or {175|176} innocence solely on the evidence in court,
- (4) speaks or understands some English, but has difficulty understanding it fully.

As I understand it, Crown counsel and defence counsel may well have come close to agreement that subject to my order, questions 7 and 8 might be permitted, but they have been totally unable to agree with respect to the balance of the questions that I have just read.

In support of his motion Mr. Christie, with leave of the Court, proposed to call *viva voce* evidence in the person of the accused for the purpose of laying evidentiary groundwork designed to support his request that all these questions be granted by the Court. Mr. Zundel testified and was cross-examined. Twenty-three or more exhibits on the motion and so marked are received by the Court. In the main, those exhibits consisted of photostatic copies of print media publications which appeared in daily newspapers of wide circulation. Those newspapers include the Toronto Sun, the Toronto Star, and the Globe and Mail, all in their various editions. In addition, I saw, through video tape, a series {176|177} of television news broadcasts emanating from such stations as CFTO, CBC, Global, Channel 11, and others, all having a wide viewing audience within the southern Ontario region. I viewed various news reports concerning this accused and his clash, sometimes very often physically, with members of what is said to have been the Jewish Defence League. Those scenes depict physical violence being perpetrated upon and by the accused on others with much profanity involved. In these confrontations the accused and his followers wore various colours of hard hats and bullet-proof vests. Members of what is said to be the Jewish Defence League carried canes, placards and the like. The publications commenced, as I have heard, in 1981 and 1982 and continued with periodic regularity up to and including the commencement of this trial.

It is not difficult to observe on the tapes that Mr. Zundel and his followers and those adherents to the Jewish Defence League have not been strangers to one another for quite some time. Each group accepts and understands that when they intentionally confront one another, physical violence will be the expected result. On almost each occasion of violent confrontation I viewed on tape the accused wore the distinguishing blue hat of the group {177|178} commander. His subordinates, wearing yellow hats, were all depicted in disciplined tactical wedge formation making the approach to the courthouse. Their opponents, commanded and led with equal discipline, sometimes armed with thick wooden clubs masquerading as walking sticks, and usually with stout wooden shafts supporting paper placards, shouted slogans in unison, demonstrated with their placards, and then proceeded to attack the accused and his followers.

The tapes disclosed that the accused always appeared calm, smiling, well-dressed and coherent. He has, on the tapes, time for the appropriate quotation in clear language for the press. Near the end of each confrontation he gives to the cameras what anyone over the age of forty-five knows to be the authentic Nazi salute. In yet another exhibit

the accused has created composite films with sound of several occasions when the Jewish Defence League has been picketing his house after demonstrating in a nearby park employing placards, threatening the accused within the home with physical gestures of violence and verbal profanity.

Cross-examination disclosed that on at least one of those occasions the films did not disclose the existence of provocative banners slung against the outside walls of Mr. Zundel's home. Those banners, I heard, displayed for {178|179} all to see the written message that the Holocaust was a hoax and six million Jews did not die in it, or words to that effect.

Mr. Zundel is depicted in yet other tapes showing members of the media the extent of his publishing activities, the publications he has produced from the printing machinery he employs for that purpose.

This evidence was led by the defence in support of the position that no person of Jewish persuasion should be permitted to sit as a juror in this trial. With surprising candor, Mr. Christie submits that no person should be permitted to sit in judgment of his own case. With equally surprising candor, he attempts to employ that principle in this trial by equating persons of a certain religious persuasion, and being members of a certain group, sitting in judgment of "their own case". With that proposition I strongly disagree. He carries that submission even further by stating that if the issue here had concerned whether or not six million Roman Catholics or Protestants and not Jews perished in a certain period of history as a result of a certain alleged Holocaust, that present members of either group should not be selected as jurors to sit in judgment had the subject matter concerned them as members of that group. Mr. Christie further submits that the evidence contained in all {179|180} of these exhibits discloses wide dissemination of the material contained therein. These publications are repetitive and, in the opinion of the accused, are often erroneous, one-sided and unfair. These are but some of the submissions made by Mr. Christie, counsel for the accused.

Counsel for the Crown takes the position that, following the principles set out in the case of R. v. Hubbert, 29 C.C.C. (2d) 279, all of the questions, with the possible exceptions of question numbers 8 and 9, are inappropriate and should not be permitted.

Without question, much of the evidence discloses that there has been a heavy, persistent and recent dissemination of the subject matter of this case to the public at large. Exhibit "H", for example, is an article quoting the Attorney General of Ontario being apparently pressed by a Jewish organization to prosecute the accused. In the same article there is reference to the Klu Klux Klan and mention of the accused by name as being a member of a Toronto based organization which appears to be called Concerned Parents of German Descent. Exhibits "I" and "K" appear to be advertisements promoting an anti-Nazi rally to be held in a park in Toronto on the 31st of May, 1981.

I have noted in Mr. Zundel's evidence {180|181} that, in his view, his attempts to rectify what he termed deliberate errors and misrepresentations made by members of the media in what they wrote and said, and to whom he granted interviews, have failed. The accused has sworn that he was erroneously referred to in Exhibit "O" as "a Hitler lover", and under a mailing ban by the Canada Post Office, both of which, he said, were untrue. Exhibit "P" is a tape created by the accused wherein harassing and profane telephone calls are made to his home. Those calls threaten him with death, mutilation, castration and the like.

Mr. Christie submits that the accused has been tried, in effect, by the media. Therefore, without selective elimination from the jury of those citizens of Jewish background, or persons who he calls Freemasons who are referred to in an exhibit as being "assassins" who support Zionism, the accused will not be accorded a totally impartial jury to try this case.

As I observed recently in the case of R. v. Kenneth Brian Deyarmond in making a similar ruling on the same subject with which I now deal, I do not, for one moment, believe that prospective jurors generally do not read and recall certain strongly publicized events involving notoriety and controversy. It would be quite impossible to {181|182} select

twelve jurors about whom one could be sure that none had heard about these charges against Mr. Zundel. That, in my respectful view, however, does not necessarily make a juror unfit to serve. Jurors are not stupid. They read newspapers. They watch television. They speak with their friends. Rarely, if ever, have jurors, over the past many decades, failed to dispense criminal justice with an even hand between the State and the accused. That is so when the cases they have decided contained elements of far greater notoriety and controversy than does the case at bar. Mr. Justice Osler, in the case of R. v. Crosby, 49 C.C.C. (2d) 255, had the following, in part, to say on this subject:

*"I think it is a matter of common knowledge that throughout society there are many people who hold particular prejudiced views about other segments of society. These segments may be of racial, religious, or some other composition and in the present decade or even throughout the past 25 years it has become obvious that the population of our country is composed of persons of very many racial origins and is no {182|183} longer to any degree homogeneous."*

In my respectful view, what I have seen and heard of the evidence in the case at bar does not lead me to conclude that, in our society, generally speaking, at present, passions are running high, and that hate and prejudice regarding one or more particular segments of the community is rampant. There is not present the "notorious episode" in the community as mentioned by Mr. Justice Osler in the Crosby case. Were I to permit Mr. Christie to put any of these questions to any prospective juror I would, in effect, be disenfranchising a substantial segment of our society in this community from the right and duty to sit as a juror in a court of criminal jurisdiction in a democratic country. I have no intention of doing that. That is so because the evidence I heard, along with the submissions, totally fails to disclose any valid reason for my doing so. Whether or not these stories and news flashes emanating from the media are true or false, or whether they were Mr. Zundel's deliberate creation, is not the point.

In exercising my judicial discretion and refusing the defence permission to ask any of these questions I bear in mind the principles of R. v. Hubbert where, at page 289 and thereafter, the following quotations are made by {183|184} the Ontario Court of Appeal:

*"Some broad principles respecting criminal trials by jury must be reconciled in dealing with challenge for cause. The elemental principle is that every accused person is entitled to a fair trial. This must include the empanelling of a jury that will be impartial between the state and the accused. As with all trials, justice must be seen to be done, and even the appearance of partiality is to be avoided."*

*There is another broad principle involved. There is an initial presumption that a juror not disqualified by the statute under which he is selected, will perform his duties in accordance with his oath. (We recognize the competence and importance of female jurors. We will use 'he' and 'his' throughout these reasons for convenience only.)*

*It is important to consider the purpose of challenge for cause. It is to eliminate {184|185} from the jury as sworn those persons who come within the five categories listed in 5.567(1) of the Code, and save as to a juror whose name is not on the panel, to require that the truth of the challenge be decided by two triers chosen from the prospective juror's peers.*

*Challenge for cause is not for the purpose of finding out what kind of juror that person called is likely to be – his personality, beliefs, prejudices, likes or dislikes.*

*The challenge must never be used by counsel as a means of indoctrinating the jury panel to the proposed defence or otherwise attempting to influence the result of the eventual trial. In this regard we respectfully adopt the views of Mr. Justice Seaton in R. v. Makow, supra, page 518. The challenge for cause should not be used deliberately as an aid to counsel*

*in deciding whether to exercise the right {185|186} of peremptory challenge, although indirectly a proper challenge and the trial of its truth may have that effect. The next principle requiring enunciation is that the trial Judge has a wide discretion and must be firmly in control of the challenge process. We believe that from time to time, and in various*

*parts of the Province, the process has been abused by counsel. The influence of American practices in some States has crossed the border – and sometimes not in the actual form of the prescribed practices, but as they are thought to be by Canadian imitators.”*

I conclude with the observation that the evidence I have heard and read shows that the accused, perhaps through his own deliberate acts, has attracted much publicity and notoriety upon himself. His positions on sensitive, emotion-provoking subjects certainly achieved that result, in my view. That alone, however, should not compel the exercise of my judicial discretion to permit any of these questions to be put. Each and every proposed question, I find, offends {186|187} the principles set out in *R. v. Hubbert*. There is no evidentiary connection between the attracted notoriety and the reasonable prospect that any prospective juror, regardless of his or her racial origin or religious belief, or for any other reason, would be unable to impartially return a verdict in this trial based solely and only upon the evidence led thereat.

Associate Chief Justice Parker permitted a challenge for cause in a recent trial involving Dr. Morgentaler. I observe, however, that the subject of abortion being dealt with in that case can hardly be compared with an event of history said to have occurred in Europe forty years ago, and which constitutes a subject in the case at bar.

Mr. Zundel elected trial by jury. No one forced him to elect that mode of trial. He has an absolute right to be tried by a jury of his peers. Having so elected, the public notoriety he has attracted to himself does not, of itself, in the absence of anything further, entitle him to use any of these questions to challenge his prospective jurors for cause in order to tailor his own jury to suit him. The application is dismissed. I fully intend to make what I consider to be appropriate comments concerning {187|188} the duty of the prospective jurors when the jury panel at large is assembled in this courtroom.

That will occur at two o'clock.

— Submissions by Mr. Griffiths concerning calling of witnesses starting on the 10th instead of the 9th.

MR. CHRISTIE: I am not taking a position with respect to what my friend has to say. It is up to him what he does with his case, but I was going to ask Your Honour to make clear that in your remark made in the course of your deliberations on the Charter, or your reasons on the Charter, you were not specifically making any reference to the facts of this case, although I did notice at one point you said something that seemed to indicate your view on that matter.

THE COURT: I did not give my personal view. I gave an assessment of the evidence in connection with that particular element of the ruling which required me to do so as to the view that might be taken by an ordinary Canadian.

MR. CHRISTIE: Yes. But I was asking Your Honour to, perhaps, clarify for the benefit of anyone {188|189} who will be reporting this to the public, that you weren't making comments on the facts of the case so much as on the section of the Code itself.

THE COURT: Precisely. I certainly was not – it is not within my province to make personal comments, as a judge, on any of the evidence that I have heard in connection with this motion. It was merely fulfilling what I consider to be an obligation on my part in connection with making a ruling of law.

MR. CHRISTIE: Yes. Thank you. I don't think I have anything else, Your Honour, to say.

THE COURT: Thank you. Is two o'clock convenient, gentlemen?

— Discussion concerning adjournment.

— Whereupon the hearing is adjourned to 2:15 p.m.

— Upon the hearing resuming.

— The jury panel at large enters. 2:15 p.m.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Good afternoon, Your Honour. The matter, Your Honour, of Ernst Zundel. {189|190}

THE COURT: You are prepared to proceed?

MR. GRIFFITHS: Prepared to proceed, Your Honour.

THE COURT: Mr. Christie?

MR. CHRISTIE: Yes. I appear for the accused.

THE COURT: Thank you. Arraign the accused, please.

THE CLERK OF THE PEACE: The accused please stand.

ERNST ZUNDEL, you stand charged that you did, during the year 1981 at the Municipality of Metropolitan Toronto in the Judicial District of York, did publish a statement or tale that you know is false, namely, the article, "The West, War and Islam", and the said article is likely to cause mischief to the public interest and social and racial tolerance, contrary to the Criminal Code.

(2) You stand further charged that you did, in or about the year 1981 at the Municipality of Metropolitan Toronto, in the Judicial District of York, did publish a statement or tale, namely, "Did Six Million Really Die?", that you know is false and that is likely to cause {190|191} mischief to the public interest in social and racial tolerance, contrary to the Criminal Code.

ERNST ZUNDEL, upon this indictment, how do you plead, guilty or not guilty to count one?

THE ACCUSED: Not guilty.

THE CLERK OF THE PEACE: Count two?

THE ACCUSED: Not guilty.

THE CLERK OF THE PEACE: Thank you.

THE COURT: Members of the jury panel at large, in a few moments twelve of your number will be selected to become judges of the facts in this case. The process by which you will be selected is very old. The names of each one of you are contained on a card; the card resides in the drum which you see at the right-hand side of our Clerk. When the process begins, at random, names from the drum will be selected and then, thereafter begins the interesting and age-old process by which a jury in a criminal case is selected.

The process through which you are all now passing, and through which twelve of your number will pass, to a much greater degree, is a very important process in a democratic country such as this. Everyone of our Courts from coast to coast in this country have the sole object of {191|192} ensuring that in every criminal trial fairness and the appearance of fairness prevails throughout a trial.

It is, therefore, very important that the twelve who are selected realize what a very important process it is. Long after this case and every other case has been decided it is absolutely vital that to the public at large a fair trial has been held.

When I use the words "fair trial", I mean fairness to the accused person who is on trial, and I also mean fairness to the community represented by the Crown. When I say to you that twelve of your number will be selected as judges, I mean precisely that – the twelve who are selected will be the judges of all of the facts in this case. When I refer to facts, I mean evidence. When I say the word "evidence", I mean the testimony that flows from the mouth of each witness as that witness testifies in that witness stand.

The function of a Judge is multi-fold. A Judge must come to every case totally free of any prejudice in favour of or against the accused who is on trial. The juror must come to the case totally ignorant of all of the facts that will unfold through evidence as the trial proceeds. The juror must come to the case totally free of any prejudice {192|193} in favour of or against the Crown.

A criminal trial is, in essence, the unarmed combat and contest between Crown and defence. It must be conducted fairly and it must be conducted according to the law, and only that. Each juror must be prepared to find a verdict solely and only upon the evidence that is led throughout the trial and nothing else.

With those characteristics in mind, I can say to you that over the last hundred years or more in this country fair trials have almost invariably occurred. The juror must be in such a position as to understand every word that is said in the evidence. That, essentially, means that because this trial will be conducted in the English language, that the person who must be the judge of the facts – namely, each juror – must understand and be fluent in that language.

In addition to that, the juror must be in a position to see each witness

as that witness testifies. The object is to observe the witness and to thereafter be able to measure or weigh the evidence that each witness gives. That simply means that each juror must have normal good eyesight in order to make that visual assessment.

A juror must hear every word that falls {193|194} from the lips of every witness. In the result, the hearing of every juror must be normal and adequate to the task. If, therefore, amongst those of you who are present there is a problem with respect to the fluency in the English language, a problem with respect to one's hearing or eye-sight, in order to ensure a fair trial would you please so indicate that disability, if any, if, as and when your name is called and you come to the book to be sworn.

I am told that this trial will last something close to three weeks. I am well aware of the fact that at no little financial and time inconvenience you find yourselves listening to these words in this courtroom whereas you have, each of you, other serious and pressing responsibilities elsewhere. In the event that, for reasons which you will be asked to explain, find yourselves unable, by reason of very serious problems – and I emphasize the words very serious problems – unable to serve your country for that extra week, then you will please indicate if, as and when your name is called from the card that is selected at random and you come to the book to be sworn.

If there is any prospective juror here who is a member of, or who is related by blood or marriage to anyone else who is a member of any group or organization {194|195} which uses violent confrontation in public places in support of or in opposition to the ideas of other groups, and if by the reason of that membership or your relationship you feel that you would be unable to judge and act as a judge or as a juror who, as a judge, impartially, and solely and only upon the evidence that you have heard, then you will please so indicate in the same manner as I have already indicated.

If there is anything that you have heard, seen or read about this case that would prevent you from impartially deciding a verdict solely and only upon the evidence led in this courtroom, then of course you don't come to the case free of preconceived notions or prejudice, and you will please so indicate.

Notwithstanding anything I have said, if there is any member of your number who is a prospective juror whose present views concerning the guilt or innocence of this accused are so strongly fixed that an impartial assessment of the evidence heard only in this trial would be impossible or difficult, if the answer to this question or to any of the other questions I have posed is yes, if your name is called please indicate that when you come to the book to be sworn.

This case has attracted a good deal of publicity. I am sure that you will each bear that in mind, {195|196} and I am sure that you will do your duty according to the oath that you will take, notwithstanding anything that you may have seen, heard or read in this case.

I am equally confident that the jury selected in this case will act in a fair, unbiased manner and will decide this case solely and only upon the evidence that is led throughout the whole of the trial from the beginning to the end.

— Whereupon 12 members are selected from the jury panel at large and duly sworn.

— The jury panel at large retires. 3:30 p.m.

THE CLERK OF THE PEACE: Members of the jury, look upon the accused. He stands indicted by the name of ERNST ZÜNDEL, and that he did, during the year 1981, at the Municipality of Metropolitan Toronto in the Judicial District of York, did publish a statement or tale that he knows is false, namely, the article, "The West, War and Islam", and the said article is likely to cause mischief to the public interest in social and racial tolerance, contrary to {196|197} the Criminal Code.

(2) He stands further charged that he did, in or about the year 1981 at the Municipality of Metropolitan Toronto in the Judicial District of York, did publish a statement or tale, namely, "Did Six Million Really Die?" that he knows is false, and that is likely to cause mischief to the public

interest in social and racial tolerance, contrary to the Criminal Code. Upon this indictment he has been arraigned. Upon his arraignment he has pleaded not guilty, and for his trial he has put himself upon his country, which country you are. Your charge, therefore, is to enquire whether he be guilty or not guilty, and hearken to the evidence.

— {197|198}

### OPENING INSTRUCTIONS TO THE JURY

THE COURT: Members of the jury, as I indicated when you were sitting elsewhere, twelve of you have been selected to be the judges of the facts in this trial. At the risk of repetition, I should say that when I refer to the word "facts", I mean solely and only the evidence that you will hear from that witness stand, from witnesses who have been sworn under oath to tell the truth.

Facts in evidence can also be taken from exhibits which, when sworn to under oath, may be admitted at this trial. I repeat again that as judges, you are precisely that.

There are thirteen judges in this courtroom – twelve of you and myself. Our functions, however, are very different. My function is to preside over the trial, to make any rulings of law that may arise during the course of the trial, and to supervise the trial generally speaking to ensure that a fair trial and the appearance of a fair trial is had.

Your function is to listen to all of the evidence, to hear the addresses of counsel when they come, and then after that to hear my charge as to the law. That is so because you must accept the law as I give it to you. Your duty is to then retire and consider a verdict. {198|199}

Judges quickly learn that the first virtue is patience. You will be doing a good deal of listening. You will be doing a good deal of watching.

All criminal cases are akin to a jigsaw puzzle. The last piece does not fall into place until near the end of any trial; the picture does not become clear until such time as the last piece does fall into place. It is, therefore, absolutely vital that you keep an open mind and come to no conclusions as to the guilt or the non-guilt of the accused until such time as you have heard every word of evidence that you are going to hear, and until such time as you have heard the addresses of each counsel and my charge. Only then will you be in a position to retire and, according to the oath that you have just taken, consider a verdict according to the evidence, and the evidence only, that you have heard.

That witness stand is located halfway between where I sit and where you sit. It is put there for a purpose. The purpose is to permit you the best view of each witness as that witness testifies. It is vital that you have that view so that you can see what the witness says as he or she is saying it, hear what the witness says, and be in a position to weigh the evidence and accord it some {199|200} weight, full weight or no weight at all.

That is the method by which you go about your duties. You are finders of fact. Nothing becomes a fact until each one of you, as jurors, makes it so.

The accused on trial is represented by Mr. Christie. Mr. Christie sits at the counsel table to my right. His duties, as an Officer of this Court, consist, generally speaking, in part if not in whole, in representing his client. He ensures that the accused has a fair trial according to law.

In practical terms that essentially means that when Mr. Griffiths, for the Crown, who sits at the same counsel table opposite me, calls his witness to the witness stand to testify, Mr. Griffiths will ask some questions. They will give answers. Their answers constitute evidence. It is from that evidence that you may or not, as you shall each decide, draw facts. It is the facts that you find that are employed by you in reaching your verdict.

Mr. Griffiths will examine each one of his witnesses, as we say, in chief. When he has concluded, Mr. Christie, if he wishes to do so, has the absolute right to cross-examine each witness. His purpose will be to test {200|201} the credibility of each witness in order to permit you a better opportunity to decide what weight, if any, you will accord the evidence of each of the Crown witnesses.

When Mr. Griffiths, for the Crown, has called all of the evidence that he intends to call on behalf of the crown, the defence, if it chooses to do

so, may or may not lead evidence of its own. If it chooses to do so, and it is within the absolute right of the defence to make that decision, then those witnesses will be examined in-chief by the defence. Mr. Griffiths will have the opportunity of examining each of those witnesses for the same purpose.

When all of the evidence that you are going to hear throughout the whole of the trial has been led, each counsel, in turn, will then sum up by addressing you, as jurors, with regard to each side of the case. When that has been concluded, I will then deliver to you my charge as to the law. As I say, you must accept the law as I give it to you. Rest assured that if I am wrong in what I say to you about the law, or if I am wrong in failing to say something to you that I should have said, I can be quickly corrected elsewhere.

It will only be at that point that you will have all of the evidence and the whole picture, and you {201|202} will then be in a position, then and only then, to render a proper verdict according to the law.

As I say, fairness is the hallmark of any trial. The appearance of fairness is equally important. You will be doing a good deal of listening, as I say, and a good deal of sitting. So that you can govern your personal lives around this trial, we will commence at ten o'clock in the morning. There will be a break at about eleven thirty. Coffee, tea, soft drinks will be served to you as jurors. We will break at one o'clock. We will resume at either two fifteen or two thirty, depending on circumstances, and we will rise at four thirty or perhaps a little later, again depending on how the evidence is going.

Those hours may sound to you like very soft hours. Members of the jury, I can only reply by saying this: Wait until the end of the first day when you have been sitting all day listening and concentrating, and I think you will find that those hours are quite sufficient for one day.

You will become acquainted with your jury room quickly enough. You should know that it is not luxuriously appointed. I will not keep you in that jury room for any longer than I can possibly avoid. {202|203}

You should also know that during the course of any criminal trial jurors are asked to leave the courtroom and to go to the jury room so that counsel and I can decide legal problems in your absence.

Those legal problems usually concern the admissibility or the non-admissibility of evidence. They could, however, concern anything. Rest assured that you will hear every line and every word of evidence that you are entitled by law to hear. Rest also assured that you will not hear one line of evidence that you are not entitled to hear. That is the reason that you are asked to leave. Please do not feel offended if that is the case. That is the way our trials are conducted in this system.

If, during the course of this trial, within this building and elsewhere, you pass counsel, witnesses, the accused or anybody else and they do not speak to you, do not feel offended. Please understand that you should not speak to them under any conditions. They are not being impolite and they are not ignoring you. It is part of their duty not to speak to you. If anyone should try to speak to you in this building or anywhere else concerning this case, even {203|204} remotely concerning this case, my order to you is to report it forthwith at the earliest opportunity to the Deputy, who will report it to me. You can understand that I will deal with it very, very quickly.

Nobody is to speak to you about this case. It is a mistake for you to discuss it very much, if at all, among yourselves – although I do not say that you cannot do that because we are all human – before you retire to consider your verdict; but it is improper to discuss it with anybody else before it is over. Indeed, that is the way we function; that is the method by which we strive to maintain fairness and its appearance in the trial.

Again, when I say "fairness", I mean fairness to the accused who is on trial, and fairness to the community represented by Crown counsel.

I do not believe that there is anything further that I have to say to you except that, in due course, Mr. Griffiths, counsel for the Crown, is permitted to give you an opening address. He will be the first to advise you that what he says to you is not evidence and should not be taken by you as evidence. His purpose is to let you know what the Crown's case is all about and how he hopes to prove it. That is permitted so that you

can get a better notion {204|205} as to what the case is all about originally, so that you will be better able to follow the evidence.

You are not given notebooks or expected to take notes. The reason is simple. As judges of the facts your duties are far better spent assessing the evidence that you hear. You will see counsel taking copious notes. You will see me doing the same thing. We have a reporter who takes down every word that is uttered in this courtroom during the course of the trial. You can, therefore, see that there is no lack of note-taking, or information at your disposal for you to resort to that when the time comes, if you wish to do so.

I have been advised by counsel prior to your arrival that due to other matters no evidence is to be called today. I don't know that you will be overly disappointed about that. I have one or two matters from a month or two ago that I must attend to early tomorrow morning. I am, therefore, going to ask you to become slightly acquainted with the interior portions of your jury room so that you will know where to go.

You are excused now and you are free to go until eleven o'clock tomorrow morning. I would be grateful if you will be ready to go at all times at ten o'clock, {205|206} even if you become somewhat frustrated when you are not called at ten o'clock. I will explain reasons as we go along. However, if you could be there at five to ten, that will be fine.

Thank you. please do not discuss the case, keep an open mind, have a good evening.

— The jury retires. 3:50 p.m.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Your Honour, just one preliminary matter that should be discussed in the absence of the jury – and Mr. Christie and I have discussed this before, but I thought we should raise it with you. I do know what Your Honour's general policy or position is on the jury taking notes, and Your Honour just expressed it to the jury.

I am going to be requesting, Your Honour, that the jury be permitted, not to take notes, but that each one of the twelve jurors be permitted to have one each of the two articles that are under attack by the prosecution.

THE COURT: To take home or to be handed in at the end of each day? {206|207}

MR. GRIFFITHS: I am suggesting it be handed in at the end of each day. I will be going into specifics – I believe Mr. Christie will be as well during the course of the cross-examination – on the matters that are raised in this pamphlet. Some of the wording is thick, and I think it may be of assistance if the jury can read along and look at that section that I am asking questions about on the two pamphlets.

So I am going to be requesting that they each be permitted to have a copy to be handed out each morning and handed in each afternoon.

THE COURT: Mr. Christie?

MR. CHRISTIE: I indicated earlier that I would provide the copies, and my intention was that they would thereby obviate the necessity of doing what my friend suggested he might have to do in having his witness, Mr. Williams, read the book to them at the beginning of the case.

I think it is a good idea for them to read it to themselves.

THE COURT: That is a merciful position that you both take.

MR. CHRISTIE: I hope it is practical {207|208} and sensible. It is also my position that if they want to take it home and read it, that should be open to them, because they are not going to get much chance to read it when they are here, provided that they were told, as of course they have already been told, not to consider evidence from outside the courtroom. I think they can be trusted to read it at their leisure.

Now, that is my position. It may be —

THE COURT: It makes sense, but I will not permit it for this reason, that knowing a little bit about human nature —

MR. CHRISTIE: They will want to check the source.

THE COURT: It will become a subject of comment around the kitchen table. That will not be permitted.

MR. GRIFFITHS: I am worried about independent research, also, by members of the jury.

MR. CHRISTIE: Those are also two independent concerns. I certainly



defer to what Your Honour feels in regard to the matter. They were attempted practical solutions to the problem.

THE COURT: I appreciate your motives, {208|209} and I would like to say — I would like to agree with you, but I would be most imprudent if I did that.

MR. CHRISTIE: The other thing, Your Honour, I wanted to raise — now, I intend, as I indicated from the outset, to admit the publication of this, that is, “Did Six Million Really Die?” and to admit that the accused authored, “The West, War and Islam” and that he sent it to a specific recipient on a number of occasions. I hoped, thereby, to obviate a necessity to avoid the issue.

My friend indicated he wished to lead evidence in a *voir dire* to prove another aspect, and I want only to ask my friend, if it is polite, convenient and appropriate —

MR. GRIFFITHS: All of those things. Go ahead, Mr. Christie.

MR. CHRISTIE: — if he would be so kind if he would articulate what he wishes to prove by the *voir dire*, because I hope, if my client's middle names are Christof Friedrich, I can admit that, too, and may obviate the necessity for the *voir dire* as a while. Then we will just get to the evidence.

Now, that's why I asked the question. If my friend will be so kind as to put on record his objections {209|210} — if I need time to consider it overnight, I will do so and advise you by morning, or perhaps I can advise now, if it is simple enough, and then we start with the evidence tomorrow.

MR. GRIFFITHS: Thank you, Mr. Christie. I think, Your Honour, Mr. Christie and I obviously have been talking about this and exchanging notes back and forth about this particular issue, and I think that, really, we can come to an agreement as to an agreed statement of facts for part of this matter.

I would be content with an admission by Mr. Christie, on behalf of Mr. Zundel, with respect to count one that Mr. Zundel was the author of a pamphlet, “The West, War and Islam”, that the article was distributed some time in the year 1981, which is the date set out in the indictment. With respect to the article, “Did Six Million Really Die? Truth At Last Exposed”, which is the subject of count number two, I will be content with an admission that Mr. Zundel published the article and wrote a foreword and postscript to that article and distributed it in Canada in 1983.

Finally, Your Honour, that the name, Christof Friedrich, the two middle names, are pen names occasionally used by Mr. Zundel, which I believe was admitted {210|211} in the course of the *voir dire*.

THE COURT: Yes.

MR. CHRISTIE: I can agree with everything my friend said with this qualification. “The West, War and Islam”, when he said distributed, he can add the words, “to certain specific people”, because that is my instructions, and then the issue becomes, does that constitute —

THE COURT: Publication.

MR. CHRISTIE: — publication.

MR. GRIFFITHS: I am satisfied.

THE COURT: So you gentlemen are *ad idem* on the matters that Mr. Griffiths has discussed? Those are admissions of fact; if that is the case, I presume the *voir dire* fades into —

MR. GRIFFITHS: There will be no *voir dire*.

THE COURT: Yes. Anything else?

MR. CHRISTIE: I don't think that there is anything else that I can expedite. I would be able now to provide, if you wish, unmarked true copies of the two articles and file them as exhibits. Well, perhaps —

THE COURT: You had better wait until the jury gets back and do that at that time. {211|212}

MR. GRIFFITHS: I would be, if I may, Mr. Christie, through my first witness, be putting in exhibits of one copy of each, and at that point, perhaps —

THE COURT: Well, you gentlemen can work out whatever the format is. Is there anything else? I have a matter, but I do not want to interrupt your train of thought.

MR. GRIFFITHS: No, Your Honour. That was the principal matter that I

wished to address.

THE COURT: Mr. Christie, is there anything from you?

MR. CHRISTIE: No.

MR. GRIFFITHS: There will be other matters.

THE COURT: I am sure there will. I am not anticipating anything specifically, but I thought that you gentlemen might be kind enough to permit me to make a slight anticipation by looking at the 41st Edition of Archibald, page 4-262, and the second edition of MacWilliams, page 637. The subject is “Judicial Notice”

MR. CHRISTIE: When would Your Honour like to deal with that matter? {212|213}

THE COURT: At your convenience. I don't know that it is going to become a matter. All I am asking you to do now is to have a look to see what, if anything, is worthwhile looking at there. That is all I am saying on that subject.

MR. CHRISTIE: That, I am sure, will be a hotly debated and strenuously argued item, if it arises.

THE COURT: I don't disagree with that at all.

Thank you, gentlemen.

— Whereupon the hearing is adjourned to January 10, 1985.

— VOLUME II follows — {213|214}

## VOLUME II

### JANUARY 10, 1985

— Upon the hearing resuming.

MR. GRIFFITHS: I spoke with Mr. Christie, Your Honour, before you came in, and I think just before we have the jury, there is something that should be discussed in the absence of the jury, and rather than doing it after I address them, it is better to do it now.

THE COURT: Yes.

MR. CHRISTIE: My friend gives me the opportunity, and I appreciate the chance, to say that my friend proposes, I understand, through his witness, Mr. Williams, seated to his left, to introduce books into evidence.

Now, this is the beginning of a procedure which I would be very anxious to be circumspect about, the procedure being the introduction of books to prove, possibly, two different things. Books as original evidence of what is printed in the books I cannot object to, but books as evidence to the truth of their contents I would object to.

My friend advises me that he intends to introduce what I can see from here to be three books under the Criminal Code —

MR. GRIFFITHS: That is not going in.

MR. CHRISTIE: I hope we won't be {214|215} proceeding to prove things in a way of introducing books. Now, I am prepared to meet that if it occurs, because I suspected it might be something the Crown might want to do because I don't know what evidence of so many of these issues can be produced other than books; but it is a very serious objection to this whole matter.

I can accept the proposition that books can be introduced as original evidence of what is in the book. For example, my friend is going to say the article in question, “Did Six Million Really Die?” refers to a page and it does so incorrectly, erroneously, or out of context. I don't argue with that; it is quite admissible; but if he is trying to, at any stage, produce books to prove the truth of the statements in books, then I think we embark on an area of law that would be, indeed, novel, not to make a pun; but it would be original, perhaps. And I would object to it because — I am prepared to bring all sorts of books of my own, but we are going to get into a battle of books which, if need be, we will, but I would object to it.

And so I hope that my remarks are of some assistance to clarify my position, and I am sure my friend anticipated, I hope that he will confirm, that he is introducing these only for the purposes of proving what {215|216} is in the book, not to prove its truth.



THE COURT: Yes. Mr. Griffiths.

MR. GRIFFITHS: I quite agree with Mr. Christie, Your Honour. I have no intention of pitting my library against his library. There are a number of books, and it's the Crown's position, as Mr. Christie has fairly pointed out, that are quoted out of context, statements attributed to authors that are later disavowed by the author in the same source.

My purpose here, Your Honour, is to prove that one of two articles – my purpose in both articles, but this particular one, is false. My purpose is not to re-fight World War II. My purpose is to focus on this article which cites certain sources of information, and I propose to examine some, by no means all, of those sources and see whether they are quoted in context in that article.

I have made photocopies, Your Honour, of pages that I am going to be looking at. I am – it is my intention to put in the photocopy, to have the book here in court because that is the best evidence – and surely my friend can object and say there are other parts in the book that weren't put in. The book is here. I don't mean to introduce the book as an exhibit. I can't do that; but only {216|217} photocopies of certain pages that refute material in the Crown's position that is contained within the article cited from those same books, if I have made that clear.

MR. CHRISTIE: Well, that having been said, I want to make clear that my position will be that, in respect to proof of the reasonableness of a belief such as my client has, that if we can prove the truth of the statements in the book from other sources, or sources that give justification for reasonable belief and its truth, I will be introducing those books to prove not the truth of the contents of the books, but the reasonable basis for my client's belief.

THE COURT: You mean reasonableness of the belief, or honesty of the belief?

MR. CHRISTIE: I would have to take the view that we will eventually, or the jury will ultimately consider whether a belief is honestly held. I think that means whether he holds it and, secondly, to do so they will have to consider whether it's a reasonably held belief.

So I want to alert my friend to the fact that when I produce books, that will be my purpose in producing them, and through various sources.

THE COURT: I'm sorry to interrupt. {217|218} Is there anything further?

MR. CHRISTIE: Not on that point.

THE COURT: All right. Having heard what the Crown proposes, do you object, or – I will not ask you if you consent, but do you have any comment on it?

MR. CHRISTIE: No. I think that we have expressed on the record the important distinction between proof of the truth of the contents, and proof for the purposes of contradiction.

THE COURT: I thoroughly agree with the position that you take, and that Mr. Griffiths takes. We are all ad idem.

MR. CHRISTIE: Very well. Thank you, Your Honour.

THE COURT: I am sure, Mr. Griffiths, that at the appropriate time he will make that clear to the jury in some way. If he doesn't, I will.

MR. CHRISTIE: Yes. The other point my friend made in saying that he will introduce photocopies, he means, obviously, of some sections; and I can quite understand why he will not introduce the book, but I would ask and insist, I hope, that I be entitled to have it for cross-examination to make sure that he hasn't taken it out —{218|219}

THE COURT: You mean the book? Certainly.

MR. GRIFFITHS: That is why I said for those purposes that it is here, so you can cross-examine.

MR. CHRISTIE: So for the purposes of cross-examination I will see the full extent of it.

Does Your Honour wish to re-affirm in the presence of the jury our understanding and agreement on facts which I will endeavour to make and which I think we did reach yesterday? Unfortunately, there is no transcript, through no one's fault, and therefore we have to repeat that; and we have the copies available now. I don't want to enter them unless Your Honour feels they are permissible.

I would, in the process of, perhaps, admission of facts, file them, and I have thirteen copies of each, unmarked. I can affirm and I hereby confirm that these are true copies of the matter in issue.

THE COURT: I think that the way it should proceed is simply this. The jury will be called in. Our Clerk will go through the formalities of ensuring – polling them on the first day that they are here, that they are properly here. I will then ask counsel whether or not they agree that the jury is present and properly constituted. {219|220} Mr. Griffiths can then open. After that I will ask for any admissions, and at that stage you can respond or not, as you shall choose, and Mr. Griffiths can do the same. Is that agreeable to you?

MR. CHRISTIE: Yes.

THE COURT: Is that agreeable to you?

MR. GRIFFITHS: Yes, sir.

THE COURT: Done. Is there anything further?

MR. CHRISTIE: May I ask that my client, in the course of cross-examination, be allowed to sit beside me as this is, indeed, a complicated case? Facts, issues and many circumstances arise. I am quite prepared to deal with the entire matter, but I do request that I be allowed to speak with him without the necessity of running back and forth to the —

THE COURT: Cross-examination?

MR. CHRISTIE: Yes.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: I leave that in Your Honour's hands.

THE COURT: I don't see anything wrong with that at the moment, and I am sure it will work out to {220|221} your satisfaction. Let me reserve on it till I can catch a flavour of what is going to happen.

MR. CHRISTIE: Yes.

THE COURT: The jury, please.

— The jury enters. 11:10 a.m.

— The jury is polled. Counsel content.

THE COURT: Yes, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

MR. GRIFFITHS: Your Honour and ladies and gentlemen of the jury, as His Honour indicated to you yesterday, I am given an opportunity to address you at this time to try to paint, in broad strokes, what I expect the evidence will be for the Crown in this trial.

As His Honour also warned you, I am the first to tell you that what I tell you now is not evidence itself. It is only what I expect will be the evidence.

As we all know from our own experience, people often say rather more or less than what we expect. Nobody would be more surprised than I if everybody said {221|222} exactly what I expected in the course of this trial.

The evidence that you will have to consider will come from the witness box and from exhibits, and there will be exhibits in this case.

I expect that the Crown's case, my witness that I will be calling, will take about ten days – totally different from a television show where you have the total picture in an hour. I can only give you the picture piece by piece through each witness and each exhibit that comes in.

Of necessity, because of scheduling and what-have-you, some witnesses will be called out of order. So to help you to know where those pieces fit in the jigsaw puzzle, I am giving you the overall picture now of what I expect you will hear; otherwise you will be putting together the jigsaw puzzle without the picture on the cover, and that will be very difficult.

Could I see the indictment, please, Madam Clerk?

You have heard Mr. Zundel arraigned, enter his plea, and you have heard the charges read a couple of times, but if you could bear with me, if I can read them one more time and make some comments on them, Mr. Zundel {222|223} stands charged that he, during the year 1981, at the Municipality of Metropolitan Toronto in the Judicial District of York, did publish a statement or tale that he knows is false, namely, the article, "West, War and Islam", and the said article is likely to cause mischief to the public interest and social and racial tolerance. That is the first count.

In the second count the wording is exactly the same, only instead of the article, "The West, War and Islam", it is, "Did Six Million Really

Die?"

It will be my obligation to call evidence on the various parts or elements of that charge that Mr. Zundel was the person who published the statement or tale, that the statement is false that's contained in those articles, that he knew it was false, and that that article, or those articles are likely to cause some injury – mischief and injury to a social interest, public interest and social and racial tolerance. And all those are the elements that I will be calling some evidence during the course of this trial.

You will have an opportunity to examine those articles very closely over the next ten days and we will be referring to them fairly minutely. One is quite {223|224} brief, being only three pages – two and a half pages; and the other is quite long – it's about thirty pages and in small print. So we will be entering both of those.

This trial is not to re-fight the Second World War. This trial is to prove the truth or – I'm sorry, the falsity, from the Crown's point of view, of these two articles.

I will be calling a number of witnesses. There will be about twelve, I expect, that will be called on behalf of the Crown over the next ten days or so.

With respect to count one, "The West, War and Islam", I expect that you will – I am looking at the pamphlet – you will have an opportunity to see that it talks about a conspiracy between international Zionists, international secret societies, international bankers and international communism, that those four groups are joined in an unholy alliance that is to the detriment of us all; and the impact of the article which is addressed to Arabic peoples is to request funds so that a publicity or media campaign can be undertaken to right the misapprehension we, in Canada and in the West, have.

In talking about those four groups – international Zionists, secret societies, Masons, bankers {224|225} and communism, there are descriptions given during the course of the article of each of those groups, and the role that each of them are playing in the downfall of Western civilization.

I expect I will be calling and attempt to prove the falsity of some of the statements indicated there in the overall thesis there a representative of the Royal Bank of Canada, who is a senior officer of that bank, on the subject of international banking, and I will also be calling a Staff Sergeant from the Metropolitan Toronto Police Force, who is a Mason and will comment on the things that are said in here about Masons.

Count two, "Did Six Million Really Die? Truth At Last Exposed", I will be calling evidence as to some articles that are quoted, and in my contention you ultimately will be the judges of the facts.

It is my argument that they were misquoted in this, the sources in support of the thesis that six million did not die, six million Jews did not die in the Second World War.

I will also be calling a number of survivors of concentration camps from the Second World War who will describe for you their experiences and their {225|226} observations – what they saw. There will be, I expect, four survivors called, two of whom were – actually three of whom were in Auschwitz for various periods of time and broken out, one gentleman who was in Mauthausen, the concentration camp in Austria for some five years, and another gentleman who was in a number of different camps, including Auschwitz and Bergen-Belsen that was liberated at the end of the War.

I will also be calling a Professor by the name of Raul Hilberg, whose name is in this pamphlet. He is a Jewish statistician, and there is a number attributed to Dr. Hilberg of 896,892 as the number of people that were Jews that were killed in the Second World War, and I expect Dr. Hilberg will testify and say that that is not a number that he ever wrote. And there will be a number of other witnesses that will be called as well. I won't tell you about it now, but you will hear about it as we go along.

I just would like to caution you that when books are referred to during the course of the evidence – and there will be some books, as I've indicated, that are quoted with approval, or certain sections of the book quoted with approval in this article – that I will bringing to see whether

what is said in "Did Six Million Really Die?" corresponds to what is said on the books. And in bringing {226|227} those books into court I cannot, and I do not, rely on them for the truth of what is contained in those books. I simply bring them in to show you that what is contained in those books is different from what this article says is contained in those books.

Again, coming back to the truth or falsity of the articles, which is the main contention, the main issue in the trial – and there are other issues as well – whether there was a belief by Mr. Zundel in the truth of the matters that are set out here, or whether he knew that the matters were false.

Those are all matters that we will get to at the end of the trial, but I think with that, as I said, broad stroke, it will give you some idea of what the evidence will be. It won't necessarily be in the order that I've indicated to you here, because witnesses are coming in from various parts of the country, and we may call some evidence on article one, and some evidence on article two, and back and forth. Sorry about that. I will expect it will be happening, some jumping about.

Thank you very much for your attention.

Your Honour, those are my opening remarks.

———{227|228}

THE COURT: Thank you.

Members of the jury, in most of these trials, and pursuant to the Criminal Code, counsel may admit certain elements that do not require formal proof. Let me assure you that saves much time and much of the taxpayer's money. Quite properly, there are a number of things that are not the subject of contest between the Crown and the defence in this case.

I will, in a few moments, call upon counsel to indicate in your presence, for the record and to the Court, what matters are not in contest and may, therefore, be admitted as facts in the case.

As you have just heard, there are several issues here that are very much the subject of contest between the Crown and the defence. Those matters ultimately will pass into your hands for your decision, but the ones that are not in contest we will hear about now, and you may, subject to what I hear – and I am pretty sure I will hear what I expect – you may accept what is admitted as facts.

In either order, gentlemen, either Mr. Christie can go first, or —

MR. CHRISTIE: As I indicated, Your Honour, I am prepared to admit as a fact that the accused {228|229} published this article, "Did Six Million Really Die", and I hereby tender what I believe to be thirteen true, authentic copies of this article which I hope will be of use to the jury.

THE COURT: Yes.

MR. CHRISTIE: I further admit that the accused is the author of "The West, War and Islam", that he distributed it to a specific number of persons, and that is my admission with respect to that, and I have an additional thirteen copies of that, one for each member of the jury and one for Your Honour.

I further would like to admit as a fact, as my friend requested, that the accused has occasionally published under the pen name of Christof Friedrich.

Those are my admissions of fact, and I do not wish to have it deemed that I agree with the facts as stated in the contents in any other way.

THE COURT: Yes. Thank you very much. Mr. Griffiths?

MR. GRIFFITHS: Thank you, Mr. Christie. Mr. Christie, I appreciate your assistance in that matter, and that will be on consent, Your Honour, under s.582 of the Criminal Code. {229|230}

THE COURT: Very well. These thirteen copies will be Exhibit No. 1, and the second group will be Exhibit No. 2.

— EXHIBIT NO. 1: 13 Copies of pamphlet entitled, "Did Six Million Really Die?"

— EXHIBIT NO. 2: 13 Copies of pamphlet entitled, "The West, War and Islam".

THE COURT: Members of the jury, the copies of both of those writings will be distributed to you, as I understand it, quite quickly. They will be referred to, I presume, during the course of the evidence that is going to be called. At the end of each day they will be collected and kept by

the Court until the following day. I do not think there is anything else.

Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour. Can I have Your Honour's indulgence for just one moment?

THE COURT: Yes, you certainly may.

MR. CHRISTIE: My friend asked me whether we should seek an order for the exclusion of witnesses, and with the exception of expert witnesses, for which I will {230|231} be asking for the exception of those witnesses to hear the evidence of others —

MR. GRIFFITHS: Content, Your Honour.

THE COURT: Do you want any exceptions to that, other...

MR. GRIFFITHS: I'm sorry. Sergeant Williams will be my first witness, and...

THE COURT: So ordered. The order is also with the exception of other expert witnesses that the defence may intend to call who he may want to hear the testimony of others as they testify.

MR. CHRISTIE: Excuse me, Your Honour. It just occurred to me, I have a witness — there is a witness who is a translator from the Polish language to the English language. Now, I don't know whether you should really consider that person a witness or not. I just asked that person —

THE COURT: Translators do not testify on behalf of one side or the other. My understanding is that they translate one language to another. If that is not the case, tell me now, please.

MR. CHRISTIE: Thank you, your Honour, for that indication. {231|232}

THE COURT: That, of course, is subject to my ruling with respect to the propriety of any translator who may or may not be an appropriate person to hear the translations of questions. I will hear about that in due course.

— Order given for the exclusion of witnesses with exceptions as noted.

THE COURT: Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour. I call Sergeant Ron Williams, Your Honour.

#### **RONALD FREDERICK WILLIAMS, sworn**

MR. GRIFFITHS: I will just distribute to the jurors, Your Honour, the one copy each of what I believe is Exhibit No. 1 — "Did Six Million Really Die? The Truth At Last Exposed".

#### **EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:**

Q. I understand that you are a Sergeant in the Metropolitan Toronto Police Force?

A. That's correct, sir.

Q. And how long have you been on the force? {232|233}

A. Just about twenty-three years.

Q. And you are one of the investigating officers in charge of this case; is that right?

A. Yes, sir.

Q. Did you have occasion to go to the library with respect to this matter?

A. Yes, sir. On a number of occasions.

Q. All right. If I could refer initially to page 22 of Exhibit 1...

THE COURT: That is the red document, is it?

MR. GRIFFITHS: Yes, Your Honour. "Did Six Million Really Die?"

Q. I will give you a copy as well, Sergeant, and there are two columns on each of the pages. At the bottom of column one, if I can call the outside column on page 22, the past paragraph starts, "Occasionally, books by former concentration camp inmates..."

Do you see that there?

A. Yes, sir.

Q. Could you read that paragraph, please?

A. Your Honour, ladies and gentlemen of the jury:

"Occasionally, books by former concentration camp inmates appear which present a totally different picture of the conditions prevailing in them. Such is 'Under Two Dictators' (London, 1950) by Margarete Buber. She was a German-Jewish woman who had experienced

{233|234} several years in the brutal and primitive conditions of a Russian prison camp before being sent to Ravensbrück, the German camp for women detainees, in August 1940. She noted that she was the only Jewish person in her contingent of deportees from Russia who was not straight away released by the Gestapo. Her book presents a striking contrast between the camps of Soviet Russia and Germany; compared to the squalor, disorder and starvation of the Russian camp, she found Ravensbrück to be clean, civilised and well-administered. Regular baths and clean linen seemed a luxury after her earlier experiences, and her first meal of white bread, sausage, sweet porridge and dried fruit prompted her to inquire of another camp inmate whether August 3rd, 1940 was some sort of holiday or special occasion. She observed, too, that the barracks at Ravensbrück were remarkably spacious compared to the crowded mud hut of the Soviet camp. In the final months of 1945, she experienced the progressive decline of camp conditions, the causes of which we shall examine later."

Shall I go on, Mr. Griffiths?

Q. No. That's far enough. Thank you. {234|235}

A. Your Honour:

"In the winter of 1941-2 the extermination of prisoners by gas began in Ravensbrück."

Q. All right. That's far enough. I am showing to you a photocopy. Can you tell me whether that's the same?

A. Yes, sir. That is a photocopy of the page that I am reading from.

Q. And the particular passage that you marked, or that you read, is that marked on that photocopy?

A. Yes, it is, sir.

Q. How is it marked?

A. It is marked by a check mark, and it's also the second paragraph on the page.

Q. There's some additional information in ink on that photocopy.

A. At the top of it it says, "Under Two Dictators", which has been written in pen.

MR. GRIFFITHS: Your Honour, I ask that that be Exhibit 3A. There are a number of other passages. Perhaps I can keep them all together in that book, if I may, Your Honour.

THE COURT: Photocopy of the extract of the page, including page 208.

— EXHIBIT NO. 3A: Photocopy of excerpt from book entitled, "Under Two Dictators", page 208.

Q. MR. GRIFFITHS: Page 211, please, Sergeant.

A. Yes, sir. {235|236}

Q. The fourth paragraph that begins, "During the whole year 1940..."

A. Yes.

A. Would you read that paragraph, please?

A. "During the whole year 1940 only forty-seven prisoners died in Ravensbrück. In later years the mortality rate of 'natural deaths' was about eighty a day, not counting those who were sent to the gas chambers, and more than half had been beaten, starved or frozen to death in the punishment cells. The prisoners who worked in the sickbay had to fetch the corpses from the cells. They often found them frozen to the floor or mummified from starvation."

Q. Thank you. And again I am showing to you a photocopy. Can you compare that to the book and tell me whether that's a true copy?

A. Yes, sir.

Q. Is there any additions on the photocopy?

A. There is a check mark beside the fourth paragraph where I commenced reading, sir.

Q. Just so that everybody is clear, could you write, "Under Two Dictators" at the top, please?

A. And I might add, Your Honour, when I wrote "Under Two Dictators", the actual book that I am reading from does not have "Under Two Dictators" at the top {236|237} of the page.

THE COURT: What is the title of the book?

THE WITNESS: That is the title of the book.

THE COURT: "Under Two Dictators".

MR. GRIFFITHS: If that could be 3B, Your Honour, the photocopy as

described by the Sergeant.

THE COURT: Yes.

— EXHIBIT NO. 3B: Photocopy of excerpt from book "Under Two Dictators" — page 211.

Q. MR. GRIFFITHS: If you could turn, next, please, Sergeant, to page 243. Sorry, 242. Have you found it?

A. Yes, sir.

Q. At the bottom of the page, the very last paragraph that commences, "During 1940 and 1941..."

A. I see that, sir.

Q. Could you read it, please?

A. Your Honour, ladies and gentlemen:

*"During 1940 and 1941 many transports of Polish women were brought into Ravensbrueck. It seemed almost as though Hitler had determined to wipe out the Polish people altogether. All sections of the population and all ages were represented. A rumour arose from somewhere that many of these women were under sentence of death, and {237|238} that a whole transport had been sent from Warsaw to Ravensbrueck for the sole purpose of execution. In the spring of 1942 ten of these Polish women were called out and taken to the Punishment Block. Shortly before the evening roll-call the camp street was cleared and all prisoners ordered back to their huts. Prisoners working in the kitchen and the medical post saw these ten women led across the camp square barefooted and in long frocks without belts, looking like mediaeval penitents. As they went out of the camp gates, they turned and waved cheerfully, perhaps in the hope that some of their friends who had been left behind could see them.*

*Shortly afterwards the evening siren howled for the roll-call. It was about six o'clock. We stood there in our thousands and waited as usual. Everything was silent, and then suddenly from the other side of the camp wall sounded a rattle of shots, followed a second or two later by several single shots. We did not need to be told what had happened. The first executions had taken place in Ravensbrueck. Opposite us stood the women of the Polish Block, and I could see their {238|239} lips moving in silent prayer. Behind the wall the pines caught the evening sun as usual and gradually the host of crows settled down again on the roof of the Kommandantur.*

*The faces of the women around me had changed. We knew that a new and terrible period had opened up for Camp Ravensbrueck and our hearts were heavy with dread.*

*That was only the beginning. From then on executions frequently took place on the other side of the camp wall whilst we were drawn up and waiting in silence, our nerves charged, our ears strained for the volley. Sometimes there would be screams, and in our minds we pictured the scenes taking place just out of our sight."*

Q. Thank you. I am showing to you a photocopy of pages 242 and 243, or what purports to be a photocopy. Can you tell us if it's accurate?

A. Yes, sir. That is a true copy of what I just read.

Q. All right. And again we have written, "Under Two Dictators" at the top of the page.

A. Yes, sir.

Q. And were you reading from more than one page?

A. I was reading from page 242 and 243.

Q. And there are a number of check {239|240} marks that are on the photocopy. Are they to be found on the book as well?

A. They are consistent with the book, yes.

MR. GRIFFITHS: That will be Exhibit 3C, please, Your Honour.

THE COURT: 3C.

— EXHIBIT NO. 3C: Photocopy of excerpt from book, "Under Two Dictators", pages 242 and 243.

Q. MR. GRIFFITHS: And finally, would you turn, please, to page 304.

A. I have that, sir.

Q. The first full paragraph on that page commencing with the words, "In 1944 a second crematorium..."

A. Yes, sir.

Q. Could you read that paragraph, please?

A. "In 1944 a second crematorium was built on the other side of the

*Bunkers, and the black, stinking smoke which belched out of the two chimneys became one of the ordinary features of the Ravensbrueck scene. The prisoners were on familiar terms with the idea of death, and it played a big role in their witticisms. 'There goes poor So-and-so' was a constant joke when there was a sudden belch of smoke, and the overseers and S.S. men were fond {240|241} of telling us that the only way we should ever leave Ravensbrueck would be 'up the chimney.'"*

Q. Thank you. And again I am showing to you a photocopy. Can you tell us if that is an accurate copy of the book?

A. Yes, sir. That is the page I just read from.

Q. And is the paragraph that you read marked on the photocopy?

A. It is marked on the photocopy with a check mark, and at the top is the words, "Under Two Dictators".

Q. Thank you. 3D, please, Your Honour.

EXHIBIT NO. 3D: Photocopy of excerpt from book, "Under Two Dictators", page 304.

Q. MR. GRIFFITHS: Still on page 22 of Exhibit 1, "Did Six Million Really Die?", there is a chapter heading, and it says, "The Nature & Condition of War-Time Concentration Camps". Would you read the first several sentences there, starting with, "In his recent book..."?

A. Your Honour:

*"In his recent book 'Adolf Hitler' (London, 1973), Colin Cross, who brings more intelligence than is usual to many problems of this period, observes astutely that 'The shuffling of millions of Jews around Europe and murdering them, in a time of desperate {241|242} war emergency, was useless from any rational point of view'..."*

— it was taken from page 307 —

*"Quite so, and at this point we may well question the likelihood of this irrationalism, and whether it was even possible."*

Q. Okay. If I can just stop you there, did you have occasion to attend at the library and look for "Adolf Hitler" by Colin Cross?

A. Yes, sir. I did. This was obtained from the Toronto Reference Library.

Q. And can you tell us, please, whether that is a 1973 London edition of that book?

A. Yes. Inside one of the leaves it says, "Copyright 1973 by Colin Cross". First printed 1973. Second impression 1973. Published by Hodder & Stoughton (ph), London, Sidney, Auckland, Toronto.

Q. Could you turn to page 303 of that book, please?

A. I have page 303.

Q. About a third of the way down there is a paragraph that begins, "It was with the attack on the Soviet Union..."

A. Yes, sir.

Q. Do you see that? Could you read that, please?

A. Your Honour:

*"It was with the attack on the Soviet Union in 1941 that Hitler's policy switched decisively to mass murder. {242|243} Exactly when he made up his mind on this is not clear but, in all probability, he saw the destruction of 'Bolshevism' and the destruction of Jewry as related operations to be carried out simultaneously. The two things were inextricably mingled in his mind; to him, 'Jew' and 'Bolshevik' were almost interchangeable words. Interestingly, though, he did not regard the mass killing of Jews as a policy proudly to be proclaimed from the house-tops. It was something to be done, so far as possible, in secret, without involving German public opinion or, in particular, the morale of his fighting troops. Hitler was not closely involved with the details of the mass killings, although it is a fair assumption that he discussed them on occasion with Himmler who, through the S.S., actually carried them out."*

Q. All right. I am going to stop you there, please. And again, I am showing you a photocopy of a page number 303. Can you compare that with what you just read and tell me if it's an accurate copy?

A. Yes, sir. It is.

Q. Are there any additions made on that photocopy?

A. There are a few strokes with pen on the sides and the check mark where I concluded my reading. {243|244}

Q. All right. And at the top of the page?

A. "Adolph Hitler by Colin Cross".

Q. That is written in ink, is it?

A. Yes, sir.

MR. GRIFFITHS: Could that be Exhibit No. 4A, please, Your Honour?

THE COURT: 4A.

— EXHIBIT NO. 4A: Photocopy of excerpt from book "Adolf Hitler" by Colin Cross, page 303.

Q. MR. GRIFFITHS: Would you turn to page 304, now, of that book?

A. Yes, sir.

Q. Towards the top of the page there is one long paragraph, the sentence that begins, "But even the most cursory examination..."

A. Yes, sir. I have that.

Q. Would you read that, please?

A. Your Honour, ladies and gentlemen:

*"But even the most cursory examination of the facts points to the extreme probability that Hitler was not only aware of the policy but was its active instigator, no matter how much or how little he knew of the practical details. To state less would be to underrate him as a practical politician. In all matters Hitler preferred to {244|245} act verbally rather than in writing and the Jewish 'final solution' was a particularly delicate matter. While it is true that Hitler was good at delegating authority this only applied in areas that did not interest him. He was passionately interested in the Jewish question and it is virtually impossible to suppose any major decision being made upon it in the Third Reich without his initiative."*

Q. All right. And at the bottom of the page there is a new paragraph that begins, "The first phase..."

A. *"The first phase of the extermination policy was linked directly to the Russian campaign. Four special 'action groups' (Einsatzgruppen), ..."* — and that is in brackets...

Q. Einsatzgruppen.

A. Right.

Q. Go ahead.

A. *"...each of some 750 men, mostly S.S. members, were formed to operate behind the German front line to destroy political resistance. They were specifically charged with the duty of shooting Communist Party officials and, somewhat more vaguely, with shooting 'Jews'. In 1941-2 they liquidated about half a million in both categories, on occasion rounding up whole Jewish {245|246} communities and shooting them, men, women and children."*

Q. Thank you. I am showing you a photocopy. Can you tell us if that is an accurate copy of what you just read?

A. Yes, sir. It is.

Q. Page 304. Are there any additions to that?

A. There is some underlining on the photocopy and some bracket points in pen, and at the top it reads, "Adolf Hitler by Colin Cross".

MR. GRIFFITHS: If that could be...

THE COURT: Exhibit 4B.

— EXHIBIT NO. 4B: Photocopy of excerpt from book, "Adolf Hitler" by Colin Cross, page 304.

Q. MR. GRIFFITHS: And finally, with respect to Mr. Cross, would you look at page 306, please.

A. I have 306.

Q. There is a paragraph two-thirds of the way down that says, "It is impossible..."

A. Yes, sir.

*"It is impossible to arrive at a firm total of how many were murdered in the holocaust of 1941-4. The first estimates, after World War II, put it at eight million, this has later been reduced to six million and then to five million. Of these a high proportion died through {246|247} general maltreatment rather than straightforward murder. But, and this was a fundamental of Hitler's policy, the numbers of men, women and children who were herded into gas chambers and murdered simply for being Jews did run into millions."*

Q. Thank you. I am showing you a photocopy of page 306.

A. Yes, sir. It is.

Q. Are there any additions to it?

A. Just brackets written in pen where I read.

Q. Did you write, "Adolf Hitler By Colin Cross" across the top as well?

A. I've written, "Adolf Hitler By Colin Cross" across the top.

MR. GRIFFITHS: Thank you. Exhibit 4C, please, Your Honour.

— EXHIBIT NO. 4C: Photocopy of excerpt from book "Adolf Hitler" by Colin Cross, page 306.

Q. MR. GRIFFITHS: All right. We will then go back to our Exhibit No. 1, then, and page number 26, column one. It's in a section entitled, "Fake Photographs". It starts on page 25 and continues on to page 26, and there is a long paragraph just before Chapter 9 which begins, "An excellent work..."

A. Yes. {247|248}

Q. Would you read that paragraph, please, and we will all understand that your German is a little rusty.

A. Thank you, sir. Your Honour, ladies and gentlemen:

*"An excellent work on the fake atrocity photographs pertaining to the Myth of the Six Million is Dr. Udo Walendy's 'Bild 'Dokumente' für die Geschichtsschreibung?' (Vlotho/Weser, 1973), and from numerous examples cited we illustrate one on this page. The origin of the first photograph is unknown, but the second is a photomontage. Close examination reveals immediately that the standing figures have been taken from the first photograph, and a heap of corpses superimposed in front of them. The fence has been removed, and an entirely new horror 'photograph' created. This blatant forgery appears on page 341 of R. Schnabel's book on the S.S., 'Macht ohne Moral: eine Dokumentation über die SS' (Frankfurt, 1957), with the caption 'Mauthausen'. (Walendy cites eighteen other examples of forgery in Schnabel's book). The same photograph appeared in the 'Proceedings of the International Military Tribunal', Vol. XXX, p.421, likewise purporting to {248|249} illustrate Mauthausen camp."*

Q. All right. That's far enough.

A. Thank you, sir.

Q. I am showing to you a blue volume. It says, "International Military Tribunal Nuremberg" on the cover.

A. Yes, sir.

Q. Can you tell us, please, what volume that is?

A. This is Volume XXX, indicating roman numerals for thirty. Published Nuremberg 1948. In the inner leaf it reads "14th of November, 1945 to 1st of October 1946" published at Nuremberg, Germany, 1948.

Q. Would you turn, please, to page 421 of Volume XXX of the International Military Tribunal. Is there a photograph?

A. Yes, sir. There is.

Q. All right. Can you tell us whether there is a photograph that appears to be a copy of the photograph shown at the top of the page, or the larger one that is held out to be a fake in this article?

A. It illustrates to me, just without close examination, it illustrates the top photograph on page 26 of Exhibit 1.

MR. CHRISTIE: Is my friend tendering the record of the Nuremberg Tribunal as evidence here, or is this to be taken to show the jury something that is not in evidence?

THE COURT: I don't know. Ask him.

MR. CHRISTIE: I would like to know before he does it in future. {249|250}

THE COURT: I will decide these things. You have your duties; I have mine. Your duty is to make —

MR. CHRISTIE: ...objections.

THE COURT: You make your objections. I will make the decision.

MR. CHRISTIE: Well, I have made the objection.

THE COURT: I have it. Just sit down.

MR. CHRISTIE: I am just asking for your ruling.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour. I am not intending to introduce the forty-two volumes of the International Military Tribunal in Nuremberg and the exhibits and transcripts contained therein. There is a photograph that is on page 26, and the paragraph that was just read by the Sergeant, Your Honour, the clear implication was —

MR. CHRISTIE: Well —

THE COURT: Just a moment. I will hear you next.

MR. GRIFFITHS: There are two photographs that are referred to, one which is said to be a fake, the other true; and it may well be it isn't clear, or there is an implication in the article – it is for the jury to find – that the fake one is the one that was in the International Military Tribunal proceedings. I have a copy of the volume.

The only thing that is on the page is that one photograph which I was showing to the jury. I have a photocopy of that photograph which it was my intention to {250|251} then introduce as an exhibit, Your Honour, not the volume itself.

THE COURT: Yes.

MR. CHRISTIE: Well, if my friend had indicated that he intended to file the photocopy, I wouldn't have needed to object.

THE COURT: Perhaps counsel can liaise with one another a little more closely than, perhaps, has occurred up to the moment.

MR. CHRISTIE: I have no idea that that was going to occur.

MR. GRIFFITHS: Thank you, Your Honour.

THE COURT: Proceed.

Q. MR. GRIFFITHS: Now, I am showing to you, Sergeant, what appears to be a photocopy. It's not the finest copy, but can you tell us whether that reasonably accurately copies the photograph that is in the book?

A. Yes, sir.

MR. GRIFFITHS: Thank you. I would ask Your Honour that that be Exhibit No. 5, that photocopy as described by the Sergeant.

THE COURT: Yes.

— EXHIBIT NO. 5: Photocopy of photograph from Volume XXX of the International Military Tribunal in Nuremberg.

MR. GRIFFITHS: I have no further questions of the Sergeant. {251|252}

THE COURT: Thank you. Mr. Christie?

#### CROSS-EXAMINATION BY MR. CHRISTIE:

Q. Did you make an effort to read the contents of Margarete Buber's book?

A. Totally, sir?

Q. The general question was asked, yes, that's the meaning.

A. No, sir. I have not read the entire book.

Q. Have you made an endeavour to see whether you may not have taken something slightly out of context in the parts you quoted?

A. I believe I was instructed to read certain portions.

Q. So you weren't asked to read whether the portions you were reading were contextual or not.

A. I was just following the instructions of Mr. Griffiths, sir.

Q. It's my understanding – are you purporting to say that this portion that you have read accurately reflects the content of the book?

A. I am not in a position to judge on that, sir.

Q. So you don't really know what's in the rest of the book as to whether it supports the article or not; is that right?

A. No, sir, I don't. {252|253}

Q. You made no effort to look in the rest of the book to see if it might support the portion of the Exhibit 1 that you have read?

A. That's the first time I've read those portions, was this morning in the witness box, sir.

Q. So you have never even read the portions before?

A. No, sir.

Q. And you are not able, then, to say whether they are in context or whether there is anything in the rest of the book that refers to the article at all.

A. No, sir.

Q. Mm-hmmm. And you have, I gather, no recollection of reading the rest of the book by Colin Cross to see if the part quoted in the article was really there or not; is that your situation?

A. The part quoted from Exhibit 1, sir?

Q. No. I think we referred to the Colin Cross book, if I am not mistaken, as Exhibit 4, the portions that I have been told about were page 303 of

that book. You read part of that and you read part of page 404, and part of page, 306 and part of page 304.

Did you, at any time, read any other parts of the book to ascertain if, in fact, there was a reference to the quoted portion in the article Exhibit 1?

A. No. They were the portions referred to in Exhibit 1. And that's the portion that I just read.

Q. Yes. So you made no effort to find out if the book actually said what the article says it said on some other page.

A. No, sir. I didn't. {253|254}

Q. You, I gather, have no particular way of knowing which of the two interpretations my learned friend indicated were open to the paragraph pertaining to the pictures as the correct one. Is that correct?

A. Do I know what picture is authentic and which is not? Is that your meaning?

Q. No. My friend indicated to you that you thought the paragraph you'd read from the book, "Did Six Million Really Die?"...

A. Yes...

Q. ...was possibly open to two interpretations – one that the book referred to in 1957 had produced a fake, and the other that the Nuremberg record had a fake.

Can you understand which of those two meanings necessarily applies?

A. I really don't understand your question, Mr. Christie.

Q. Mm-hmmm. Could you re-read article Exhibit 1 that referred to the photographic evidence you are talking about?

A. There is a sentence which commences, "Close examination..."; would that be – which portion would you like me to read?

Q. Well, you did refer to the article in respect of photographs, and I am asking you to repeat what you said there.

A. Leaving out the extensive title in German...

*"...and from the numerous examples cited we illustrate one on this page. {254|255} The origin of the first photograph is unknown, but the second is a photomontage. Close examination reveals —"*

Q. If you could just stop there.

A. Yes.

Q. Do you have personal knowledge of the origin of the photograph in Volume XXX of the International Military Tribunal at Nuremberg?

A. No, of course not, sir.

Q. So it could very well be true that it was unknown in origin.

A. Yes.

Q. And do you know whether it refers to Mauthausen or not?

A. I have no idea.

Q. You didn't check that fact.

A. No, sir.

Q. Do you know whether the picture that is indicated below the one that you have seen in Volume XXX of the IMT Tribunal transcript is actually in the book that that article says it's in?

A. The book below it, the picture below?

Q. The picture below.

A. Yes.

Q. The one that's alleged to be a fake, the larger one.

A. Yes.

Q. Did you check the book, "Macht Ohne Moral" that is referred to as being printed, I think you said, in 1957? {255|256}

A. Just a moment. Frankfurt 1957.

Q. Did you check that book to see if that photograph is depicted there?

A. No, sir. I didn't.

Q. So it could be true that that photograph is depicted there, for all you know?

A. Certainly.

Q. And it would certainly appear to your eyes, I suppose, that the large photograph in Exhibit 1 on page 26 appears to be part of the smaller photograph and part of something else; doesn't it?

A. I would think there is an obvious super-imposition there.

Q. So it could be true that the reference to the book that was published in 1957 actually does include a fake photograph.

A. It could.

Q. You've never read that book?

A. No, sir.

Q. Never made a search for it in the library or anywhere else.

A. No, sir.

Q. Because nobody asked you to.

A. That's correct.

Q. And you weren't interested.

A. Oh, certainly I was interested, sir.

Q. Did you think it might be appropriate in the interests of fairness to check that point? You might not be taking it in the proper context; did that occur to you before you swore under oath?

A. Repeat your question, Mr. Christie. {256|257}

Q. Well, before you took your stand to answer questions about what you had found...

A. Yes.

Q. ...did it occur to you that you should check the context and the reference in that article, Exhibit 1, to see if, perhaps, it was true, or did you just follow instructions from Mr. Griffiths?

A. No. We have been involved very extensively with this for the past seven months, and —

Q. I am not asking you how long you have been involved. Did you check to see if article one was true as respects the book published in 1957?

A. I could not locate the book in 1957, sir.

Q. Thank you. Now, if I am not mistaken, the only quote of Colin Cross in the article that is Exhibit 1, "Did Six Million Really Die?" is a sentence; isn't it?

A. Yes. It was a paragraph, yes.

Q. No. The only quote of Colin Cross is a sentence long; is it not?

A. In Exhibit No. 1?

Q. Yes.

A. Yes.

Q. So he quotes Colin Cross for one sentence. Correct?

A. Yes.

Q. He doesn't quote the part you read in court at all, does he?

A. No. It just refers to the page numbers and the quotation. {257|258}

Q. Yes, the one quotation, which is — would you please read it?

A. Would you give me where the page is again, please, Mr. Christie?

Q. Well, you have it in your hand. You have read it once before. You found it. Please find it again.

A. Bear with me for a moment.

Q. I think if you look at page 26, column one, that puts you in touch with the evidence you gave about, "An excellent work on the fake atrocity...", if that helps you locate it in relation to that. If you will look at page 22 of Exhibit 1, I think that might be where you made reference to it.

To get to the point, I will quote it to you as I think you quoted it to me:

*"The shuffling of millions of Jews around Europe was useless".*

Is that a close approximation of what you said? Please correct me.

A. That was one of the quotations that I read, yes.

Q. All right. please read the whole quotation of Colin Cross in Exhibit 1, the one sentence that is quoted.

MR. CHRISTIE: Perhaps if we can take the lunch break, the witness can find the part, Your Honour. I have tried to be as much assistance as I could.

THE COURT: Witness, have you found page 22?

THE WITNESS: Yes, sir. {258|259}

THE COURT: Have you found number 8?

THE WITNESS: Yes, sir. I do.

THE COURT: Well, what I believe defence counsel wishes you to do is to read the quotation, "The shuffling...". Would you please do that?

A. *"The shuffling of millions of Jews around Europe and murdering them, in a time of desperate war emergency, was useless from any rational point of view".*

And that was illustrated on page 307.

*"Quite so, and at this point we may well question —*

THE COURT: That's the end of the quotation.

MR. CHRISTIE: Could he stop there?

Q. The end of the quotation was followed by the words, "Quite so"; is that correct?

A. Yes, sir.

Q. So the quotation just said:

*"The shuffling of millions of Jews around Europe and murdering them, in a time of desperate war emergency, was useless from any rational point of view".*

Did you look for that in the book at all?

A. On page 307 of the book?

Q. Maybe not on page 307, but in the book.

A. No, sir.

Q. You didn't. So if the page number {259|260} is wrong, it could be in the book without your knowledge. Right?

A. Yes, it could.

Q. So you'd be innocent of the knowledge of its being there. You wouldn't be saying that you are not sure it is there at all, would you?

A. That's correct.

MR. CHRISTIE: Your Honour, in view of the fact that I wasn't aware until this morning that this would be the first witness, I have evidence that I would like to put to the witness which can only be obtained — I see it is twelve twenty-seven —

THE COURT: That's no problem.

Members of the jury, we will take a bit of an early lunch hour for the reasons you've heard. Would you please be back in your jury room at five minutes to two.

— The jury retires. 12:27 p.m.

— The witness stands down.

THE COURT: Gentlemen, I am having the exhibits, the books collected from the jury room. They will be returned to our Clerk, if that is satisfactory. If not, we will call the jury back and have them give them up here. What is your pleasure?

MR. CHRISTIE: My pleasure is to indicate, Your Honour, that I'm sorry if I in any way interjected in an inappropriate manner. I am afraid in various provinces we do things a little differently, and it may take me time to get used to the way Your Honour does things. I certainly intend to try quickly to learn that.

THE COURT: That will not be a problem. {260|261} The best way to do it is to stand up and catch my eye. I take the position in any trial over which I preside that unless there is a very strong reason, counsel for both sides or for any side should not be interrupted. It is a favourite tactic that I hated when I practised, and I won't permit it to go on. I don't think it is a tactic on your part. I think your motives are sincere; but that is my reasoning, and it is why I became peremptory with you. I will do the same thing with Crown counsel if he tried it.

MR. CHRISTIE: I realize Your Honour is very fair in that respect, and I appreciate your letting me know. I will endeavour to understand and follow that advice.

THE COURT: Do you wish your client to sit beside you during this cross-examination? What he should do, subject to your comments, is this, that when the cross-examination occurs, he can sit beside you. When the examination-in-chief is going on, he can return to the dock.

MR. CHRISTIE: Well, thank you, Your Honour.

THE COURT: And that is subject to change as time goes on and as we get accustomed to one another.

MR. CHRISTIE: Yes, Your Honour.

— Luncheon adjournment.

———{261|262}

— Upon resuming.

THE COURT: Anything before we start?

MR. CHRISTIE: I want to point out that Dr. Robert Faurisson is sitting behind me, and he may be a potential expert at a later stage.

THE COURT: Yes. I think we covered that this morning. He is welcome to be where he is.

MR. GRIFFITHS: I have no objection.

THE COURT: All right. Bring in the jury.

— The jury enters. 2:00 p.m.



— The witness returns to the stand.

THE COURT: Yes. Go ahead, Mr. Christie.

MR. CHRISTIE: Thank you very much.

Q. Witness, this morning you read parts of Margarete Buber's book, "Under Two Dictators", which seems to bely the portion of the article, "Did Six Million Really Die?" where it said:

*"...she found Ravensbrück to be clean, civilised and well-administered. Regular baths and clean linen seemed a luxury after her earlier experiences, and her first meal of white bread, sausage, sweet porridge and dried fruit prompted her to inquire of another camp inmate whether August 3rd, 1940 was some sort of holiday or special occasion."*

Do you recall reading that from this {262|263} exhibit?

A. Yes, sir. I do.

Q. Do you agree that the portions of her book that you read certainly seemed to indicate that that was not true? Is that correct?

A. Yes, sir.

Q. It certainly seemed to indicate that those words were not part of her book. Correct?

A. That's the impression I drew.

Q. Yes, I quite agree, sir; but that's only because that is what you were told to read. Correct?

A. Yes. I have been on the instructions of Mr. Griffiths entirely.

Q. I appreciate that. I now ask you to look at what I understand to be a copy — and it may be a different edition — of "Under Two Dictators" by Margarete Buber, and therefore the page numbers may be incorrect; but it's London, Victor Gollancz, 1949, and I quote from page 187 and ask that you read along with me when I say:

*"I was astonished at what I saw: neat plots of grass with beds in which flowers were blooming. A road leading away from the entrance square was lined with young trees, and before the wooden huts which extended away on either side were more flower beds. The square and the street were obviously most carefully kept and even the gravel paths had been freshly raked over. To the left of us, towards the watchtower, there was a large timber barracks {263|264} painted white, and next to it was a great aviary as though in a zoological gardens. Peacocks were strutting slowly around and monkeys sprang from branch to branch, whilst a parrot was squawking something that sounded like 'Mother.'*

*Opposite this aviary, on the other side of the entrance square, was a big, well-kept lawn with silver firs which partly hid the only building in the camp which was built with stone, as far as we could see. This, we had very good cause to learn later, was the camp prison; in its basement were the notorious Bunkers — it was the inner sanctum of hell. From outside everything looked beautiful — more like a neat holiday camp than a concentration camp."*

Am I reading correctly, sir?

A. Yes, sir.

Q. Have you read that before?

A. Not that edition, sir.

Q. All right. Not that edition. Now:

*"A diffused sun shone over the camp. Apart from us one might have thought the place was deserted; no one was in sight. And there was no sound but the squawking of the parrot and the regular shouts of our guard. But whilst we were waiting a column of prisoners {264|265} came by and I saw German camp inmates for the first time. They marched in orderly ranks. Each woman wore a clean white kerchief bound round her head and fastened at the back, a broad striped dress and a dark-blue apron."*

Correct?

A. Yes.

Q. Reading on, from the next page —

THE COURT: That's page number...

MR. CHRISTIE: 187, Your Honour.

Q. And perhaps we should go back to page 186. Will you read with me, at the bottom paragraph:

*"We lined up in fives in front of a newly-painted wooden hut before which was a neat garden plot. A woman guard with jack boots, a field-grey skirt and tunic and a sort of forage cap set at an angle over one*

*ear stood watching us, shouting from time to time: 'Quiet! Hands by the side. Stand to attention!'"*

Right?

A. Yes, sir.

Q. Okay. Now, I've read entirely from the last paragraph from 186 to the last paragraph on 187. Is that correct, sir?

A. Yes, sir.

Q. Thank you. Turning the page to 188, and I'd like you to confirm that I am reading correctly from there:

*"And what astonished me most — they sang. {265|266} Some marching song or the other. And all the while the dogs bayed and growled and the guards bawled out orders."*

*"Everything at Ravensbrueck was done with typical Prussian thoroughness. A prisoner was passed from hand to hand until every detail was complete and she had become a permanent inmate, registered, photographed, listed and uniformed."*

Correct? Am I reading right?

A. Yes, sir. You are.

Q. *"After we had gone through all this, we were taken to the washroom, which was fitted with showers. We had to undress and wash ourselves under the showers, and all our things were taken away."*

Am I reading correctly, sir?

A. Yes, sir.

Q. *"The attendants here were in white."*

I will skip over the rest of that paragraph, and I read the next paragraph:

*"After our clothing had been taken away, the long-feared procedure of looking for head lice began. This was carried out by two prisoners whose lilac triangles showed them to be Bible Students."*

Is that correct? {266|267}

A. Yes, sir.

Q. *"She would give a woman a sickly-sweet smile and beckon her to take a seat, then she would search her head with extreme care, and if she found the least sign of lice or nits, off would come the wretched woman's hair."*

Is that correct?

A. Yes.

Q. Reading on to the next paragraph on page 189:

*"At least there was hot water and soap and a towel for each woman."*

Correct?

A. Of what you are reading, sir, correct.

Q. Do you want me to read more if you think I am reading out of context?

*"This procedure was supervised by a prisoner attendant, whose loud shouting and bullying was in no way different from that of the guards. When it was all over we were left sitting around the room on benches, naked and shivering with cold, waiting for the next procedure. It was the medical examination, and a pitiful travesty it was."*

Do I read that correctly?

A. Yes, sir.

Q. All right.

*"'Why are you here?' he asked when my turn came. {267|268}*

*'Political,' I replied.*

*'I see,' he said. 'The usual Bolshevik shrew. Get back to the ranks,'"*

Is that correct?

A. Yes, sir.

Q. Do you know, have you read the book, did you find whether she had been in a Soviet prison camp?

A. Yes, it did mention that in the other edition.

Q. Okay; I am reading now from page 190, which is the very essence...

MR. CHRISTIE: ...I'd like the jury to take this section out and read it, please, Your Honour, with me, the part that was quoted by the Crown. I see they don't have their copy. May I give it to them? I want this to be correct.

I'd like the jury, if I may, to look at page 22, the paragraph at the top right hand part of the page. I'll now place in front of the witness what I believe to be a true copy of the book referred to this morning quoted in



"Did Six Million Really Die?", I will point out to him, the top right hand side of page 22, top column, top of the column...

Q: ...Do you see what I am referring to, witness?

A. Yes, sir.

Q. Now, it says here that:

*"Her book presents a striking contrast between the camps of Soviet Russia and Germany; compared to the squalor, disorder and starvation of the Russian {268|269} camp, she found Ravensbrück to be clean, civilised and well-administered."*

From there to the bottom of that paragraph – do you understand?

A. Yes. I read that this morning.

Q. You read that this morning. And you didn't find anything referred to that in her book, did you?

A. No.

Q. All right. I am now going to read you from page 190. Let's make sure that we get this straight. She says regular baths, in the book, "Did Six Million Really Die?", seemed a luxury after her earlier experiences, and her first meal of white bread, sausage, sweet porridge and dried fruit prompted her to inquire of another camp inmate whether August 3rd, 1940, was some sort of holiday or some other special occasion.

*"She observed, too, that the barracks at Ravensbrück were remarkably spacious compared to the crowded mud hut of the Soviet camp."*

A. Right.

MR. GRIFFITHS: And the last sentence, as well.

Q. MR. CHRISTIE: *"In the final months of 1945, she experienced the progressive decline of camp conditions, the causes of which we shall examine later."*

Correct?

A. Yes.

Q. Page 190 of the edition I have, will {269|270} you read along with me? What does that say, sir? Read it. I would like you to read the underlined portion.

A. Your Honour:

*"My first German camp meal consisted of a sort of sweet porridge with stewed dried fruit. But in addition each of [us] received a large piece of white bread, a piece of sausage, a portion of margarine and a portion of lard. I turned to one of the old hands:*

*'Is there an inspection or something, or is this some sort of special occasion?'*

*She shook her head and looked at me to see, I think, if I looked quite right in the head.*

*'Do you always get as much to eat as this, then?'* I went on.

*'Well, yes, but it isn't as much as all that, is it?'*

*'No,' I replied, 'but I thought perhaps...' And left it at that. Anyone who has been in a Russian concentration camp has quite different views about what constitutes quality and quantity in foodstuffs."*

Q. Thank you very much. Now, do you agree with me that what you just read seems very close to the exact words located on the paragraph that I mentioned at the upper right hand corner of page 22?

A. It is very consistent, Mr. Christie, {270|271} yes.

Q. It appears, though, that when you looked at the portions that the prosecutor asked you to look at, you couldn't find anything that even came close. Right?

A. No, sir. That's correct.

Q. It seemed to imply quite the contrary, did it not? Because you were thinking, not just reading, weren't you?

A. Yes, I was absorbing.

Q. And it seemed quite clear that what you were reading was so inconsistent with what that booklet represented, didn't it?

A. Yes, sir.

Q. Now, I have shown you what I propose later to put into evidence which was a verbatim, very close to verbatim, if not verbatim, repetition of what's in that paragraph. Correct?

A. Yes. The bread —

Q. The bread, the sweet porridge, the stewed dried fruit, the margarine, the white bread, the sausage — correct?

A. Yes, sir.

Q. Portion of lard — all referred to. Right, sir?

A. Yes, sir.

Q. Now, if I had left, or if you had only left the impression with the jury that you left this morning, wouldn't that have been false news, sir?

A. Yes. It would have been different than Exhibit 1.

Q. Yes. Did you, in examining the {271|272} book which you got, consider it your duty to make sure that you found out if maybe in the book there was what the booklet, "Did Six Million Really Die?" said there was?

A. Under the instructions of Mr. Griffiths, sir, I was not aware that there was another edition such as you have photocopies of there. I'm sorry.

Q. Are we sure now it is a different edition? I'm not.

MR. GRIFFITHS: Well, Your Honour —

THE COURT: Just a moment.

MR. GRIFFITHS: I am reading along as Mr. Christie was in the 1950 edition, and it's identical. There is no issue as to that.

MR. CHRISTIE: Fine.

Q. Then I assume that you just happened to miss this part, sir.

A. There was no instruction to read that part, sir.

Q. Well, let's put it this way. In fairness to you, I don't think there was any instruction to look throughout the book. Right?

A. No. That would be correct.

Q. And if the page number happened to be wrong, you were just looking at that page, and if it wasn't there, it wasn't there. Right?

A. That would be correct.

Q. I am going to turn over to page 192. I am going to ask you to listen while I read, and check me if I'm wrong and I am not reading correctly when I say that the first paragraph says, "The newcomers". Now, if you read the book, you'd know that was her. Right? {272|273}

A. Yes.

Q. She is a newcomer to Ravensbrück. She says:

*"The newcomers received two woollen blankets and a white sheet, a pillow case and a long blue-and-white striped nightdress. And then we had to learn 'bed-building,' which is a typically Prussian piece of chicanery. All the huts had two wings, an 'A' wing and a 'B' wing. Each wing had a dayroom and a dormitory. Originally built to hold 100 prisoners, each wing held 250 in 1940, and later on the number was even increased to 500. In addition each hut had a wash-room with basins and foot baths, a lavatory, and an office for the S.S. Block Leader, which, however, she occupied only for a short time mornings and evenings. During the rest of the day it was the privilege of the Block Senior to use this room, which was more like an ordinary living-room."*

Is that correct? Am I reading right?

A. Yes, sir, you are.

Q. Now, this seems to indicate that the living conditions in the camp got pretty crowded later on in the War. Would you agree?

A. Yes.

Q. In 1940 it seems it was far less — {273|274} in fact, half of what there was later. Correct?

A. Yes.

Q. Do you have any idea why in the War these people ended up in the concentration camps?

A. More entered the camp, I would imagine.

Q. Why?

MR. GRIFFITHS: Well, I am not sure if this witness is qualified to answer that question.

MR. CHRISTIE: Well, maybe not. He can say so.

Q. You don't know?

A. I don't know.

Q. Did you ever think about it?

A. About...

Q. Why more people would end up in these concentration camps toward the end of the War, as the War got closer to Germany. Did you ever try to find out why more people were in Ravensbrück and why the conditions were deteriorating then?

A. No, sir.

Q. Okay. And I will read you this last paragraph, page 192, the middle

of the page:

*"The Ravensbrueck hut seemed a palace to me after the wretched clay huts of Birma."*

Now, Birma, do you know what that means? That's, I suggest to you, that is part of a reference to the Karaganda facilities. I will read the rest of it:

*"And the equipment: a proper lavatory, a wash-room with proper basins, tables, stools and lockers! {274|275} There was not a table or a stool for any of the prisoners throughout the whole of Karaganda. And then there were the rows of neat, double-tiered beds, and every prisoner had her own bed and her own straw sack to sleep on."*

Am I reading that correctly?

A. Yes, sir.

Q. It seems to be quite different from what you read this morning about rumours of death and gas chambers. Right?

A. Yes, sir.

Q. It seems quite contradictory, doesn't it?

A. It does.

Q. Yeah. If you only read part of it you'd think more of the gas chamber, wouldn't you? Would you agree?

A. I would only think of the gas chamber.

Q. Yeah. Okay. Thank you. We had better leave that there. There is one other point I want to check with you in case we don't know and can't find out where Karaganda was. Looking at the front of the book, look at the table of contents, it says, "Author's Preface, Part I". What does it say?

A. It says, "Part 1. Soviet Concentration Camp, Karaganda".

Q. And what does it say, Part II?

A. "Nazi Concentration Camp, Ravensbrueck" {275|276}

Q. So she was in Karaganda and in Ravensbrück, in Germany, and she found Ravensbrück quite a lot better.

A. It would appear by that version, sir.

Q. And if what I read to you is accurately read, and if it isn't taken out of context, it would appear that conditions got worse towards the end of the War.

A. It would appear.

Q. Right. Now, you said – you quoted parts of this brochure that seemed to imply that she saw or knew of gas chambers. Correct?

A. Yes.

Q. Do you have the book with you?

A. Not in the witness stand I don't.

Q. Sorry. I will get it for you.

A. Thank you.

Q. Now, I've got my copy here, and this is the one you were referring to, and I'd ask you to turn to page 304, and let's start at the paragraph, if I've got the same edition as you, that says, "We haven't had..." Do you have that paragraph?

A. Yes, sir. I see it.

Q. Could you read from there to the end of the word "purposes"?

A. *"We haven't had so many extra dead during the past few days, have we?" I asked. She shook her head. 'Perhaps there's a new epidemic of typhus.' We had a terrible suspicion, but it was not until we managed to speak with one of the new Block Seniors that it was confirmed. About forty women {276|277} had been picked out by Winkelmann, and S.S. overseers had written their camp numbers on their bare arms with indelible pencil. When lorries came to take them away, the women already suspected what was to happen to them and they screamed and struggled and refused to go. A company of S.S. men had been necessary to force them in by violence."*

Q. Had you read that before?

A. Not this paragraph.

Q. Carry on, then.

A. *"Then the lorries had driven off to the crematoria. I don't know to this day whether there was a gas chamber in Ravensbrueck or whether the women had been despatched in the mobile gas chambers which were available for such purposes."*

Q. So she says, "I don't know to this day whether there was a gas

chamber in Ravensbrueck or whether the women had been despatched in the mobile gas chambers which had been available for such purposes." Right?

A. Yes.

Q. She doesn't seem to indicate there whether she saw any gas chambers or mobile gas vans at all, does she?

A. No.

Q. But naturally, she wrote this after the War, and by that time there were stories all over Europe {277|278} about gas chambers. Do you agree?

THE COURT: Are you in a position to answer that?

MR. CHRISTIE: Maybe not. I assume more than I should from the witness.

Q. Maybe you don't know that.

A. I certainly don't.

Q. How old are you?

A. Forty-six.

Q. Thank you. So you have no idea whether it was common that rumours went around about gas chambers?

A. Not at seven years old, sir.

Q. No. Having quoted to the jury the portion of the book that you did, did it come as a surprise to you, the part that I've read, that it is actually verbatim with "Did Six Million Really Die?"?

A. Yes. It's inconsistent with the belching smoke that I read this morning.

Q. And here she says she never even knew if there was a gas chamber in Ravensbrück in another part of her book. Right?

A. Yes.

Q. It sounds almost incredible, doesn't it?

THE COURT: That will be for the jury to decide.

Q. MR. CHRISTIE: Do you see many books on the Holocaust in your experience?

A. Have I?

Q. Yes. {278|279}

A. No, I have not.

Q. Do you agree that it is quite a popular topic? Sad and gruesome as it is, it seems to be talked about an awful lot, doesn't it?

A. Generally, counsel?

Q. Yeah. On the television, and it's quite a controversial item, even in court cases these days, isn't it?

A. Recently, yes. I can't speak generally.

Q. Now, you referred to the book by Colin Cross, and it's my understanding that you said you couldn't find the part, I guess, about the shuffling of millions of Jews around Europe and murdering them, in a time of desperate war emergency, was useless from any rational point of view. You said you couldn't find that at 307.

A. Yes, that is at 307, sir.

Q. It is.

A. Yes, sir.

Q. So that the point that I gather is being made somehow by what you've read – and I hope that you are thinking about this – is that that is somehow out of context. Right? Is that the —

A. That particular sentence?

Q. Yeah.

A. Well, I don't know whether it's out of context or not, sir.

Q. Well, you read this morning the paragraph on page 27.

MR. CHRISTIE: May I file the copy? And it's a photocopy, I concede, but I don't have the {279|280} original. I think we've checked it. It seems to bear out. This is the "Under Two Dictators" by Margarete Buber, translated by Edward Fitzgerald. I think it is the same edition my friend filed.

MR. GRIFFITHS: I have it other than what my friend was reading, but I was following along in the 1950 edition, and it seems accurate to me as my friend was reading it. I have no objection, Your Honour.

THE COURT: It will be the next exhibit.

— EXHIBIT NO. 6: Photocopy of excerpted pages from book, "Under Two Dictators".

MR. CHRISTIE: I have a copy for my friend of what I have entered.

MR. GRIFFITHS: Thank you.

Q. MR. CHRISTIE: Would you agree, now, sir, that respecting page 22 and the paragraph at the bottom of the left hand side in the upper right hand side, that certainly in the book "Under Two Dictators" it indicates the words precisely as they are printed in the book, "Did Six Million Really Die?"?

A. You just took the copy that I had here, Mr. Christie.

Q. Oh, I see. Well, we have gone over it once, but don't you recall that we checked the words almost verbatim?

A. Yes, they were consistent with what we talked about.

Q. So now we agree that respecting that {280|281} paragraph that begins at the bottom of page 22 and goes to the top right hand column of page 22, that was truly and accurately reported and quoted.

A. Yes. It was consistent with the book.

Q. With the book. Although when we heard from you this morning, not one word that was consistent between those two books was mentioned. Right?

A. That's correct.

Q. And that's because you just read what you were told to read. Right?

A. Yes, sir.

Q. Okay. Let's go to page 26 and the paragraph second from the top. I have taken your book again.

MR. GRIFFITHS: I have one extra copy. Perhaps it could be left up there for all the witnesses.

MR. CHRISTIE: This is Exhibit 1 my friend has got?

MR. GRIFFITHS: No. It's from the preliminary.

MR. CHRISTIE: Oh, it's Exhibit 1 on the preliminary.

Q. Now, let's go to page 25, and that paragraph that you read this morning:

"An excellent work on the fake atrocity photographs pertaining to the Myth of the Six Million is Dr. Udo Walendy's 'Bild 'Dokumente' für die...' – well, it's there..."

A. I couldn't pronounce it either, Mr. Christie. {281|282}

Q. We will have to work on that. I now produce and show to you a book by Udo Walendy, "Forged War Crimes Malign the German Nation". Do you see that? Would you just page through there and see if the photograph on page 46 is analyzed in that work? It shouldn't take you too long. There's not very many photographs there.

A. There is a similarity here on page 74 that I have located.

Q. Thank you. So I think it's correct to say, is it not, if we look at the photograph on page 26, that indeed, whether the statements in this book are correct or not.

A. Is this what you are referring to?

Q. Yes.

A. They do analyze the two photos that are depicted on page 26. Right.

Q. It deals with those two photographs. Right?

A. Yes, sir.

Q. And it does show in this booklet the photograph in the lower half of the page. Right – the lower half of Exhibit 1? And at the right hand side which is page 75 of this book it does show the same photograph that is on the top of the page 26 in Exhibit 1. Right?

A. Yes.

Q. Just show the jury that book, if we may, so they see —

THE COURT: You can do that.

MR. CHRISTIE: May I?

THE COURT: Yes.

Q. MR. CHRISTIE: The two photographs {282|283} on page 74 and 75 are the same two photographs as indicated in the book, "Did Six Million Really Die?". Right?

A. Yes, sir.

Q. So any quotes in this book by Udo Walendy that I won't try to pronounce is at least accurate this far that he has the same book, the same author and the same photographs. Right?

A. Yes.

Q. Now, this comes from:

"An excellent work on the fake atrocity photographs pertaining to the

Myth of the Six Million is Dr. Udo Walendy's 'Bild 'Dokumente' für die Geschichtsschreibung?' ..., and from the numerous examples cited we illustrate one on this page."

Right? I am reading from Exhibit 1, the book in the jury's hands. That's true, isn't it?

A. Yes.

Q. We now know that's true.

A. Yes.

Q. "The origin of the first photograph is unknown."

Now, let's see if that's true. Now, my friend produced to you Volume XXX of the International Military Tribunal. Right? I don't remember what page. Can you help me?

A. 421.

Q. And I guess it's 421, and here is the book. Now, is that correct? That's the same photograph as on page 74, or is it faked? {283|284}

A. That is faked, sir.

Q. Well, you are counting things in the background.

A. I am trying to see the support.

Q. Does it look the same?

A. It looks consistent, yes.

Q. All right. Now, do you know the origin of this photograph?

A. This?

Q. Yes.

A. No.

Q. So to you, at least, the origin is unknown.

A. Of course.

Q. Did you ever look in this book to see what the origin was?

A. No.

Q. So the origin of this photograph is unknown to us today. If my friend has other evidence, that may be, but to you it's unknown. Is that correct?

A. Yes, it is.

Q. So far as you know it is true that the origin of that photograph is unknown. Right?

A. Yes.

Q. Okay. But the second, he says, is a montage. Right? He says that in the book, "Did Six Million Really Die?"

A. A photo montage, yes.

Q. Now, does he deal with this issue at page 74 and 75 of the Udo Walendy book? Please read under the photograph that he says is the montage, or read anything {284|285} there you like. Read the whole page. I don't want to take it out of context. Starting on wherever you like.

A. I presume you wish me to read this portion here.

Q. Sure.

A. It's entitled, "Roll Call", and it's under the top picture that we see on page 26. "On the picture on page 74...", referring to this book, "Forged War Crimes Malign the German Nation",... the wooden fence was taken away, the corpses put in front and the new picture was passed as an 'original photo'. An enlargement shows that this 'roll call' has been drawn. The dark shaded man in the middle contradicts the colouring of the other men. There is contradictory lighting. The wooden poles should run conically together. The opposite is the case. The anatomy is wrong in many cases. Look at the enlarged section chest, nipples, arms, knees."

Q. Okay. Now that book, then, is saying that the so-called original is a fake. Correct?

A. No, sir. It draws your attention, as I understand here, it just draws your attention to certain items in the photo.

Q. But doesn't it say it is a drawing, not a photo?

A. It says it is attributed to that, I believe. Just a moment.

Q. All right.

A. There was contradictory lighting. The poles should run together. The anatomy is wrong in many cases...

Q. The roll call has been drawn. Right? {285|286}

A. Shows that this roll call has been drawn.

Q. That this roll call has been drawn. Right? And he means the picture

up there, doesn't he?

A. That is what he is indicating.

Q. Whether you agree with him or not, that is what it says, doesn't it?

A. That is what it says here.

Q. Now, going back to Exhibit 1, we are going to read the next sentence and check and see if this sentence agrees with this book that he quotes as his authority. Let's read on:

*"Close examination reveals immediately that the standing figures have been taken from the first photograph, and a heap of corpses superimposed in front of them. The fence has been removed, and an entirely new horror 'photograph' created."*

Right?

A. That's what it says, yes.

Q. Now, read the caption on the left here, page 74, "Mauthausen", published with this text in R. Schnabel's "Macht Ohne Moral", page 341.

A. Yes.

Q. So what does it say here in the book that is supposedly false?

"This blatant forgery appears on page 341 of R. Schnabel's book on the S.S., 'Macht Ohne Moral'..."

Right? {286|287}

A. Yes.

Q. So Walendy appears in the book as he says. Correct?

A. This book agrees with this.

Q. Correct. Okay. Now, we have to find out if it is true about "Macht Ohne Moral". Right?

THE COURT: You don't have to answer that.

MR. CHRISTIE: I apologize for making any questions into answers.

Q. I now have in my hand the book, "Macht Ohne Moral" by Reimund Schnabel, and for the record I will indicate, rather than argue or debate about it, or try to prove it some other way, it is published in Frankfurt/Main. I don't want to file it, but if my friend wants to see it...

Q. Am I correct that it's "Macht Ohne Moral", by Reimund Schnabel, published in Frankfurt/Main 1957?

A. Yes.

Q. And at page 341, what do we find? What is that?

A. It's a picture.

Q. What kind of picture? It's the exact picture that is depicted in "Did Six Million Really Die?" and in the book of Udo Walendy which he says is from "Macht Ohne Moral". Correct?

A. Yeah. The pictures are consistent. Yes.

Q. They are consistent.

A. Yes, sir.

Q. Visibly so. Right?

A. That's what I said, sir. {287|288}

MR. CHRISTIE: All right. Could I file this book as an exhibit?

THE COURT: Yes. Certainly.

MR. GRIFFITHS: I have no objection if my friend wishes to file the two pages referred to.

MR. CHRISTIE: In due course I plan on calling the author, so it makes no difference.

THE COURT: Marked as Exhibit "A" for Identification.

MR. CHRISTIE: Thank you, Your Honour.

— EXHIBIT "A" (For Identification): Book entitled, "Forged War Crimes Malign the German Nation" by Udo Walendy.

MR. CHRISTIE: Now, I'd like to file this copy of page 341 of the book, "Macht Ohne Moral" with the title page which indicates its publication, and its index which is in German, rather than file the book, which is a rare book.

Q. Could you check that and make sure that they are consistent, please? Do you agree they are consistent, sir?

A. Yes, sir.

MR. CHRISTIE: Thank you. Could I file this as the next exhibit?

THE COURT: Yes.

— EXHIBIT NO. 7: Excerpted pages from book, "Macht Ohne Moral" by R. Schnabel. {288|289}

Q. Sir, I am going to put away this book for now and ask you if you can

still see anything in that paragraph that is false that you quoted earlier.

MR. GRIFFITHS: I think that's something for the jury to decide, Your Honour.

THE COURT: What do you say to that, Mr. Christie?

MR. CHRISTIE: I will withdraw the question. I think that's fair enough.

Q. I understand, sir, that you've read, "The West, War and Islam".

A. Yes, sir.

Q. Because that's part of your investigation.

A. Yes, sir.

Q. And you were on this case for nine months.

A. No. I believe I said seven, sir.

Q. Seven? Sorry.

A. Not totally, Mr. Christie.

Q. I understand. You have other duties.

A. Thank you.

Q. There are some rather critical comments there about Masons, I gather.

A. How critical they are, I interpret them to be, but I found them very inconsistent with...

Q. ...your beliefs?

A. ...some knowledge and beliefs that I have.

Q. Because you, too, are a Mason.

A. Yes, sir. I am. {289|290}

Q. Do you know many policemen?

A. Do I know many policemen?

Q. Yeah.

A. Yes, I know many policemen.

Q. Many policemen are Masons, are they not?

A. Many compared to what? I don't...

Q. Do you know any policemen who are Masons?

A. Yes.

Q. How many do you know who are Masons?

A. Fifteen or twenty.

Q. What degree are you?

A. I am a third degree Mason.

Q. Do you know all about the upper degrees above you?

A. No, sir. There are no degrees above me, sir.

Q. Oh, there's no higher than third degree?

A. Yes, but it's laterally, not above. It's laterally.

Q. And this little pamphlet, "The West, War and Islam", implies there is a conspiracy of Masons. Is that right?

A. Certainly.

Q. Masons get along pretty well with other Masons, don't they?

A. I'd like to think we get along with everyone.

Q. Mm-hmmm. Is there any secret about {290|291} Masonry?

A. Very, very small portion of it, sir.

Q. How big a portion?

A. A very few number of words, signs and symbols.

Q. Words, signs and symbols, eh?

A. A very few, yes.

Q. Did you ever see the Star of the Royal Archmasons?

A. No.

Q. You never have.

A. No.

Q. You wouldn't know if it was the Star of David?

A. There is no Royal Archmasonry right here. That is, I understand, a fourth degree in England.

Q. Oh, I thought you were third degree of the highest degree. There is a fourth degree in England?

A. I said laterally, sir. I didn't say higher.

Q. So these secrets are a very small percentage of the whole thing. Is that right?

A. Extremely small.

Q. Extremely small. These secrets, you know them all?

A. Pretty much.

Q. You do, eh? Do some people know more secrets than you?

A. Yes, sir. They do.

Q. So you don't know how many secrets {291|292} they know, do you?

A. No.

Q. You might not even know who are the members with secrets you don't know.

A. That's correct.

Q. That's the very quality about a secret, isn't it, that makes it difficult to understand how big or small it is.

A. That is right.

THE COURT: You don't have to answer that question, either.

MR. CHRISTIE: Thank you.

Q. So if there was a secret Masonry conspiracy, would you know about it at your level?

A. No, sir, I wouldn't know about it at my level. No.

Q. Did you ever hear about the P-2 scandals in Italy – a Masonic lodge that involved cabinet ministers in Italy? Do you know anything about that?

A. I don't know about it, but I heard about it, yes.

Q. You heard about it? There was many prominent people involved in that, were there not?

A. I don't know, sir. I reside in Canada.

Q. Masons don't have relationships across oceans?

A. Fraternally, yes.

Q. I suppose those relations exist at the higher levels. Right?

A. No, sir. Not totally. {292|293}

Q. No. No doubt you have social functions together, eh?

A. Can you rephrase that sir? I don't understand what you mean.

Q. Do you have any meetings at which people from other countries come to Masons' meetings?

A. Yes, sir. I have been in attendance at that.

Q. So if there was any kind of secret conspiracy, you might not know about it, and if it was to be kept a secret, would you keep the secret?

A. Would I keep the secret?

Q. That's right.

A. Not a secret that is international.

MR. GRIFFITHS: Just a minute. What secret are we talking about?

MR. CHRISTIE: Well, I can't answer that because it is a secret. He is not telling me, either. He is not telling me. He said there are some. He is not telling me all.

THE COURT: What's your next question?

Q. MR. CHRISTIE: You agree that Masonry is an international body of people who work together. Is that not right?

A. No, I don't agree with that, sir.

Q. Do you know about the Masonic Calendar?

A. I don't know what you are referring to.

Q. You don't?

A. No. {293|294}

Q. Well, is there not a calendar that the Masons use that indicates a different year than, say, 1984?

A. No. Not to my knowledge in this country, sir.

Q. Do you ever read books on Masonry?

A. One.

Q. One.

A. Well, I have read a couple of books on Masonry.

Q. Have you heard of the fact that there was inquiries of corruption involving the police department and Masonry in England, reported in a book called, "The Brotherhood"? Are you familiar with that?

A. No.

Q. You don't know that.

A. I don't think so.

Q. The name Stephen Knight (ph) doesn't mean anything to you?

A. No, it doesn't.

Q. As the author of that book?

A. No, sir.

Q. No? Would you say that it would be true to say that Masonry has tremendous power and influence?

A. No. I would disagree with that, sir.

Q. I put it to you that because it's secret, we will never know just how

much power and influence it has. Isn't that true?

THE COURT: If he doesn't know, how can he tell?

MR. CHRISTIE: Well, he keeps secrets, {294|295} Your Honour, he has agreed to that.

Q. Do you agree with that?

A. Do I keep secrets?

Q. Yes.

A. The only secrets that I've kept are the ones that I've told you pertaining to signs, symbols and words – just a few secret words that I took upon myself an obligation on the Bible that I would not reveal those secrets.

Q. I believe you swear by The Great Architect of the Universe. Is that right?

A. Yes, sir.

Q. You see, I am not completely ignorant.

A. I never inferred you were, sir.

Q. But that is true, isn't it?

A. Yes, that's quite correct.

Q. Tell me, in your understanding of the Masonic difficulties, shall we say, in Italy, in which banks were involved such as the Catholic Church D'Ambrosiano, are you familiar with that?

A. I told you, I am not familiar with that at all, sir.

Q. None?

A. No, sir.

Q. Do you think that Mr. Zundel's having written against the Masons may have influenced your work somehow?

A. No, sir. Not at all.

Q. Would you agree with the proposition that Freemasonry is an international secret society? {295|296}

A. No, sir.

Q. What part of that is untrue? It's international; is that right?

A. Yes, it is.

Q. It is secret.

A. No, sir. It is not a secret society.

Q. Well, it keeps secrets, doesn't it?

A. Yes. That's a lot different than what you said.

Q. Well, maybe it is; maybe it isn't. It is for the jury to decide. I will ask you.

A. You did ask me.

Q. I will ask you another question.

A. Thank you.

Q. We agreed that you don't know how many secrets are kept, do you?

A. No.

Q. You know that some are.

A. Yes, sir.

Q. Some are kept by you.

A. That's the one that I am concerned about.

Q. Yeah. That's right. But all the rest keep some, too, don't they?

A. I have no idea, sir.

Q. None.

MR. CHRISTIE: Thank you very much, Your Honour.

THE COURT: Yes, Mr. Griffiths.

MR. GRIFFITHS: I do have some reply, Your Honour.

———{296|297}

#### RE-EXAMINATION BY MR. GRIFFITHS:

Q. Sergeant Williams, can you tell us whether you were asked by Mr. Christie before today about your involvement with Masonry?

A. Yes. He asked me one question on Monday, and he said, "Are you a Mason?" And I replied, "Affirmative."

Q. "Affirmative".

A. I said, "Yes", yes.

MR. GRIFFITHS: Can I see Exhibit No. 2, please? Thank you, Your Honour.

Q. All right, Sergeant. At the bottom of page one of Exhibit 2, "West, War and Islam", there is a paragraph, I guess, headed, "The International Secret Societies:" and there is a semi-colon and some material

follows. Would you read that, please, the whole section on international secret societies?

A. Your Honour, members of the jury:

*"Unknown to most people of the Islamic World is the tremendous power and influence exercised by Freemasonry and all its cover organisations like the Kiwanas, Rotary, Lions, etc. Most Western decision-makers, politicians, economists and military officers are either members of a secret society or are dominated by such members. Any educated Moslem can recognise immediately the identity of Freemasonry with that of its secretive organisational predecessor, the Assassins. This is the {297|298} same satanic structure which we detect in Freemasonry: lies, secrecy, duplicity, infiltration and where necessary, assassination. That most Freemasons are unaware of the directors and direction of their secret organisation does not preclude their blind, unthinking support of this organisation and their obedience to its directives. The orientation and rituals of these secret societies of the West come directly from the Kabbala of the Babylonian Talmud. Their content is Jewish, their goals are Jewish and their masters are Jewish. This explains the consistent support of Freemasonry for the goals and machinations of international Jewry, which also explains the Freemasons' consistent role in directing the advance of world crime, corruption, poverty, war, revolution, collapse and chaos from their high-ranking positions in the Western political, economic and military establishments. On behalf of the Zionists, the Gentile members of these secret societies have spread these plagues not only in the West, but throughout the entire world in which Western influence exists. Most members who are aware of their {298|299} organisation's role in causing world suffering rationalise these horrors as 'change' and as necessary steps in the creation of a world government suitable to their Zionist masters. President John F. Kennedy said before his assassination that there were 17 million members of Freemasonic secret societies in the United States alone! Most U.S. presidents have been members of such secret societies, two notable exceptions being Kennedy, who was removed from office by assassination, and Nixon, who was replaced by 33rd degree Freemason, Gerald Ford. In one's travels through America, one frequently notices that the local Freemasonic temple is usually in close proximity to the seat of federal, state and local government. So deeply accustomed are Westerners to the acceptance of these secret societies in their midst that they have no misgivings in electing known Freemasons to public office, even though it will not be in the public interest that these public policies will not be made in the broad, open, well-lighted public offices, but in the narrow, smoke-filled confines of secret conclaves with their secret 'lodge brothers'. {299|300} No wonder U.S. policy always differs in practice from the pre-election promises made by these hypocrites! A child could readily perceive the truth that no organisation which claims to do good, as do the Freemasons, need be secret; but brainwashed children become brainwashed adults and the thorough Zionist brainwashing has made the Western majority blind to the enemy that works in their very midst. But if many Westerners are blind to this danger, there is no need for the Islamic peoples to be equally blind."*

That concludes the "International Secret Societies".

Q. Perhaps you can pass that copy back to His Honour. Do you swear an oath when you become a police officer?

A. Yes, I do.

Q. What is the nature of that oath?

MR. CHRISTIE: Excuse me for interrupting, but I would like to point out to my friend, I am sure he is aware, that re-examination are only matters that were raised for the first time in cross-examination. I concede that I raised the issue of Freemasonry, but we are going quite a bit beyond the scope of my cross-examination, because this may involve cross-examination again on many the same – well, many of the issues that are coming up for the first time now. I don't know if my friend wishes to {300|301} pursue this. I'm afraid I must object if he does.

THE COURT: Members of the jury, it's virtually time that your coffee arrive. I think it will be arriving about now. You are excused for twenty minutes.

— The jury retires. 3:04 p.m.

THE COURT: Counsel for the accused, in the presence of the jury, during the re-examination of the first Crown witness, has taken objection to that witness being asked a question concerning whether or not, when he was sworn as a police officer, he took an oath.

Mr. Christie takes the position that that subject not having been raised during the course of his cross-examination, it should not now be raised in re-examination. In effect, to permit it would be tantamount to permitting into evidence a fresh subject not having been the subject of the cross-examination as it occurred.

Have I got it correctly, Mr. Christie?

MR. CHRISTIE: Yes, sir.

THE COURT: I take the position that the question is proper for the following reason:

During the course of the cross-examination, Mr. Christie very closely questioned this witness, a police officer, on his ability, by reason of his being a Mason or {301|302} a member of Masonry, was unable to properly and adequately discharge his duties as a police officer in the investigation of this accused for that reason.

The obvious, intended inference that counsel for the accused intended to leave for the jury was, by reason of the fact that this Officer is a Mason, he could not discharge his duties as a police officer properly and adequately, according to the law, with regard to his investigation of this accused.

The Officer has admitted that he did investigate this case and this accused for about seven months or a figure thereabouts.

This question being asked in re-examination following the cross-examination by Mr. Christie of the witness in that particular regard makes it proper. It will be permitted in twenty minutes.

— Short adjournment.

— Upon resuming.

THE COURT: The jury, please.

— The jury enters. 3:30 p.m. {302|303}

THE COURT: Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

Q. Sergeant, I believe I asked you, before the break, whether, when you become a member of the police force, you swore an oath.

A. Yes, sir. I did.

Q. And what was the nature of that oath?

A. The nature of the oath was to uphold the laws of the land provincially, federally and municipally, the municipality; that I had to not disclose items that were revealed to me that I gleaned through investigations pertaining to other persons; also that I would undertake to protect property, life, and assist with the prosecution process.

Q. Do I understand from what you said about that oath that there are secrets you are required to keep as a police officer?

A. Yes, sir. There are.

Q. And you just read out the section of "West, War and Islam" that deals with international secret societies. Do you, personally, take offence at that?

MR. CHRISTIE: Your Honour, I must say —

THE COURT: I agree.

MR. GRIFFITHS: All right. Thank you.

Q. Has your membership as a Mason and your duties as a law enforcement officer clashed in this case, in your opinion?

A. No, sir.

Q. Have they ever clashed? {303|304}

A. No, sir. They have not.

Q. You told us that there are very few signs, symbols and words that are secret in your membership in the Masons.

A. That's correct.

Q. Were any of those signs, symbols and words have to do with assassination?

A. No, sir.

Q. Or breaches of the law?

A. No, sir.

MR. GRIFFITHS: Thank you very much. I have no further questions.  
 THE COURT: Thank you, Officer. The witness retires.  
 MR. GRIFFITHS: Mr. Arnold Friedman, please, from the witness room.

**ARNOLD FRIEDMAN, sworn**

**EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:**

Q. Mr. Friedman, what year were you born in, sir?

A. 1928.

Q. You are now fifty-six?

A. Yes.

Q. And where are you living now?

A. What – the address?

Q. No. Just —{304|305}

A. Downsview.

Q. Downsview, Toronto.

A. Yes.

Q. And are you employed?

A. Yes.

Q. Where do you work?

A. Lumberking.

Q. Can you tell us where you were born and spent the early years of your life?

A. I was born in a small village in the Carpathian Mountains in an area not far from the capital of that area called Uzgrad. It's in part of Greater Russia now. It was annexed after the War. During the War it was part of Hungary, and prior to '38 it was part of Czechoslovakia.

Q. All right. And can you tell us whether you are familiar with farmers or what they did?

A. Well, it was a small village, roughly two thousand families, and we had a little store, as well as a farm, on a very small scale – sort of one cow, a few chickens – family type.

Q. And how many members were there in your family?

A. There were five children and my parents who were – my father was about forty-two, forty-three. My mother was about thirty-seven, and the children were ranging from ages of about five to twelve.

Q. All right. And at what point in time were they that age?

A. In 1944.

Q. Up until 1944 had you suffered any {305|306} hardships in the family?

A. There was a hardship from 1939 to 1944, a sort of graduated hardship as the anti-Jewish laws came into effect, starting with taking away the licence of the little store, and subsequently taking my father into a sort of civilian army labour-type of organization. They were under the auspices of the army, but they were unarmed. They only carried yellow bands and military caps for identification.

Q. All right. And was he working in that capacity in the vicinity of your village, or did he go away?

A. No. They were recruited in labour battalions and shipped to various areas, mostly —

Q. I am going to stop you, because you can only tell us what you saw with your own eyes, and if you weren't there, you can't tell us. Okay?

A. All right.

Q. But he was shipped away for a period of time.

A. Yes.

Q. Did your father come back to your village?

A. Yes. He came back in early 1944.

Q. Okay. Could you tell us, approximately, maybe a percentage, how many Jewish families there were in that village?

A. About fifty or sixty.

Q. And the other families were Ukrainian and Hungarian.

A. Yes. {306|307}

Q. Did the status of the Jewish families in that village change at some time in 1944?

A. Yes. Around Jewish Passover there was information given to us by the police —

MR. CHRISTIE: Your Honour, this obviously, I believe, is trying to in-

quire into truth, and if we get into the realm of information given by the police or given by somebody else, we end up in the position of having to face hearsay, which we can't test the validity of. And I recognize when everybody tells stories about their lives, it inevitably involves hearsay, and we are in a court of law, so I must say, please rule on whether I am right that hearsay should not be admitted to prove truth; and I am not sure under what other exception in this situation it could be legitimately introduced.

THE COURT: Thank you. Yes.

MR. GRIFFITHS: My friend is quite right. I will endeavour, if I know Mr. Friedman well, to eliminate hearsay.

THE COURT: Proceed.

MR. GRIFFITHS: And I hope the Court will bear with us if there is a slip from time to time. I know Mr. Christie will be very vigilant.

MR. CHRISTIE: I will endeavour to be.

MR. GRIFFITHS: Thank you.

Q. You received some information, or your family did?

A. Yes. In the synagogue it was announced —

THE COURT: All right. Mr. Christie, you don't have to be that fast off the mark. I have lived {307|308} in these courts over a number of years. You will get the same indulgence when the inevitable occurs, when the shoe is on the other foot. I can pick these things up. I am quite capable of doing that.

MR. CHRISTIE: I apologize. I thought that was my duty.

THE COURT: No. It's mine. You can object any time you wish to object, but give me a little credit.

Go ahead.

MR. GRIFFITHS: Thank you, Your Honour.

Q. You understand now you can't say what somebody else told you what information you have, but you can tell us what you did and what you said. All right? You received some information in the synagogue.

A. That we will be permitted —

Q. Don't tell us what the information was, but as a result of receiving that information, did you do something?

A. We were – I ran away on the second day of the gathering, on the second day of the Jewish Passover, from there, because we were permitted to stay home the first night and were gathered up, and we were told that in the morning we will be gathered up.

THE COURT: No. Just a moment. Just what he did, Mr. Griffiths.

Q. MR. GRIFFITHS: All right. You had some information or belief, and as a result of that, on the second day of Passover did you do something?

A. Yes. I ran away. The village was surrounded, and I broke through a cordon of – they were {308|309} called Leventers. These were sort of junior, semi-organized youth with military guidance, or police guidance who were helping the police surround the area.

Q. All right. And you got through that cordon.

A. I got through that.

Q. Were you with a friend?

A. With a friend, yes.

Q. And where did you and your friend go?

A. We went to the nearest town where they were gathering up the Jews into a ghetto.

Q. All right. What was the name of that town?

A. Mukacevo.

Q. And did you stay in the ghetto in the town you've told us of?

A. Yes. The Jews of that city were gathered into street ghettos, and the Jews from the surrounding villages were taken into —

MR. CHRISTIE: Your Honour, I recognize that it's frustrating to interrupt, and I know I shouldn't unless I have a reason. I am sure Your Honour can perceive my concern that we are getting involved in a narrative that introduces what, apparently, is not personal knowledge but a collection of some personal knowledge and general sort of raconteur-narrative; and if my friend could direct the witness to tell us what he did, what he saw from his own experience —

MR. GRIFFITHS: This is from his own experience, Your Honour. It is about both areas that I was {309|310} talking about.

THE COURT: Proceed.

MR. CHRISTIE: Well, the last remark was about Jewish round-ups, and unless he was rounding people up, I wonder how he can say that from his own knowledge.

THE COURT: Go ahead.

THE WITNESS: My parents were in one section where the Jews of the villages were collected into. It was a brick yard, brick factory, and I was with the city Jews in the street ghettos.

Q. MR. GRIFFITHS: How long were you in the town for, in the ghetto?

A. Approximately a month.

Q. And is there another holiday in the Jewish calendar that assists you in the amount of time?

A. The Jewish holiday was Shavuot. Shavuot was roughly seven weeks, or precisely seven weeks after Passover; and a week before that we, the Jews of the ghetto in this city, were gathered, driven out of our houses and, under guard, driven into these brick factories where my parents were before me. I missed my parents by four hours.

Q. Your parents weren't there when you arrived.

A. My parents were no longer there.

Q. You said you were gathered up and taken to the brickworks. Who did the gathering and the taking?

A. The S.S. and the Hungarian police. They just knocked open every door and just yelled, "Get out into the street." And then we were, under guard, driven there on foot into the brick factory which was on the outskirts of {310}311 the city of Mukacevo.

Q. How long were you in the brickworks for?

A. Roughly two weeks.

Q. Were there any facilities there for people?

A. It was a huge brick kiln, inside which were subdivided family-type areas separated only by blankets, or bed sheets, and it was a vast sort of armoury-type of hall, and there were hundreds of people in there. Subsequently they just took section by section out to the holding area of the train and were loaded into trains, and we got out of the trains at Auschwitz.

Q. All right. Can you describe the trains for us that you were on?

A. The trains were cattle cars, sort of boarded-up, empty inside, but totally enclosed except for windows within, say, twelve inches from the roof, below the roof line.

Q. Was there any sanitary facilities – toilets; water?

A. No. We were given anything we could carry; we were permitted to take anything we could carry – foodstuffs that we could carry on our back. A barrel of water was given us per car, and a sort of big container, roughly the size of a fifty-gallon drum, cut in half, which served as a latrine.

Q. How long was this trainride in the cattle car?

A. That trainride was about a week.

Q. Were the doors open at all during {311}312 that week?

A. Not at all.

Q. Did everybody survive that trip?

A. Many people were feeble by the time the journey ended. I don't know whether there were any dead in our car or not. I saw people just sitting keeled over in the corners, but I was not sick. The stench was terrible and, of course, the use of the latrine was simply a matter where two or three people were holding up a bed sheet, and the person who had to make use of that latrine was just inside. It was a very degrading time.

Q. You say when the train stopped you were at where?

A. The train stopped in an area that was – we got to know as Birkenau.

Q. And did the train arrive in the day, or at night?

A. It arrived during the day.

Q. Can you tell us what happened, then, from the time that the train arrived?

A. Well, the train arrived. There was a yelling of, "Alles raus" – "Everyone out" – and the doors clanged open and we were ordered out. The atmosphere was chaotic. There was yelling and screaming of people who were told to get out, others who were looking for lost children, or looking for parents who were in different cars, families trying to re-

unite.

There were shots fired – people who didn't obey or whatever; but you could see dead people here and there. There were S.S. with dogs. There were civilian prisoners in blue and white uniforms, striped uniforms, who were assisting us to get out of the cars. We were told to {312}313 leave everything, all our possessions, in the cars – just line up into three groupings. One was those who wanted to work, or were capable of work, separate men and women, and those who were too old or too young; and as we lined up in rows of five, we were confronted with a trio of S.S. with machine guns drawn, two of them, and one was standing there, and he just went through selecting those groups who were lined up as working battalions. He then eliminated certain individuals as unfit for work, or for whatever reason.

We were then marched to an area, to a building in a wooded section there, and we were told to undress, leave our clothing there, and going for showers and disinfection. We were shorn of our hair, head hair and pubic hair, and when we came out of that shower we were given prison garb, ill-fitting, torn blue and white jackets and pants, and shoes – some leather, some wooden – and we were told to line up.

We were surrounded by S.S. again and told to march, and we were marched off into one of the camps. We were marched into a barrack and we were told this is where we belong until –

Q. All right. I will stop you there. Passover and Easter, they change from year to year in the calendar, what month they fall in. Can you tell us about what month they would have arrived?

A. Well, Passover is roughly around March. I don't have the exact dating for that year, and we arrived seven weeks later, which would have been April, May.

Q. All right. And if you were born in 1928, you were sixteen at the time?

A. Yes, sir. {313}314

Q. Was there anything unusual about the barracks that you were taken to?

A. No. The barracks were rows of uniform barracks. They were wooden barracks. They were divided in the middle by a brick fireplace which was heated from both sides of the building. It was a long, narrow barrack, measured about thirty-five feet in width by about a hundred or so feet in length. In the middle there was a brick construction. If you imagine a chimney lengthwise, which was heated on both sides of the building, and the heat was given off on the four lengths, that was the dividing thing. The design was for horse barracks.

Q. How many people would be in that barracks?

A. The whole area was filled with beds, three-tier beds, designed for – MR. CHRISTIE: I didn't hear that answer.

THE COURT: Say that again, please.

THE WITNESS: Three-tier beds.

THE COURT: Three-tier beds.

THE WITNESS: Designed for two people per tier, but they crammed in about twelve kids onto a tier.

Q. Can you show us or describe for us how big an area you got to sleep in?

A. Yeah. A tier would be about five-foot widths by about six feet length.

Q. Deep?

A. Deep, yes.

Q. And how high?

A. It was about three feet high. If {314}315 you sat up you hit your head on the next – on the upper deck.

Q. Are you able to tell us anything about the age of the people in your particular barracks?

A. In these five barracks, in our barrack and the next four, they were all children between the ages of twelve to sixteen, roughly.

Q. How long were you in Auschwitz or Birkenau, that is?

A. I was in Birkenau until December '44, and then I transferred to Auschwitz, which had the separate prison, about three kilometers away. I was there for one month.

Q. I will come to that in a moment. As long as we have some idea of how long you were there for. Were you aware of any particular smell in the camp?



A. Well, there was a constant smell in there. There was smoke belching from the crematoria, and it gave us a constant smell – the crematoria being close enough and low enough for the smoke to be dispersed through the camp rather than go straight up.

Q. During the first part of the time that you were in Birkenau from April and May to, say, October, did you make any observations as to what you described, what you called crematoria? And perhaps you can describe them for us, what you saw.

A. Well, there was – the building that I described as a crematoria is a cottage-type low building with a short chimney protruding from it. At nighttime you saw the flames shooting above the chimney about a meter or two meters, depending on the particular time. There was smoke coming out, and we were just discussing amongst our-{315|316} selves as to —

Q. All right.

COURT: Just a moment.

GRIFFITHS: Thank you, Your Honour. I am sure that there was a regular discussion about those, but we can't hear that. Okay?

A. Okay.

Q. Can you tell us, during that first period, whether you made any observations as to how often there was smoke or flame from the crematoria?

A. That was continuous. It rarely stopped.

Q. What about at nighttime?

A. It rarely stopped because the cars, the trains, were coming day and night, and they were unloaded and just processed.

Q. Now, were you working during this time in the camp?

A. Very rarely.

Q. What would your day consist of in the camp? What would you do?

A. Our day consisted of getting up very early in the morning, around six o'clock, going to the barrack, to the latrine barrack. There was the barrack dedicated as the latrine barrack. We washed ourselves and got back to our barrack to be, to line up for count.

Q. All right. Now, are you familiar with the word "appel" [Appell]?

A. Yes. This was the appel – one in the morning, one in the evening.

Q. And you also call that "count"? {316|317}

A. Yes.

Q. A roll call?

A. No. It was not a roll call. We lined up alongside of the barracks, rows five abreast, and we waited for the S.S. to come in and count physically each row to count up the number of prisoners in that group. The able-bodied stood at attention with our hats off, or caps off, and the dead that accumulated during the night were lined up in front of the building and were subsequently taken away by wagons drawn by people who collected every morning the dead.

Q. Were the dead counted as well?

A. Yes.

Q. Did you have a number assigned to you at Birkenau?

A. Yes.

Q. Can you tell us when?

A. The number was assigned to me when we moved to Auschwitz in December, from Birkenau to Auschwitz. Birkenau had been an extermination camp.

MR. CHRISTIE: Your Honour, that last sentence contains a statement of something that, I think, relates to hearsay. So far it seems to, anyway. Can I please be forgiven for interjecting, because I think sometimes I have to say these things before they are made.

THE COURT: I don't know that you have to say them before they are made. How could you?

MR. CHRISTIE: I don't know, but I try.

MR. GRIFFITHS: Sorry, Your Honour.

Q. I think, Mr. Friedman, if I could {317|318} just stop you from the narrative for just a moment and indicate again, I think, what ideally we would like to do, and I know it is very difficult, is to state your observations, and we will let the jury reach its own conclusions as to what went on in that camp. Okay?

THE COURT: Let me see if I can help.

MR. GRIFFITHS: Thank you, Your Honour.

THE COURT: You are permitted, as a witness, under oath, to say what you saw, what you heard, what you smelled, or a combination of all three. That is why you are here. Are you with me?

THE WITNESS: Yes, Your Honour.

THE COURT: Thank you. Go ahead.

MR. GRIFFITHS: Thank you, Your Honour.

THE COURT: What you felt, if you felt something, say that. Opinions, no.

Q. MR. GRIFFITHS: All right, Mr. Friedman – I lost my train of thought...

THE COURT: You were talking about a number.

Q. MR. GRIFFITHS: And you told us that you got your number in December of '44.

A. Yes.

Q. And prior to that time – do you have a tattoo today, sir?

A. Yes.

Q. And when was that obtained? When were you given that?

A. On entry into Auschwitz from Birkenau.

Q. Can you tell us what that number is?

A. B14515 {318|319}

Q. Up until December 1944 did you have a number?

A. No.

Q. Do you know what a block register is? If you don't, just say you don't.

A. I don't.

Q. Did other people in your barracks, the children, have numbers while you were in Birkenau?

A. Only those of us that were left at that point.

Q. In December.

A. Yes. There was only one barrack-full left by that time.

Q. Out of how many?

A. Out of five.

Q. You were describing for us a day, a typical day, in regard, as far as appel – the count in the morning.

A. Yes.

Q. How long would that take, that procedure?

A. That would take anywhere from half an hour to two hours. On rare occasions even longer. It took the time of all the S.S. men counting up all the barracks, the live and the dead, and if it tallies, they agree that nobody went missing, then we were given our breakfast and then we proceeded with the day's activities.

Q. All right. And was there something different every day for breakfast, same thing? What: did you eat for breakfast?

A. That varied with the season. Sometimes {319|320} we got mulberry leaves.

THE COURT: What...

MR. GRIFFITHS: Mulberry leaves, I think, Your Honour.

THE WITNESS: In the form of tea.

Q. MR. GRIFFITHS: In the form of tea.

A. Yes. Other times it was coffee of broad [bread] barley, I believe – that kind of stuff. There was no ersatz.

Q. Is that ersatz coffee?

A. Yes.

Q. So you had tea and coffee. Were you given anything to eat?

A. We were given a portion of bread and margarine, and at times it varied, the variance being assembled cookies or cakes or various things that they brought from the transports, abandoned by the transport people, that was thrown into a kind of soup, and we could get that kind of a mixture for breakfast, soup. It was sort of like a porridge made up of a variety of things.

Q. How much breakfast soup did you have, and how much of the ersatz tea or coffee?

A. Well, there was a ladle-full. You just lined up and you got it. And then you got to the breadman who gave you your portion of bread and a piece of margarine.

Q. And how big would your bread portion be?

A. Perhaps I could show – that blue label. {320|321}

MR. GRIFFITHS: Indicating a package of Stenograph tape.

THE WITNESS: If that was cut in half and doubled up – in other words, half the length and double the width.

Q. MR. GRIFFITHS: And how long would that last for, then, as a bread ration?

A. If you were careful you could carry the day with it; just nibbling a bit at a time, and saving the crumbs in your pocket, you could get through the day with it.

Q. Was there a noon meal – lunch?

A. Sometimes yes, and sometimes no, depending on what they had. If the kitchen had enough food, it would be a light soup made out of – what do you call it, these yellow turnips? Or barley mixed in. We would sometimes get meat in it if it was a special occasion. And if we had that for lunch we would probably get a piece of salami and bread for supper.

Q. You told us that people that died in the barracks were brought out each morning for the count. Can you tell, was there an average number who would die over the night, or would that figure fluctuate?

A. That figure would fluctuate by anywhere from five to ten people, and not every night. Some nights there were no dead people.

Q. Was there any security guard or fences or anything of that nature around your barracks, or your camp?

A. Around the camp there were barbed wire, electrified barbed wire fences consisting of, roughly, {321|322} six-inch concrete posts with a barbed wire on each side, then a median strip in between, and another fence. They were both electrified, and in the median there were the guard towers – machine guns and guards in there. On the other side of that fence there was another row of barracks, similar, and that went on several times over.

Q. So the camp would be several barracks and there were many camps in Birkenau, so we have a picture of it?

A. Yes. I think there would be about two rows of fifteen barracks each per camp, except in Camp A, which only had one row of barracks.

Q. How far away was the barracks that you were in from the crematoria, the chimney that you've described for us?

A. I was in several camps. I was in —

Q. Several barracks, or camps?

A. Well, these units. It is the same camp, but it is divided into A, B, C, D. When I was in D Camp we were separated from the crematoria by some cottage-type of barracks which were health units of some sort. We saw different people there from time to time, but I don't know what those people were except that I saw, at one time, midgets, at different times children – various things at different times.

Q. And other than those cottage barracks there was nothing between you and —

A. No.

Q. — the crematoria; is that correct?

A. No. Except the railroad, landing area, or the unloading area. Then the crematoria. {322|323}

Q. Would the railroad unloading area be anywhere near the crematoria?

A. Yes. The railroad up to a point where it stopped, and then past that, straight down the line, there was the crematoria.

Q. Are you able to estimate for us today how far that would be, from the end of the line to the crematoria from the railroad line?

A. No. It would be hard for me. Maybe a ten-minute walk.

Q. Was that an area that was accessible to you?

A. No.

Q. Were you permitted to walk in that area?

A. No.

Q. Did you see other prisoners walking in that area?

A. Yes. We saw a lot of people walking from the trains.

Q. And where were they headed?

A. In civilian clothing they were heading to those areas.

Q. What areas?

A. The crematoria area.

Q. Did you see those people return?

A. No. We only saw the grown-up, or the working people, the people capable to do work, come into the camps or be distributed into the camps; but most of the people who were not fit to work, like the elderly and the young, and mothers with children, did not go into any of the {323|324} camps and did not come out.

Q. Now, could I have that again? You said mothers...

A. ...and children.

Q. Did you say anything about elderly?

A. And elderly, were headed into that direction but never came out.

Q. Can you tell us if there were any gypsies that were in the Birkenau camp when you were there, if you have direct knowledge of that?

A. Yes. In A Camp they were gypsies and a group of Czech Jews who were there until sometime midsummer. I believe it was July when we saw one night, in the middle of the night —

Q. All right. I am going to stop you there. Just so we all understand, when you say "we saw"...

A. I saw.

Q. Did you see it?

A. Yes.

Q. And how was it that you saw it at nighttime?

A. Well, there were only barbed wire separating the camps, one from the other. There was a lot of light. Like the whole area was lit up. We saw – I saw military trucks. I saw people being herded onto these trucks. There was the screaming, usual screaming and yelling. Some shots were fired and the trucks drove away in the direction of the crematoria. On the next morning we had some new members, new children, a bunch of kids, maybe ten or fifteen, that we recognized that told us they came from that camp. {324|325}

Q. Some gypsies came into your barracks?

A. Czech children.

Q. Czech children, I'm sorry. At this point in time – now, you told us at one time you were about the second row of barracks, so you are quite close to the crematoria.

A. Yes.

Q. At this time, when you were watching this, how far away would you have been from the crematoria?

A. Well, it was fairly close. A Camp was only about a hundred feet wide: then you had, oh, about three hundred feet.

Q. Three hundred feet?

A. Three, four hundred feet.

Q. Did you see where the trucks went that night that were loaded with people?

A. They went into that knoll of woods. There were some birch trees there and they went into there. It was a very noisy night.

Q. Did you see the trucks come back that night?

A. No.

Q. How many crematoria were there?

A. Four.

Q. Were they all the same size?

A. More or less. We only saw the outline or the side, the low roof. That's all. We did not see the entrances and all that. That was hidden from us.

Q. Just so that I don't do what I have been asking you not to do, there were four buildings that had chimneys on them? {325|326}

A. Yes.

Q. And from what you said, they were similar in design.

A. Yes.

Q. And can you tell us if the amount of smoke and flame from the four chimney stacks was similar?

A. Yes. From alternate periods. It wasn't that they were all belching like a factory at all times.

Q. Can you tell us whether the odour that came from those four stacks was the same odour?

A. Well, it was the odour of burning flesh, and the flames were changing colours from yellow to a deep red on various occasions. I don't know.

Q. Did that cause some discussion in the barracks?

A. Yes.

Q. The colour of the flames? Don't tell us what. Was that the subject of discussion?

A. Yes, it was the subject of discussion.

MR. GRIFFITHS: Is this a convenient time, Your Honour? I am getting into another section.

THE COURT: Members of the jury, we will adjourn now until tomorrow morning. Please do not discuss the case with anyone beyond your number. It's absolutely essential that you keep an open mind. Please remember the thought that the picture does not become clear until the last piece is put into place, until the last word has been said in this case. We will start again at ten o'clock tomorrow morning.

Thank you. Have a good evening.

— The jury retires. 4:25 p.m.

— Whereupon the hearing is adjourned to January 11, 1985.

———{326|327}

### JANUARY 11, 1985

THE COURT: Yes. Is there anything before I call the jury, gentlemen?

MR. CHRISTIE: Yes, please, Your Honour.

I must say this is somewhat of an unusual situation, somewhat of an unusual case, and day in and day out, as I leave Court and perhaps as others do, we are confronted in the media with stories about the case which I know to be inaccurate, to put it mildly.

Now that, in my submission, is of great concern because, of course, the jury goes home every night, too. Now, nobody is suggesting in the media any restrictions on their freedom of speech, and we can't suggest they have to be accurate or that they have to do false things, but one of the things that worries me is that there doesn't seem to be an understanding of what the case is all about.

I am keeping track of all the false allegations made in the media about this case, and we have — I would like to play a sample of what is going on, what happened last night, with the object of putting before you an indication of what I am concerned about.

To begin with, let me say that this case is not about a denial of the "Holocaust", whatever that may mean. This booklet, "Did Six Million Really Die?", does not {327|328} deny persecutions of Jews. It does not deny deportation of Jews. It does not deny transportation of Jews. It does not deny concentration camps. It does not deny suffering, massive suffering of Jews. It does not deny many of the things associated with the Holocaust story that we hear about in the media.

It does deny that there was an unprecedented weapon and an unprecedented crime. The unprecedented weapon was mass gassings, and the unprecedented crime of mass gassing specifically for Jews.

Now, if anyone had taken the time, in the media, to read the article, "Did Six Million Really Die?", it would be my contention they would perceive that. It is not their duty to be accurate, I suppose. I am not here to enforce any such duty, but I am concerned about the fact that day in and day out in the media, stories are circulated about this case that the jury has every right to hear and, no doubt, does hear, that the accused is charged with anti-semitism, which he is not, charged with hatred or spreading hatred, which he is not charged with. They may make their editorial comments on that.

They also say that he is denying the Holocaust ever happened. Now, to the average person who {328|329} understands the Holocaust in the context of what the media said about it, that is a misleading statement.

I would like to demonstrate with some of last night's news reports.

— Video tape played in the courtroom.

THE COURT: I don't know that we should take our time hearing about matters irrelevant to the submission you are making.

MR. CHRISTIE: I was just trying to demonstrate —

THE COURT: Well, I have heard it. I heard that.

MR. CHRISTIE: There are a couple more that I thought were worse. It will only take two minutes, three minutes, maybe, if I may.

THE COURT: Yes.

— Video tape played in the courtroom.

MR. CHRISTIE: That's all, Your Honour. I would like to point out three things there, questions that it ever happened, anti-semitic literature, and a Jewish conspiracy to take over the world. {329|330}

Now, that may be what the media would like to say about the case, but that is not what the article says at all, and I am concerned because day in and day out these people sit here and take notes and go out and say what I suggest is just grossly inaccurate. They have every right, apparently, to do so. They aren't going to be prosecuted. But we are on trial for spreading false news not for anti-semitic literature, or hate literature, or questioning whether it ever happened.

THE COURT: I think what you meant to say is whether your client is on trial for that.

MR. CHRISTIE: Well, I am representing him, and I am saying "we".

THE COURT: You haven't learned your principles of advocacy very well. You are an advocate and Officer of the Court, and don't forget it.

MR. CHRISTIE: I am aware of that.

THE COURT: Then "we" should be dropped. You are making submissions.

MR. CHRISTIE: Yes.

THE COURT: Make them.

MR. CHRISTIE: I have made them.

MR. GRIFFITHS: I am not sure what {330|331} relief my friend is asking for the Court. If it is to sequester the jury, I think it is totally unnecessary. Your Honour repeatedly warned the members of the jury, at the time of their selection, that this was to be based on evidence in the Court.

I have no objection if Your Honour would repeat that warning. That may well be appropriate. If that is the relief sought, I concur.

THE COURT: What would you have me do, Mr. Christie?

MR. CHRISTIE: I would like to have the opportunity to explain to the jury what this case really is about, if they are going to hear every day misrepresentations of what our position is. You see, I think the media representing our position is ridiculous every day.

THE COURT: When would you like to do it?

MR. CHRISTIE: I would have liked to do it at the beginning, but I would like to do it now, if you would.

THE COURT: You may, if you wish, make an opening address to the jury in your own, absolute, unfettered {331|332} discretion, when you decide to call a defence. Even if you decide not to call a defence and Crown's case is in, you may make an address to the jury.

MR. CHRISTIE: Yes, I realize that.

THE COURT: But not now.

MR. CHRISTIE: Well, I wouldn't even have suggested it, Your Honour, except this is going on, and it had gone on in the past. It will continue to go on, I'm sure, throughout this trial, and I really don't think that's fair, because naturally the jury goes home every night, and I wouldn't be too surprised if they listened to the news.

If they hear this repeated over and over and over again, what kind of people do they think we are before they get a chance to put in our defence. That is why I am concerned.

I have said all I wanted to say.

THE COURT: Thank you. Is there anything further, gentlemen?

MR. GRIFFITHS: Not from Crown, Your Honour.

THE COURT: Mr. Christie, is there anything further? {332|333}

MR. CHRISTIE: No. Thank you.

THE COURT: The jury, please.

— The jury enters. 10:22 a.m.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour.

### ARNOLD FRIEDMAN, previously sworn

#### CONTINUATION OF EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:

Q. Mr. Friedman, you told us yesterday that in the children's camp, when you first arrived, there were, I believe you said, five barracks. Is that right, sir?

A. Yes.

Q. And can you recollect how many, approximately, would be in your barracks when you first arrived?

A. It would be about a thousand.

Q. Did the numbers in your barrack ever change, or the population in your barrack ever change?

A. Yes.

Q. Can you tell us when that first occurred?

A. Well, whenever there were changes, they brought in more kids, or eliminated some, or condensed some for some reason or other. There was this fluctuation. {333|334} And these were minor fluctuations, but then there were major fluctuations when they started taking out greater quantities of people.

Q. All right. Did something happen around Rosh Hashanah – the Jewish holiday Rosh Hashanah?

A. Yes. On Rosh Hashanah, which is the Jewish New Year —

Q. What month would that be in, usually?

A. Around the end of July and the beginning of August – we were told to get out of the barrack and line up alongside the barrack in rows of five, and as was customary for appel, and we could be called any time during the day to be counted. This was a normal procedure.

We lined up there. It was a sunny day. It was around noon, close to noon. Dr. Mengele and a couple of S.S. came. Our Blockälteste, or the barrack manager —

Q. He would be the senior person in charge of the barrack?

A. Yes, he would be in charge of the barrack. He went and reported that everything was ready for them.

MR. CHRISTIE: May I ask that we avoid hearsay?

THE COURT: Yes. Please see to that.

MR. GRIFFITHS: Thank you, Your Honour.

Q. Tell us what they did. Don't tell us what they said. Can you do that?

A. Yes.

Q. You can tell us what you did.

A. He ordered us to strip to the waist.

MR. CHRISTIE: This is hearsay. {334|335}

Q. MR. GRIFFITHS: What did you do?

A. I stripped to the waist.

Q. What did everybody else do?

A. With everybody else. The order was given, "Strip to the waist. Everybody. Leave your shirts where you stand." And the front row takes three steps forward. We did that. We were ordered to undo our trousers and drop them down to the knees. Dr. Mengele made a visual inspection of us, singling out or taking out of the room individuals and told them to form another line with us.

Q. You [He] did that with a hand gesture.

A. With a movement of his hand. And soon there were two groups.

Q. All right. The groups that were singled out by Dr. Mengele, did you see any difference between that group – first of all, were you singled out?

A. No. I was left standing.

Q. And the group that was singled out by Dr. Mengele and your group, was there any difference between those two groups that you could see?

A. It appeared to me that they were the skinnier ones, or sick-looking children. They were ordered to fill up the line, to step in line, and marched off to another barrack.

Q. Did you ever see any of those children again?

A. No.

Q. Were they replaced in your barrack by others?

A. Yes, they were. They did that with all the five barracks, and then condensed the remaining. The selected groups were then placed in different barracks. {335|336} In other words, we had new children come into our barrack, and some from ours went into the other barracks.

Q. Were the children that were taken away anywhere in the children's camp?

A. No. They were —

Q. You can only tell us what you saw.

THE COURT: Ask him if he knows this, or is this from information re-

ceived. If it is from information received, he can't say it.

MR. GRIFFITHS: All right. If I may, Your Honour...

Q. Were you able to move around freely between these five barracks, or was there barbed wire or something preventing you?

A. No. We were under orders of block sperre, which means temporary arrest – "Don't get out of your barracks".

Q. How long did that last for?

A. For the rest of the day until the other children were taken away. They did not want us to mix.

Q. All right. And at the next day...

A. The next day we were free, and the other barracks were empty.

Q. And could you walk around the whole area where the five barracks were, or only where your own barracks were?

A. No. There were roughly twenty or twenty-two barracks in a camp. You could move around freely, or we could move around freely.

Q. And were those children anywhere in that camp? {336|337}

A. No.

Q. Did you ever see another camp where there were children other than the gypsies you told us about and the Czech?

A. No. Those, we never saw those, because even to date we never heard from these children.

Q. All right. Was that the only time this happened – Dr. Mengele?

A. No. Then, ten days later we have a Jewish holiday called Yom Kippur, which is a fast day, and we endeavoured to fast. Most of us children were religiously oriented, and we sort of tried to follow the prayers on a daily basis, even though we had no books, but we were well enough knowledgeable on religious prayers to say them by heart, and we gathered to say the services in the group when, again, Dr. Mengele appeared. It was a fast day and the morning breakfast was in those bowls. We were given bowls; it's hard to describe them. There is nothing on the market here to show you what kind of bowls they were; but this one bowl served for your meals. Well, we carried our breakfast with us, and when Dr. Mengele appeared, we all broke the fast and swallowed it to have a sort of healthy appearance.

We were ordered to line up again, and the same as before, we were told to strip and the first line took three steps forward, and again the selection was done with one group of the weaker people, or selected people, being set aside.

Q. And did you see what happened with that group of weaker people, selected people, that were set aside?

A. No. The same procedure followed. {337|338} They were ordered to march into barracks. When they were gone, we were ordered to our barracks under the order of blocksperrre, which is —

Q. House arrest.

A. House arrest. And that lasted the same evening, and then we never saw those other kids again.

Q. How many barracks were there by now, children's barracks of the original five?

A. There was now about three.

Q. Did anything happen to reduce those numbers further?

A. On another, a couple of days later, another occasion, we were ordered to line up and were marched off to the back of the camp where there was a clearing. The clearing area was used for sport, which was sometimes used for football. There was a couple of — there was a football gate [goal] erected, consisting of two four-by-fours stuck in the ground, and they could have been used by stringing a net and playing volleyball, or used as a football gate and our goalpost.

We were marched and kept to one side of the field. The S.S. were there, and the chief, I don't know what his rank was — I know he had gold braids and gold insignia — he picked up a piece of one-by-two, which is a piece of strapping, and he nailed it on the vertical four-by-four posts to form a sort of delta, and he ordered the first row to march single file under this doorway.

Q. Like a gate.

A. Yes. He used that one-by-two as a measuring stick, and we were marching under that single file, and again he was selecting people to go, kids to go into one {338|339} group or another direction, and soon

they formed two groups.

Being, perhaps, streetwise, I hedged backwards. I kept on going back, and although I was yelled at to get back in line, I said that I was trying to join my brother, who is at the rear of the group. When the two groups were fairly large, I saw a break, or an opportunity, and I ran to the group and joined the group that looked sturdier.

Q. Sturdier?

A. Sturdier, yes, healthier. I found a couple of bricks and I stood on them to reach the same height as those children, because I was quite a bit shorter and I saw all the short kids in the other grouping. I was caught at this and beaten. I was running amongst this group when a whistle blew. One of the S.S. was yelling at the guy chasing me.

Q. All right. Now, you can't tell us what he said.

A. No. He just called him off my trail.

Q. And did this new man on the scene, did he participate further in the events of that day? Did he do something else that day?

A. No. He was just called off to surround the others. So he left me alone and I stayed with this group.

Q. So were you with the weaker group, or the sturdier group?

A. I stayed with a group that was sturdier, and we were – we stayed there until the other group was surrounded and marched off to barracks, and again {339|340} we were taken to our barrack after they were gone.

Q. Did you ever see any of those people again?

A. Yes. It so happens we were a fairly close group. Some of my very good friends were in that other group, and it was very hot and humid and they were in those barracks overnight, and they were calling for water. Although no food was given to them, they were yelling through the window to get water, which we had access to and they didn't, and some of our group ran over and passed water when we were watching through the windows, and we were sort of yelling our goodbyes to each other.

Q. Did you see what happened with that barracks for children the next morning?

A. No. There was lagersperre. The whole camp was ordered to barracks. They were – that group was then removed. They were yelling to us their goodbyes. They were marched off, and after they were out of the camp, the camp returned to normal.

Q. Did you see where they were marched off to? You couldn't see.

A. No. We were locked up.

Q. How many barracks are left now after this third selection?

A. There were about two barracks at this point – very loosely, because they weren't full.

Q. They weren't full?

A. They were not full. The two barracks were no longer full. We were – a couple of days later, another Jewish holiday of the Tabernacle series – there are eight days of Tabernacle – and one of these days, on the {340|341} last day, we had a final selection, and this time it was just – we were just herded together from the barrack we were in. We were moved now to one of the front barracks near the gate.

Q. Near the gate...

A. Near the exit gate. You see, the camp was so constructed that it had a gate at the front, and there was no other way to go out. There wasn't a rear exit. It was just a compound, and we were marched out in the morning to work, those who went to work, and the rest just stayed in.

Q. All right. Where was the exit gate in relation to the crematoria? Was that closer to your barracks? Firstly, where was it in relation to the crematoria?

A. Well, all this faced a main road. That main road led to the crematoria, or out.

Q. Or out. Either way.

A. Wherever, yes.

Q. Okay. You are moved to a barracks that was closer to the gate that would go to that main road, and in the centre of the camp.

A. Yes.

Q. And was there some selection process in that, or were all the children moved there?

A. About eighty per cent. I don't know how they got out, some of the bigger kids, but not everybody was in that area. We were just locked up in there for about two days. On the second day they brought in some of the sick people from the hospital. We had one barrack in there called the hospital barrack. From that barrack they brought in some people to us so we now had some older people {341|342} amongst us, and we were just locked up in there till about midafternoon when we were ordered up, lined up, and there we were surrounded by S.S. with dogs and drawn guns. We were then ordered to march to the gate, and as was the custom, you stopped at the gate while your leader reported to the guardhouse the number of people he is taking out, and for what purpose. Being in the middle of that group, I heard him report he is taking —

Q. All right. Sorry. You can't tell us where. You heard the report.

A. Yes.

Q. All right.

A. I heard him check us out.

Q. And did you go through the gate?

A. No.

Q. Did anybody go through the gate?

A. Yes. We were half – the guardhouse was outside of the gate, so half our group was outside the gate, but in front of the guardhouse.

Q. So they'd be out in that main road we are talking about in the centre of the camp?

A. At the entrance to the main road.

Q. All right. And had the line, the formation that you've described, had they turned to any particular direction on that main road?

A. No. They were just standing at attention while the guard would come out and count how many and verify that the number of prisoners taken out is correct.

Q. All right. Did the line, or the formation, ever turn in any direction, or did something {342|343} prevent that?

A. No. We were standing at attention and then, from the opposite direction came a high-ranking German officer with two S.S., one on each side of him, just seemed walking towards a camp, and he asked the guard, "Where are you going?"

Q. All right. You can't tell us what the guard said, but did you —

MR. CHRISTIE: Well, I think both the question and answer are hearsay.

THE COURT: I agree.

MR. GRIFFITHS: Thank you.

Q. As a result of this officer's appearance, what happened with the lineup of children?

A. He marched us back. We were ordered to about face, marched into an empty barrack, and stood to one side of the barrack. Now, there were no beds in the barrack. It was completely empty. And as I described yesterday, there was a chimney dividing the barrack. We were told to line up on one side. The German officer stood on that chimney part, on that stove part, and ordered us to undress and, in a single file, appear before him.

Q. And did everybody undress?

A. Yes.

Q. And he gave some further instructions as a result of which what did everybody do in that barracks?

A. Well, in single file we appeared before him, and he then directed us to jump over to the other half of the barrack, or stay to the back of this side of the back.

Q. When it was your turn, were you {343|344} directed – did you ultimately stay, or jump over?

A. I jumped over.

Q. And those people that stayed were told – or did not jump over, did you see what happened with them, where they went?

A. No. They were – they were ordered out and marched off.

Q. All right. Did you see where they were marched off to?

A. In the same direction. I didn't see them past the barrack. I just saw them go out of the barrack heading in that direction.

Q. Heading, I'm sorry, in what direction – towards the gate, or —

A. Towards the gate.

Q. And did you ever see any of those children again?

A. No.

Q. How many are now left, how many barracks full of children are now left?

A. Barely one barrack.

Q. All this time, was there any change in the odour or the amount of smoke and flame that were coming out of the various crematorium?

A. There was the usual smoke that was associated with the volume of people going in that direction, but when transports came, there was more smoke, and when transports abated, there was less.

Q. Now, is there any way that you can see out of your barracks when you are on house arrest, when you are inside the barracks? {344|345}

A. Yes. There are four-by-four posts supporting the roofs, and we would shimmy up those posts to the window level. They were just narrow windows along the roof line. We would shimmy up and see what's going on.

Q. All right. In the fall of 1944 did anything happen that changed the amount of smoke at the crematorium? Only tell us what you saw.

A. Well, there was a sudden blocksperr[je]?

Q. What does that mean in English?

A. That means an alarm – "Everybody get into your barracks under orders not to get out". There were gongs that rang, and when you heard that gong you run to the nearest, even if it is not your barrack, you'd better get into your barrack, and if not your barrack, get into somebody else's.

Q. What happened if you don't?

A. You get shot. That means alert. The guards in the towers are in full alert, and whatever S.S. are in the compound they would shoot. There was shooting going on.

At that particular time, it was more than usual, and I shimmied up to see what's going on. There was, beside the gongs, there was also a siren blowing which indicated a heavier alarm than just a barrack alarm. That meant that all the camps were under house arrest. There was clear visibility. There was nobody out of the barracks.

Q. Is this daytime, or nighttime?

A. This was daytime. We heard a lot of shooting. I saw soldiers running, truckloads and jeeploads of soldiers appearing on the main road, driving somewhere in alarming speed. I saw S.S. running on foot. About three {345|346} hours later I saw some of them returning.

Q. What direction were they running in, and what seemed to be the centre of activity, from your observation?

A. They were all running towards the crematoria, in that area, and then past the crematoria.

Q. Okay.

A. My specific interest in that activity was that I was told that my father

THE COURT: No. Just a minute.

Q. MR. GRIFFITHS: All right. Let me ask you this. From the time that you ran away from home and went into the ghetto at your nearby town, did you ever see your mother and father again?

A. No.

Q. Or any of your brothers and sisters?

A. No.

Q. Have you ever seen them to this day?

A. No.

Q. Were you looking for your mother and father in the camp?

A. Yes.

Q. And asking for information about them from other people?

A. Yes.

Q. All right. And so your attention was directed towards the crematoria.

THE COURT: Don't lead the witness. Ask the questions.

MR. GRIFFITHS: Thank you.

Q. Did you have some belief about your {346|347} father, that he was alive in that area?

MR. CHRISTIE: This, of course, is an invitation to speculation on hearsay, which I have tried to object to on a number of occasions, hopefully

not to interrupt but to say that we are in a court of law.

THE COURT: Thank you, Mr. Christie. Members of the jury, you will totally ignore that last exchange between counsel and the witness.

Are you finished?

MR. GRIFFITHS: Yes, sir.

THE COURT: Mr. Christie.

MR. CHRISTIE: Thank you, Your Honour.

THE COURT: Oh, you are not finished with your examination?

MR. GRIFFITHS: No. Sorry, Your Honour. I misunderstood your direction.

MR. CHRISTIE: So did I. I'm sorry.

Q. MR. GRIFFITHS: How long were you in house arrest on that occasion?

A. That lasted until evening.

Q. After that incident, the shooting or what-have-you, did the amount of smoke, flame from the various crematoria change at all?

A. Yes.

Q. What was the change?

A. It became minimal. That whole operation became downgraded. We saw occasional smoke to a much lesser extent.

Q. Did you see any further trainloads of people coming into Birkenau after that incident?

A. No. {347|348}

Q. Can you tell us about when that would have been?

A. That would have been around October.

Q. That would have been —

A. 1944.

Q. After October of 1944. Indeed, after that, did you ever see anybody die in this camp?

A. There was the normal death rate of people dying. You still saw the wagons collecting the dead bodies. Whether they died overnight in barracks, or committed suicide on the electric barbed wires.

Q. How would people commit suicide?

A. They simply walk up to the fence, or be too close to the fence, and either trip, or just reach out for the wires.

Q. How often did that happen?

A. Depended on the situation and the cycle of whatever happened.

Q. Well, during the time that you were there, can you give us some idea of whether that was frequent, or unusual, or —

A. It was quite frequent. Many people who were beaten, or saw no —

THE COURT: Just a moment.

Q. MR. GRIFFITHS: You can't speculate as to why. My only question is how frequent it was.

A. It happened. It was quite frequent.

THE COURT: He said it was quite frequent. What is the next question?

Q. MR. GRIFFITHS: How did you come to leave Auschwitz or Birkenau, rather?

A. In December of '44 we were simply {348|349} ordered to line up and marched off to Auschwitz.

Q. Can you tell us — that's about three kilometers away?

A. Three to five kilometers. It's a fairly short distance.

Q. Okay. And how long were you in Auschwitz for?

A. About one month.

THE COURT: I didn't hear that, I'm sorry.

THE WITNESS: One month.

Q. MR. GRIFFITHS: Were you working in Auschwitz, or was it the same situation?

A. No. We were just given numbers there. We were tattooed and just left there. The only work we had there was about late October. Dr. Mengele came in and —

Q. I'm sorry, is this in Birkenau or Auschwitz?

A. Birkenau. And he stood on that fireplace —

THE COURT: I'm sorry, he what?

THE WITNESS: He stood on the fireplace, on the elevated part of the fireplace, and he said.

THE COURT: Just a moment.

Q. MR. GRIFFITHS: Don't tell us what he said.

A. He invited us —

Q. No. I'm sorry. He came in and said some things, as a result of which did you do anything?

A. Yeah. We lined up for work. {349|350}

Q. All right. Did you go to work?

A. Yes.

Q. What kind of work?

A. To carry potatoes from a train. Trainload of potatoes was brought in and we had to carry stretchers, a stretcher-like unit, like they carry plaster —

Q. That was the only work that you did?

A. We carried potatoes to put away, yes.

Q. Can you tell us whether or not you volunteered for that?

A. Yes, after he assured us —

Q. Did you volunteer?

A. Well, with Mengele we were afraid to, but later we did, being assured of our survival.

Q. How did you come to leave Auschwitz?

A. In January, one evening we were ordered to line up in front of our barracks on the main road. Now, this was a different type of camp. These were two-storey brick buildings.

Q. The barracks were?

A. Yes. And there were roads, or streets, and we were customarily lined up for counting, for appel, or whatever, on these streets now.

We were ordered, after supper, to line up. We were given rations. We were, this time, given double rations of both margarine and bread and told that — to stand there until the order is given to march out of there.

Q. Now, you told us yesterday what a ration of, I think, of bread and margarine was. {350|351}

A. Yes. It's about —

Q. About that much in volume.

THE COURT: You are holding up a ...

MR. GRIFFITHS: A new Stenographer's pad, Your Honour, still wrapped up in plastic.

THE WITNESS: About midnight the order came to march. We were then surrounded by S.S., both on foot, on truck, and the Kommandant was on a horse, and we marched that whole night. The next day, about ten o'clock, we stopped. We were given some hot tea or coffee. It consisted of some leaves, I don't know what they were, but it was hot.

Q. Now, you said this was in January. Can you describe the weather?

A. I'm sorry?

Q. Describe the weather.

A. It was fierce, cold, crisp.

Q. And what clothing were you issued?

A. We were not issued anything. We just wore what we had — torn jacket and pants — and if you were lucky to have shoes. It was so cold that when I stopped on the road to put some frozen margarine on my bread, I had an S.S. point a gun at the back of my neck, I looked up and I asked him what he's doing. He says, "I thought you'll bend over"

Q. You can't tell us what he said.

A. But it was frozen.

Q. All right. Can you tell us whether that was just your barracks, or more than just your barracks?

A. The whole thing.

Q. The whole of Auschwitz? {351|352}

A. All of Auschwitz. Preceding us — we were the second group. The men were the second group. Preceding us were the women's camp, the female camp, and they were marching ahead of us.

Q. On the same road?

A. On the same road.

Q. Did you see anything on the side of the road?

A. Yes, their bodies on both sides of the road.

Q. Can you tell us — I am not asking for numbers, but how many bodies?

A. A lot.

Q. Volume of bodies, quantity of bodies? Were there a lot or a few?

THE COURT: If you know.

THE WITNESS: There were a lot, but there were clusters at times, and sometimes there were single bodies. The rule was —

Q. MR. GRIFFITHS: Sorry. I can't ask you that. Did you ever go back to your village at the end of the War?

A. Yes. In 1977.

Q. Not before then?

A. Oh, I went after the War, yes. Immediately after the War we were repatriated back to our chosen designations, and I went back to find my family.

Q. All right. Did you look for any of the fifty families that you told us about at the beginning of this testimony?

A. Yes, of course. {352|353}

Q. And are you able to tell us a percentage of how many of those families were still there?

A. None of the families were there, but there were individual members from about six families, although some families there were two or three members.

Q. Before the War did you have any uncles, cousins, greatparents?

A. Yes.

Q. After the War did you ever see any of those people here?

A. I saw some cousins.

Q. How many, do you know?

A. In one family there's five. In another family there's one. Other families none came back.

Q. Out of how many in your large family?

A. Well, I would have to count each family, the number of children.

Q. Do you know what molten iron smells like — hot iron?

A. Hot iron? No, not particularly.

Q. Do you know what it smells like when somebody puts a horseshoe on a horse?

A. Oh, yes. We used to hang around smitty during grades in school.

Q. And can you tell us whether the odour that you smelled was anything like a horseshoe going on a horse?

A. No.

MR. CHRISTIE: Is that not leading?

THE COURT: Yes. You can rephrase that, Mr. Griffiths. {353|354}

MR. GRIFFITHS: Thank you.

Q. How would you compare the odour that you smelled at Birkenau with that of the horseshoe going on a horse?

A. Oh, there are vast differences. One is that shoeing a horse, you only smelled the burning hoofs for seconds, and there is only a puff of smoke; and the Birkenau smell was continuous, sometimes for days.

MR. GRIFFITHS: Thank you. I have no further questions.

THE COURT: Do you wish to start now, Mr. Christie, or do you wish I intend to break at eleven thirty. I am in your hands.

MR. CHRISTIE: I think it best to start now.

THE COURT: You certainly may.

(Page 355 follows){354|355}

#### CROSS-EXAMINATION BY MR. CHRISTIE:

Q. I am going to show you, sir, a book that is entitled, "Auschwitz K.L.". I guess that means Konzentrationslager. Is that correct?

A. Yes.

Q. And on the back it has some maps. Right?

A. Yes.

Q. I think on the back page — correct me if I am wrong — but you were shown this at the preliminary. Is that right, sir?

A. Probably.

Q. I suggest to you that that is a map and plan of the Birkenau portion of the Auschwitz complex. Would that be correct?

A. Yes.

Q. I'd ask you to tell me, if you may — and is it not correct that the railroad line is depicted running from the bottom to the top of that picture on the dotted lines — these?

A. Yes. They are running from here.

Q. The bottom to the top.

A. Okay. {355|356}

Q. And beside the railroad track it appears there is a road runs along. I would suggest on the lefthand side of the picture. Would that be right, sir?

A. Yes.

Q. I am going to, if I may, get a photocopy of what I think is this, and you can compare it and make sure I got it right.

Would you agree with me, sir, that you can identify certain things on that map that are familiar to you in – sorry, did you hear me?

A. I don't know what certain things you are talking about.

Q. I just wonder if it looks familiar to you.

A. Not really. I've never seen – I know the view of a person from the inside being marched on a street, but if I presented to you a map of Toronto, I don't know what –

Q. You wouldn't know what it looked like?

A. I don't know what you expect me to get.

Q. Well, you would recognize a map of Toronto, wouldn't you? {356|357}

A. Not particularly.

Q. No? How long have you lived here?

A. Twenty odd years.

Q. Well, I suggest to you that you could remember certain things on a map of Toronto if you have been here for twenty-five years.

A. Yes, for sure.

Q. And you weren't in Auschwitz for twenty-five years, obviously. Right?

A. No.

Q. So it would be more difficult for you to identify the exact location of things, I suppose.

A. That's true.

Q. Right. You were there for how long, sir?

A. About nine months.

Q. Nine months. So in that period of time you'd certainly be able to recognize some things, wouldn't you?

A. Yes.

Q. I gather from my information that you'd be kept in a particular area of the camp and you really couldn't travel over the whole camp, so perhaps that {357|358} would be correct, would it?

A. Yes.

Q. All right. Now, I've given you the photocopy, and in a minute I was going to ask you if you could see that it is a photocopy of what you've identified as a general plan of Birkenau. Would that be correct? The one on your right here.

A. I not sure if this is what I saw there, because I was always restricted to one camp, and only – all I could see was what you see pass. I could see the railroad, of course. I could see the main street.

Q. The main street.

A. The street where we marched out, the gates, the entrance gates were here.

Q. You are sort of pointing to parts of the picture. Right?

A. Yes.

Q. So some of it you recognize.

A. Some of it I recognize, yes.

Q. And to the extent that you recognize it, you agree it's accurate?

A. It is like looking at a house and looking at a blueprint. You can't identify some things. {358|359}

Q. Okay. I am not suggesting to you that you can identify everything on the map, but it's consistent with your recollection, would you say?

A. Yes.

Q. All right, sir. And you were there for how many months again, sir?

A. About nine.

Q. Nine months. Okay.

A. Yes.

MR. CHRISTIE: Now, if I may, then, I'd like to mark that as an exhibit, and I'd like to use that to refer to, if I may, and then we can write on it.

THE COURT: That will be Exhibit 8.

EXHIBIT NO. 8: Photocopied excerpt from book, "Auschwitz K.L." showing map of Birkenau complex.

THE COURT: That's a map of Birkenau?

MR. CHRISTIE: Yes, it is. That's my understanding.

Q. I would like to get a pen and ask you if you – you got one? Okay. Could you help me by identifying the main gate? Now, there's a main gate that we described, or you described as being the place where the railroad track came in. Is that right? AG 87 (6/16) {359|360}

A. Yes.

MR. CHRISTIE: Would it be proper, Your Honour, if I could give each member a copy to follow along?

THE COURT: I don't see anything wrong with that. Do you see anything wrong with that?

MR. GRIFFITHS: No. I don't at all, Your Honour.

MR. CHRISTIE: All right. Because I think that might assist.

Q. The number "A", I suggest to you, on there, is where the railroad is.

A. The entrance, yes.

THE COURT: I'm sorry, I missed that last part.

MR. CHRISTIE: Is where the railroad track came in.

Q. And I think you said the entrance. Is that correct?

A. Yes.

MR. CHRISTIE: All right. I am showing to my friend – now, there may be a problem here. I'd better ask my friend to check and compare. I can assure Your Honour it is identical, but it has some writing on the {360|361} top of it, and if my friend – that is where it came from, from this book. Do you want to make sure? Is it okay?

MR. GRIFFITHS: Well, I am satisfied, Mr. Christie.

MR. CHRISTIE: I just want to make sure that this is exactly the same as that. There is some writing on it, but in the same respect it is the same.

THE COURT: Did you take a photostatic copy of the map that is in the book?

MR. CHRISTIE: Yes, I did, sir. And then I photocopied what is written on the top, "K.L. Auschwitz". It is written in French. And I believe it is the title of the book that I showed, and the year it was published and the date.

THE COURT: All right.

MR. CHRISTIE: So I may give each member of the jury a copy?

THE COURT: Yes.

MR. CHRISTIE: Okay.

Q. Now, sir, I think so far we've only got to the point of describing the area known as "A". Is that right, sir?

A. Yes. {361|362}

Q. And that is the main gate. Right?

A. Yes.

Q. All right. Now, could you help us by describing where you went first when you came into the camp?

A. Well, you entered "A". The train entered "A", and you disembarked along these lines.

Q. Yeah. Now, by "these lines", for the benefit of the jury, I think you mean just where there is sort of a double track?

A. Yes.

Q. And there is a siding there?

A. Yes.

Q. And at a point in the middle of the siding it says "E". Is that right?

A. Yes.

Q. It is kind of small and it is between the two tracks. Right?

A. Yes.

Q. And to the right of that was what – the ramp? Like to the right of the "E", would that be where you got off?

A. That was just an empty space. You {362|363} get off the train and line up in rows.

Q. And from there where did you go, sir?

A. We were marched off to the back.

Q. To the back. Down the railroad track to...

A. To some point here somewhere.

Q. Now, for the record, you are indicating some point between what's



marked as "K II" and "K III"?

A. "K III". Right.

Q. Somewhere there?

A. Somewhere there, yes.

Q. And did you go and have a shower?

A. Yes.

Q. It was necessary to have a shower and everybody was obliged to have one. Is that right?

A. Yes.

Q. Now, is it true that you had to take your clothes off, and I believe the men and women were separated for the shower. Right?

A. Yes. At that point they were segregated not only men and women, but working people or healthy people and the others.

Q. And you were, at this stage, certainly {363|364} not regarded, at least, as a working person. Is that right?

A. Yes. During that time they collected some younger children between those ages and we were just kept with that group.

Q. Okay.

A. As healthy youngsters.

Q. And after you were segregated you went for a shower.

A. Yes.

Q. And it was a real shower with real water and no gas. Right?

A. No gas.

Q. Okay. And you had to give your clothes in to somebody, I gather.

A. No, you didn't. You just got undressed outside and were told to march in and get shorn and get showered.

Q. Do you know if your clothes were picked up and put into a sealed room where there was something done to the clothes?

A. No. We, after the shower, we marched out the other end of the building and were issued different clothing. {364|365}

Q. Different clothing?

A. We never saw our clothing again.

Q. I see. That is the clothing you came with. Right? That you lost at that point.

A. That's right.

Q. I see. And was there a problem on the trains? And I am sure there was discomfort – right – terrible discomfort on those trains?

A. Right.

Q. And it would be terribly crowded?

A. Yes.

Q. And probably very dirty.

A. Smelly, yes.

Q. Yes. And you suffered a great deal on the train because of the confinement and the lack of sanitation facilities and the humiliation of having to use an obviously crude toilet, and that was terribly humiliating, wasn't it?

A. Yes.

Q. Now, after you got off the train, then, you got a shower and new clothes. Or not new clothes, but clothes.

A. Yes. {365|366}

Q. All right. And do you remember where that shower was that you had on this diagram?

A. On the map? No. But somewhere towards this area.

Q. All right. Somewhere towards – you pointed to the area of "K II" and "K III".

A. Yes.

Q. Okay. Now, from the area where you had your shower and got the new clothes, where did you go?

A. We were marched along this route. How would you describe that?

Q. Well, let's see if we can describe it. Now, I am going to try and put it into words and you correct me if I am wrong.

A. All right.

Q. We are situated now between "K II" and "K III" and you are marched along a road which you describe to me as being just at the bottom underneath "K III". Right?

A. Yes. But I am not sure if that is a road, or —

Q. It's hard to tell in there.

A. Yes. {366|367}

Q. Could it be that you went down to the point where the railroad line ends and turns right?

A. Yes. It's quite possible.

Q. Okay. And there seems to be a road from the end of the railroad line, it turns right. In fact, there's two roads apparently parallel. Is that right?

A. Yes.

Q. It looks like it.

A. Yes.

Q. And one of them seems to go gradually further to the right and back into the camp.

A. No. From memory that was not that far out. We were not gone that far. We were marched out from here a short distance.

Q. And then —

A. To —

Q. Okay. Could I just follow your pen so the jury can understand?

A. Yes.

Q. You are saying you were marched down to what appears almost the fence line just underneath "K III" to the right? {367|368}

A. Towards "K IV".

Q. Towards "K IV". And then you turned right?

A. Down.

Q. Down a road.

A. That's right.

Q. So now you are going down the road. Could we maybe hold it down to the jury so they can see?

You are coming down the road on the righthand side of the barracks. Can everybody see that? So that's where you came down. Is that right, sir?

A. Yes.

Q. So now you are coming back down to the bottom of the diagram. Is that right?

A. Yes.

Q. Now, can you tell me where along this line you got in towards the barracks? Okay. Now, is that marked "b" and it's got "one one" and "a". Right?

A. Yes.

Q. Now, that was a row of barracks. Right?

A. If I may give you another designation, you've got an "a" beside it. That was Camp "A". The next {368|369} one was camp "B", "C", "D", "E" and "F".

Q. Okay. So now, if we want to designate the type of camp now, it's "A", "B", "C", "D", "E" and "F", and they are on the extreme righthand side by what looks like a fence. Is that right?

A. Yes.

Q. All right. Now, camp "A" has a series of looks like locks. Those are barracks, are they?

A. Yes.

Q. And in each one was how many people, roughly?

A. It depends how many they crammed in at the time to get everybody inside the barracks.

Q. I see.

A. The main object was to get everybody inside a barrack.

Q. Were these barracks under the "A" designation, would they be anything special in the camp? Were they for a special group of people, or what were they for?

A. It was more of a holding type of barracks than a permanent. For instance, "C" was designated as a women's camp. "D" was designated as a workers' camp. {369|370} Men were marched out every day to work. Now, "C" was —

Q. I was going to suggest to you, and if I am right maybe you can tell me, that "A" was a quarantine camp for somebody who just arrived. Would that be —

A. It may well be.

Q. Okay. So you were in "A" for some time. Right?

A. For a short couple of weeks.

Q. Couple of weeks. Okay. Now, could you tell me where you went in this camp after that?

A. We went into one other camp, and – I don't remember whether it was "B" or "C". I think "C" was the women's camp and, therefore, we would be in "B", the second camp, or the other way around. Later on, about two months later, we wound up in "D", in separate children's barracks.

Q. I see. So for some time you were in either "B" or "C"?

A. No. I was in "A" and sometimes "B" or "C".

Q. So how long were you in "B" or "C"?

A. Just a week here, two weeks there. {370|371} The longest period I spent was in "D".

Q. In "D". All right. So you were perhaps two to three weeks in "B" and "C".

A. Yes.

Q. And then you were in.

A. "D".

Q. In "D" for how long?

A. Oh, for about five, six months.

Q. Five to six months.

THE COURT: Can we leave it there, Mr. Christie?

MR. CHRISTIE: Yes, Your Honour.

— The jury retires 11:30 a.m.

— Short adjournment.

— The jury returns 11:57 a.m.

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: Q. Hr. Friedman, we were, before the break, we were drawing, or endeavouring to identify the camps. would you call them camps "A", "B", "C", and "D"?

A. Yes.

Q. They'd be where you were. Is that {371|372} right?

A. Yes.

Q. Now, I would like to refer to the camps, and perhaps you could mark on them in this yellow felt highlighter pen the various camps you were in. And then we'll number them for the time sequence of your attendances in them. Okay?

A. All right.

Q. So the first was "A", I believe.

Right?

A. Yes.

Q. Could we take the pen and just block the whole of that camp off? We will just run the pen right down. Thanks. Now, you were then in either, I think you said, "B" or "C". Right?

A. "B" most probably.

Q. Okay. Then, let's put that as also the one that you were in. All right. And then, finally, for the six months you were in "D".

A. "D".

Q. And that is, could we mark that in, too? Okay. Now, am just going to take this and show it to the jury so that we understand what it is we are dealing {372|373} with. Okay? Now, am I correct in understanding that you went from "A" to "B" to "D"? And it is impossible to get out of the "D" camp although you can go from barrack to barrack. Is that right?

A. Yes.

Q. And there are several barracks in "D", for instance. Is that right?

A. Yes.

Q. Would there be about twenty, twenty-one, perhaps? Would you like to count them?

A. There are fifteen in each row. That would make it thirty per camp.

Q. Thirty per camp.

A. With the exception of "A". That only has, one row.

Q. "A" is the smallest camp and the rest are of equal size.

A. Yes.

Q. And then it appears that you could, therefore, go from the first row of "D" to the top row of "D". Could you?

A. Yes.

Q. So that actually your ability to move {373|374} in "D" camp would include the top half.

A. I'm sorry?

Q. No?

A. You are indicating "E". The other half of "D" is the lower part.

Q. I see. There seems to be a roadway that seems to cut "D" in half. Is that right?

A. This is a heavier roadway, yes.

Q. And there is a fence, it seems, on either side of the roadway, it would appear from the diagram.

A. No. I beg your pardon. You were right. The upper part is "D".

Q. All right. That's what I thought.

A. And I think there is a main road dividing the two.

Q. Between "D" and "E" there is a main road?

A. A main road, yes.

Q. So "D" includes the two columns above "D" or, rather, the column with "D" on it and the one above?

A. Yes. {374|375}

Q. Let's mark that because you could go through all of that.

A. Yes.

Q. So let's mark that as an area to which you had access. Would that be fair?

A. Yes.

Q. And – sorry?

A. "B" is the same thing. The upper part is also "B".

Q. All right. So that "B" and "D" include two columns each and there is sort of a divider, but you can see that you can move around the end.

A. Yes.

Q. All right. So those were the camps that you were confined in for the entire period you were there, except if you went out to work.

A. Yes.

Q. All right. And it seems, from my understanding, that the building at the end of each of those roads, that kind of at right angles to them is a kitchen, would that be true, where you went to eat?

A. No. We did not go to eat. The food was brought to us to the barracks with a delegation {375|376} from each batch going to the kitchen to pick up the food.

Q. All right. But it was a kitchen.

A. Yes.

Q. All right. Now, you were describing a series of selections, and I wonder which camp they occurred in.

A. "D".

Q. In "D". So that's where you were firmly established there and had sort of settled in.

A. Yes.

Q. It would be after a period of how long?

A. I'd be guessing, because we had no way of marking time. We had no calendars or anything like that.

Q. No calendars. It would be after a month, perhaps?

A. Yes.

Q. Now, was there a problem of lice in the camp at all?

A. Yes.

Q. And did you know from your own experience that lice caused a disease called typhus? {376|377}

A. Yes.

Q. And that disease is often fatal, isn't it?

A. Yes.

Q. Especially when you aren't well nourished and not fed properly, or enough?

A. Or the lice are plentiful, yes.

Q. And where there is overcrowding.

A. Yes.

Q. So would you agree that that was the situation in the camp?

A. Yes.

Q. Right. Would it be fair to say that when people get typhus, they start to lose weight, from your experience?

A. Yes.

Q. And they – and of course, it spreads pretty rapidly, doesn't it, in a confined place like a camp?

A. Yes. Medical opinion, but...

Q. Well, probably also an experience of yours.

A. Yes. {377|378}

Q. All right. Would you agree that the process of showering was designed to get rid of those lice?

A. No. The way we combatted lice was by having, once or twice a week, made to sit down in organized fashion like we were lined up for counting. We would then sit down, take off our clothing and physically hunt for lice. Our clothing was changed about once a month by taking it to be steamed and then you'd get the steamed clothing back, although in many cases, it did not kill the lice.

Q. Did you see the clothing steamed?

A. No.

Q. No. It was simply taken away and cleaned somehow and returned to you.

A. Yes.

Q. All right. And you never worked, I believe, is that right, except on one occasion we've heard of to unload a potato train?

A. That's right.

Q. All right. And were you sick in the camp at all?

A. No.

Q. Never sick? {378|379}

A. No.

Q. And you were never forced to work?

A. No.

Q. And there were, I would suspect, in these confined circumstances without work, you young people would be very worried about what was happening.

A. No.

Q. Did you ever hear rumours?

A. Constantly.

Q. It would be fair to say that people were always discussing what was – discussing things in the camp. Right?

A. Discussing, analysing.

Q. And they would also be very unhappy in the camp.

A. Terrified, yes. Unhappy. A state of mind.

Q. Are you aware – you have, no doubt, seen movies over the last forty years about the Holocaust?

A. Some, yes.

Q. And have you read books about it?

A. Not much.

Q. No. Are you aware that children {379|380} sometimes went from Auschwitz to other camps?

A. Some of our group. Very few were tall enough to be mistaken for grown men.

Q. Well, you were never mistaken for a grown man, I gather.

A. That's why I never went to work.

Q. You never went to work. And are you aware that Anne Frank went from Auschwitz to Bergen-Belsen? Have you been aware of that?

A. I have been aware, but I did not read her book.

Q. You are aware of it?

A. I was on a tour of her house in Belgium, but I did not read her works.

Q. And for example, she was a child and she went from Auschwitz to Bergen-Belsen. Right?

A. I'm not sure.

MR. GRIFFITHS: Just a second.

THE COURT: Just a minute, gentlemen. Hold it. Let him carry on, Mr. Griffiths.

MR. CHRISTIE: Q. That's only on the basis of having toured her house and studied a little bit about that, I guess? {380|381}

A. I didn't study. I just went for an hour tour when I was in Brussels.

Q. I see. And for example, children like Eli Weisel who went from Auschwitz to Buchenwald, are you aware of that, later afterwards?

A. Yes, I was aware of him.

Q. And did you sometimes attend meetings of survivors?

A. Sometimes.

Q. And there were discussions there about what went on?

A. No. We are not addicted to that kind of stuff.

Q. You get together basically?

A. And do what, boast about how I made it?

Q. I am not trying —

A. I am trying to understand.

Q. To share your experiences.

A. Rarely. The subject does come up.

THE COURT: Did you say really or rarely?

THE WITNESS: Rarely.

THE COURT: Thank you. {381|382}

MR. CHRISTIE: Q. Now, in your evidence you said that certain people were marched off towards what you described as the crematorium. Right?

A. Yes.

Q. But think you said that it was in the distance. You could only see the outline of it.

A. Yes.

Q. And naturally, you also said that you couldn't see any entrances to it or exits.

A. No.

Q. That's true.

A. That is true.

Q. And think you said that somewhere or other you have either – you said that this was an extermination camp.

A. Yes.

Q. Yes. Although you never saw any gassings or burnings at all.

A. No.

Q. All right. And would it be fair to say that you also said that there was only one entrance to the camp?

A. One entrance to each camp. {382|383}

Q. I see.

A. Are you talking about the whole camp?

Q. I meant the whole camp. Is that what you understood?

A. There is only one entrance, one major gate, guarded entrance, which then divides into the "A", "B", "C", "D" camps.

Q. So I am right to say there is only one entrance to the main camp?

A. Yes.

Q. And by the "main camp" I mean the whole complex in which "A", "B", "C", "D" and "E" are included.

A. Yes.

Q. And one thing I noticed, sir. At the back – in other words, if you come in through gate "A", from the bottom of the diagram, you are on the railroad. You get off around the ramp and you go up towards "K II" or "K III". There's also a road that goes out between "K II" and "K III", and it appears to go right out of the camp.

A. Right.

Q. Yes. So if people went in that direction, they could also have gone right out of the camp. {383|384}

A. Yes.

Q. Now, did you know that there was a Jungenlager near Birkenau?

A. No.

Q. You didn't know that.

A. No.

Q. And it was out that road, out that way?

A. No. We were not given any information about anything past what we saw.

Q. I understand.

THE COURT: I'd like to ask the witness what Jungenlager means.

THE WITNESS: It's a young people's camp.

MR. CHRISTIE: It's a young people's camp.

Q. Well, maybe I should ask. I didn't pronounce it very well, but —

A. Yes. I understood it.

Q. I thought perhaps it would be more familiar in that language because it was the language – would it not be the language you were talked to by the German guard? {384|385}

A. Commanded, yes.

Q. Did you understand German very well?

A. Fairly well.

Q. Were you aware that there was other camps in the surrounding area to which people were moved from time to time?

A. There were work areas. Whether they were mines or working factories – and mobile work stations, yes. There were all kinds of work detail where men went to.

Q. Now, in your experience would it be true to say that not seeing the crematorium at all, that was the direction where some people went out of the camp or towards that you never saw again?

A. I'm sorry?

Q. A complicated question. Did you earlier on indicate that that was the direction certain people went?

A. Yes.

Q. That you never saw again.

A. That's right.

Q. Right. We now, I think, agree there was a roadway that went out of the camp in that direction, too. Right? {385|386}

A. There is a roadway marked on that map, but I was never – I never saw the roadway or —

Q. I understand, because you couldn't, really.

A. I never walked into that area.

Q. You were not allowed to walk?

A. I was not allowed to walk.

Q. Now, you gave a description at one point of something that happened in the gypsy camp, I think. Was that right, one night?

A. Yes. Yes.

Q. All right. You told us that there was a commotion in the middle of the night, I think.

A. Yes.

Q. And the people were herded into trucks.

A. Yes.

Q. Now, could you tell us where the gypsy camp was from you?

A. At that time I was in "D" camp and it was either "A" or "B".

Q. The gypsy camp was either "A" or "B"?

A. I would think from memory that it was {386|387} "A".

Q. Now, you said they were loaded into trucks and moved towards a birch wood.

A. Well, they were moved along this road at the entrance to the camps.

Q. I see. Excuse me. For the benefit of the jury, they can't see what we are talking about, and where you pointed. Could you point to the road along which they moved?

A. Well, camp "A", at the bottom of the diagram, and they were taken along the northern route here towards this area.

Q. Is this the birch wood area that is an area of "K IV" and "K V"?

A. Yes.

Q. All right. And that's the roadway you described. Is that right?

A. Yes.

Q. And you noticed that that roadway turns to the left immediately after "K IV" and "K V", on the diagram at least.

A. Yes.

Q. And it connects to, the road that also {387|388} leads out of the camp.

A. Yes.

Q. I see. Thank you. So maybe we should mark that road so that we know in any future time what we are talking about.

MR. GRIFFITHS: Well, it's a road that this witness hasn't identified, Your Honour.

MR. CHRISTIE: All right. He said that – he described the road. But my friend really shouldn't try to tell the witness what he said. If I am making an objectionable question, I understand that, but I would just like the witness to identify the roadway that he saw the trucks on.

THE WITNESS: Passing the main entrance to each camp.

MR. CHRISTIE: Q. Okay. I got a pen now, and could you somehow identify that roadway? Okay. And carry on to where the roadway goes.

A. The roadway goes on the map. I didn't see them past that point.

Q. I understand. Okay.

A. My line of vision was limited to the trees or the tree area. Whatever

passed past that was unknown {388|389} to me.

Q. I see. Thank you. So you've drawn arrows. Do you mean to indicate that the portion inside the lines is the roadway? And you drew on the arrows to the right of the roadway?

A. Well, the roadway was past the gate locking us in.

Q. Mm-hmm.

A. This is the main area I am talking about. Whether I am on the right side of the line, or the left side of the line...

Q. It doesn't really matter much.

A. It doesn't matter, but they drove past here and into this area.

Q. I see. I noticed the arrows are sort of not like inside those two lines. Is that the road in the two lines there? Like, is this all open?

A. I am not sure.

Q. All right.

A. I took this whole area, roadway. I would treat these little spots here as the outside of the...

Q. Gate?

A. The gate, the guardhouse. And once {389|390} you get past the guardhouse you are on the roadway.

Q. On the roadway. So can we point that out to the jury, that the guardhouse is the little block – am I pointing correctly, sir?

A. Yes.

Q. That is immediately to the left, say, of the letter "a". And then the roadway is immediately to the right of that. Is that right, sir, to the right of the guardhouse?

A. Yes.

Q. Okay. And that goes up between "K IV" and "K V". Is that right?

A. Well, the line extends.

Q. Yeah. You didn't see the area, but that is where that line extends?

A. Yes.

Q. And it turns left there and goes below the letter "F". Is that right?

A. Well, the line is obviously there to the diagram.

Q. That is not an area that you could see, though, from where you were?

A. No, not the roadway. There was no {390|391} trees other than that there. There were no other trees or other obstructions hiding anything. In other words, if you saw something moving you saw it moving to a point, and then you did not see it.

Q. Right. So your line of vision from camp "D" was just about – would it be to the point where "F" is? Or could you see further?

A. Yes. About that.

Q. Okay. So that is, as far as you could see, where "F" is.

A. Yeah.

Q. And from there, whatever became of the roadway, you didn't really know.

A. No.

Q. All right. Now, as far as the smoke I thought you indicated that the smoke, at first, it seemed like you indicated – correct me if I am wrong – that the smoke permeated the whole camp almost every day?

A. Not almost every day. There were times with the wind or whatever, the humidity factor and so on, you had for days a smell. Other days you didn't.

Q. Right. You told us there were people {391|392} frequently who died at night in the camp.

A. Yes.

Q. Either suicide or whether other causes – typhus, for example?

A. No.

Q. Nobody ever died of typhus?

A. They were not announced why they moved anybody, but the threat – we were threatened that if we don't delouse properly and get into typhoid, they exterminate the whole barrack. That was a threat.

Q. That is what you say, but I didn't ask you what was somebody else's words. But did anyone die of typhus in the camp?

A. They did not report to me.

Q. They never reported them.

A. Not to me.

Q. The cause of death —

A. Was not given out to inmates as that barrack was removed because of typhoid fever.

Q. Well, did you see anyone who appeared to die from typhus?

A. No.

Q. Never. {392|393}

A. I wasn't concerned with that. That was not my duty to inspect barracks.

Q. Did you see people who were taken out in the morning who had died?

A. I've seen the wagon being pulled with the cadavers collected on them, yes.

Q. And how many?

A. How many does a wagon hold?

Q. I don't know. You tell me.

A. Sometimes they were to the brim, and sometimes they were half empty. But that was a routine.

Q. And it was a routine. And they were then – what, were they buried or what happened?

A. Well, we were not invited to any funerals, so I don't know. I didn't see any funerals.

Q. Where did you see the bodies being taken?

A. In that same direction.

Q. To what direction?

A. Towards the crematoria.

Q. So you're saying – where is the crematoria, now?

A. In that same area. {393|394}

Q. Now, you are pointing to the area of "K IV" and "K V". Is that right?

A. Yes.

Q. Have you ever read Mr. Zundel's book, "Did six Million Really Die?"

A. No.

Q. So you don't know what it says, really?

A. I am not here judging this book. am just giving you evidence.

Q. I appreciate that. Have you heard it described in the media?

A. No.

Q. Never.

A. No.

Q. The crematorium was in the direction of the bodies that were taken of the people who died overnight. Is that right?

A. Yes.

Q. And you say that if people had typhus, it was something that you were told about by somebody else as to what happened to them.

A. I wasn't told. We were threatened {394|395} just with that.

Q. That is what somebody tells you, I, gather. You say threatened you?

A. They told us if we don't delouse and typhus breaks out, we would all be cremated.

Q. I see.

A. We would all be gassed.

Q. Oh? Well, you said it right the first time, I suppose. People died from typhus and you were told that, weren't you, that it was a serious problem in the camp?

A. No. It was not a serious problem. The camp only consisted of healthy people, and those weak were eliminated.

Q. From the camp.

A. From the camp.

Q. And what became of them you, personally, do not know.

A. I did not witness.

Q. There was a hospital in the camp, wasn't there?

A. Yes.

Q. And people were taken there? {395|396}

A. Yes.

Q. And some people had teeth pulled there, like bad teeth, one tooth?

A. I don't know.

Q. Well, I suggest to you that on a previous occasion you recalled people going to the hospital to have a tooth pulled.

A. People went to hospital for whatever their personal reasons were. They did not check with me.

Q. And they would come back from the hospital.

A. Some, yes.

Q. Now, when it comes to smoke, and your evidence was the smell was of burning flesh, are you aware of the existence of a factory known as Monowitz within two kilometers of Birkenau?

A. Only from hearing. It was Monowitz. There was Gleiwitz. There were various other camps where people said they went to work, but I did not see those places. I did not go there.

Q. Was there a soccer field?

A. Where?

Q. In the camp? {396|397}

A. No. There was an area that had a goal post for a soccer field, but I only remember vaguely once seeing soccer being played amongst the Kapos and Blockältestes.

Q. Could you describe —

A. These are block barrack chiefs.

Q. Could you describe that on Exhibit 8, where that was?

A. It will be somewhere in this —

Q. May I make a suggestion to you?

A. Yes.

Q. Correct me if I am wrong. I suggest to you it's just underneath "Kill" in that open space. Would you agree?

A. No. We never left the area to go out.

Q. I see.

A. This was just in the camp.

Q. Okay. Could you mark — this is another coloured felt pen, if you could just mark that.

THE COURT: That colour is red.

MR. CHRISTIE: It looks pink, I hope. Yes, it is pink.

Q. Now, I am just going to show the jury {397|398} where you've described the soccer — well, the area where you saw the soccer played once.

A. Yes.

Q. And if I'm correct, that is really on the end of your barracks area.

A. Yes. It's at the end of that camp. Camp "B".

Q. Right. I'm going to read to you just a little part of your testimony on a former occasion, and I am going to just read from page 230, line 9. I am just going to show it to you.

A. Mm-hmm.

Q. And you can read it over and I will just ask you if you were asked this question and if you gave that answer.

A. I think so.

Q. Okay. I'll just put this into the record, that you agree that you were asked:

"Did any of the other boys in your barrack receive treatment there?"

That was medical treatment in the hospital facility. Right?

A. Yes {398|399}

Q. And then your answer was:

"Yes. If he had a toothache or if he had injured himself or something, he would go to the hospital barracks."

A. Yes.

Q. Right? Okay. So you must have become aware of that upon a person's returning, I suppose.

A. Not really, but they did return. We had epileptics. One particular case I remember, he was beaten for not standing during the appel[l]. He was subsequently carried to the hospital and he returned.

Q. Okay. Thank you. I was going to suggest to you something — do you have the Exhibit 8 in your hand there?

A. Yes.

Q. I was going to suggest to you that the gypsy camp was "E". Just next to yours at "D".

A. Yes.

Q. I suggest that perhaps that's true. Maybe — would you agree?

A. No.

Q. All right.

A. But that camp "E" was used for transient {399|400} types groups from time to time. As I indicated yesterday, at one time there were midgets gathered there. At another time I saw some other people. It

wasn't a specific area where they had permanent people at one time, as opposed to "D" where it was a working camp.

Q. Right. Well, "D" was a working camp in which you were. Right?

A. Yes.

Q. But you didn't work.

A. Right.

Q. I see.

A. But the camp was designated as a working camp.

Q. I understand. The other camp "E" was a transient camp.

A. I don't know.

Q. I thought that's what you said.

A. Yes. Transient type people are seen there through the wire from time to time, but I had no communication with them.

Q. Okay. Do you know if there were metal works and blacksmith shops in Birkenau?

A. I don't know of any. {400|401}

Q. Do you know if the trains – they certainly wouldn't be diesel trains, would they? They would be steam engines that brought the —

A. Yes.

Q. Were they coal fired or oil fired?

A. I was in the passenger part of the train.

Q. Was this a low, swampy area?

A. I'm sorry, I can't give you that answer, either.

Q. It is true, isn't it, that it's pretty hard to differentiate the various smells that we smell from time to time. For example, you've never been around an iron works, have you?

A. No.

Q. It has a very – well, it's indescribable – well, you don't know, do you?

A. Well, I travelled through Buffalo and I travelled through Hamilton, so I can tell that part of the smell, but I was not in an iron works per se.

Q. All right. You gave some evidence about flames spewing out of a chimney, I think. Right?

A. Yes. {401|402}

Q. Okay. Now, this was, I gather, what you've described as a crematorium.

A. Yes.

Q. And that was some distance away. You could see the outline.

A. Yes.

Q. You don't know, I suppose, the matter of there being flames fourteen feet high. You never said that.

A. Fourteen feet high?

Q. Yes. Flames spewing fourteen feet out of the chimney.

A. When I refer to measurements, I cannot tell you from that distance whether it was fourteen feet high or thirteen feet high, but they were in excess of the height of the chimney.

Q. In excess?

A. Quite above the chimney. There was open flame spewing out of the chimney.

Q. And this is something you describe as going on day and night.

A. Sometimes, yes. At the height of a period when they brought in trains continuously, that smell {402|403} was continuing, that fire and smell was continuing.

Q. Mm-hmm. I am going to refer to page 225 of a transcript of your testimony at the preliminary, and I want you to read it over and make sure that – I want to ask you if this reflects your testimony at the time, and I will start with line 7:

*"How often would you see flames from these chimneys?*

*A. Quite often, especially on a clear day. If there was no rain you could see these flames clearly going up.*

*Q. Coming out of the chimney?*

A. Yes.

*Q. How tall were these flames?*

A. I would say about fourteen feet roughly.

*Q. Now, the sketch indicates something at the northwest of the far left. It says 'K2, 3, 4, and 5'. If I were to suggest to you that those were the crematorium locations does that coincide with your recollection of what*

*you observed?*

A. Yes. {403|404}

Q. Were you asked those questions and did you give those answers?

A. Yes.

Q. And were they true?

A. Yes, but the fourteen feet height, flame shooting out fourteen feet or twelve feet or ten feet, for that matter, are a matter of guessing rather than measuring.

Q. May I suggest to you that fourteen-foot flames or ten-foot flames or five-foot flames going out of a chimney of a crematorium, it would burn the chimney? Would you not agree?

A. I am not an expert on that, but they were wide chimneys.

Q. White chimneys?

A. Wide. As they were quite – they were not the regular house chimney.

Q. Is it your evidence that the noise of this was day and night and it was so bad you couldn't sleep?

A. The noise?

Q. Of this burning chimney.

A. I didn't say anything about noise. {404|405} It was noise coming from that direction of people yelling and screaming.

Q. Oh?

A. Of guards yelling and dogs barking. Shootings, like sporadic single shots.

Q. This is the area where you saw the gypsies loaded into the trucks.

A. No. You are asking me about the crematoria here, or the gas chamber area.

Q. Wasn't that the area where you said you saw the gypsies loaded into the trucks and taken there?

A. No. The gypsies were taken from the camp and driven towards there.

Q. How far was it from the gypsy camp over wherever it was to, say, "K IV" and "K V"?

A. What do you mean by how far? In feet, distance?

Q. Well, if it's feet, use feet.

A. It's just past, outside of these camps.

Q. Well – yeah. It's not very far, then, eh?

A. No. {405|406}

Q. A couple of hundred yards?

A. Possibly, yes.

Q. You mean to say that they loaded these gypsies into the trucks to take them a couple of hundred yards?

A. Yes.

Q. Did you see them unload them?

A. No, but heard.

Q. You heard?

A. Yes.

Q. How do you hear somebody being unloaded?

A. The screams and the light coming from that area and the motor and the sporadic shooting, single shots here and there is what is heard, although I couldn't see what specific movement took place there.

Q. It's my understanding that you say that in addition to the fourteen-foot high flames going out of the chimneys, you also indicated that you could tell the difference between skinny people or fat people from the colour of the flames. Did you say that?

A. Yes.

Q. And you mean to have us believe that {406|407} the difference of colour would be determined by the people who were being burned? Right?

A. Well, as we said earlier —

Q. Please, please.

A. We were discussing various things and this was part of the discussion of the guesswork we kids had in guessing that these were Hungarian transports because they have these type of flame, and these are Polish transports, they're very skinny, and therefore it's low fat people who were being burned, and therefore – but this was not medical evidence.

Q. It was guessing. It was you kids having guessing games.

A. Of our discussion at the time.

Q. And naturally, that would terrify you?

A. No. We were living with that for nine months and it doesn't terrify you. You just accept it as price of surviving another day.

Q. You formed the opinion that – you gave that as evidence, actually, under oath, I think in this Court about the skinny people having a different coloured flame than the fatter people? You actually swore that. {407|408}

A. That was an opinion, yes, an opinion we formed. I am not a medical person nor am I capable of giving medical evidence or scientific evidence.

Q. I understand. But this is the kind of atmosphere in which you lived in which these opinions were being expressed.

A. Yes.

Q. Although, indeed, you never saw anyone either being gassed or burned, or I haven't heard you say you saw anyone even being shot. Did you say that?

A. Yes.

Q. Who was being shot?

A. Would you like me to give you his name or his number?

Q. Either one, if you wish.

A. I don't know. We were in a group. When we were marched, anybody who stepped out of line, we were shot. Right in front of me, after he was shot, dogs jumped on him and they were trained dogs, to tear him apart. Then, at the very end, we had another detail of SS who shot every cadaver again, for fear of someone surviving the march.

Q. I see.

A. These are the things I saw. I was {408|409} also present a different time when somebody was just shot.

Q. For no reason?

A. For no reason.

Q. Mm-hmm.

A. He either talked back to somebody or he was – at lineups for food we would have some jostling of who would get to the bottom, to the part of the bottom of the container of food because that's where the heavy foodstuff was left, whereas if you got to a new container you would get only the soupy liquid part. So everybody was jostling for a better position. The Blockälteste, or the barrack the guy in charge of the barracks, had the authority to kill somebody with his cane at that point for just jostling around.

Q. Was this an SS person?

A. No.

Q. Who would he be?

A. He was a prisoner, a senior prisoner, senior authority.

Q. You have actually seen prisoners kill prisoners, then?

A. Yes, I have seen that too.

Q. So it was a very difficult place to {409|410} live, wasn't it?

A. Of course.

Q. Right. And prisoners kill prisoners on occasion.

A. Yes. Senior prisoners, either work Kapo – they, were the guys in charge of a detail of workers or the Blockältestes, who were the barrack chief, or the Lagerälteste, who was the chief of the camp. All these were civilians.

Q. All these were prisoners?

A. Prisoners, yes.

Q. So the prisoners, to some extent, were responsible for discipline.

A. Yes.

Q. And they could be very severe.

A. Yes.

Q. And I suppose some of them were just like yourself.

A. Some, yes.

Q. And they had arbitrary power to kill people, I guess.

A. Yes.

Q. And they exercised it. {410|411}

A. On some occasions, yes.

Q. Could you show me where some of – where the place was where

you took the shower on this diagram, Exhibit 8?

A. In the area "K II" and "K III".

Q. I see. Can you identify a building there at all?

A. No.

Q. So the best you can do is identify the area of "K II" and "K III"?

A. Yes.

Q. And that's where you had your shower.

A. Yes.

Q. And what's "K II" and "K III"? What are they?

A. I presume it's Krematoria II and Krematoria III.

Q. So you don't know. It's a presumption that it was a crematoria. Is that right?

A. I don't understand what you mean by a presumption. When I was there constantly, no, I was not inside watching them burn anything. I could only observe that from the confines of my camp. {411|412}

Q. Right. But you did say that the shower baths were in the same area?

A. The shower bath we only got when we got off the train, got out of our clothes that we came in and were given prisoner clothes. After that I never went to that shower bath again.

Q. I see. So you don't know exactly where it was?

A. Well, it was near the train where we got off, and after that I had no contact with it again.

Q. At that time I suppose you would not be very familiar with the camp anyway.

A. No.

Q. Have you seen the movie, "Holocaust"?

A. I'm not sure.

Q. It is my understanding from your evidence that the only time you went with Dr. Mengele at his request, you went and unloaded potatoes off the train?

A. Yes. That is the only work I did with him. I didn't work with him actually. He only came —

Q. Selected you and told you.

A. No. He only came to ask us to volunteer for work because at that time all the men were gone {412|413} from the camp.

Q. They were all gone and he —

A. And he was coming to pick up a number of people to help unload the train.

Q. Thank you. And you did.

A. He took us and some other surplus people from the hospital building, like surplus doctors and so on.

Q. Mm-hmm. And you unloaded the train and went back to your barracks.

A. Yes.

Q. So it wasn't a case of the only trains there were bringing prisoners at all. There were other trains as well bringing supplies?

A. I don't know.

Q. Well, you know —

A. There was the one train that I worked on that had potatoes in it.

Q. How many people do you think there were in the whole camp?

A. I wouldn't know.

Q. Okay. within the area you had, "D", it looks like thirty buildings. {413|414}

A. Yes.

Q. And how many in each building?

A. I wouldn't know that. I know we kids were cramped, or later on given more space, but when transports were brought in, people were just pushed into barracks. Whether more people came into these particular beds or less people – and people were taken out of the camps to go to work areas permanently and temporarily.

Q. Right. So some people were out of the camps to work areas permanently.

A. Yes.

Q. You don't know how many were in that category.

A. No.

Q. You don't know how many went through the camp in the nine months you were there to other areas.

A. No.

Q. You don't know how many went from that camp to work areas permanently or to other camps.

A. I have no count or any ability to even guess at numbers.

Q. Would it not be the case that on the occasions when some of the kapos and what you call senior {414|415} prisoners disciplined prisoners there would be screaming and yelling?

A. There would be screaming and yelling when they were disciplined.

Q. Right. That is —

A. On a singular level.

Q. Sorry?

A. On a singular level. One person was yelling if he was being flogged or just simply beaten.

Q. I am talking about prisoners doing this to prisoners.

A. It was not a mass riot. It was just a single occurrence and a single officer dealt with a single prisoner.

Q. By "officer" do you mean prisoner, or SS?

A. Prison officer. No, the SS rarely came into it.

Q. Into the compound.

A. Into the compound, except for morning and evening count and from time to time just to talk to these barrack leaders.

Q. Hm-hmm. {415|416}

A. The SS were there in the morning to export the details that went to work and they went with them.

Q. In your evidence towards the end you said that there were some sick older people who came into your barrack area.

A. Yes.

Q. Mm-hmm. That was at the end of your stay in Birkenau.

A. That was after the last selection, yes.

Q. Mm-hmm. So as far as your case is concerned, you lived there for nine months without work, and I haven't heard you describe any occasion when you, yourself, were beaten at all.

A. No, I wasn't.

Q. No.

A. Beaten in a sense of being beaten. I did get a whack from time to time for various minor things. Like one day we were — we were sent to a kitchen to peel potatoes and an SS in charge had a short stick, and as we were sitting peeling potatoes he went around clonking everybody on the head just for his amusement. {416|417}

Q. Did you go to the hospital at all?

A. No.

Q. You, yourself, then, are not an eye witness to anything other than some people getting shot and some people being killed by prison inmates themselves. Is that right?

MR. GRIFFITHS: Well, with respect, Your Honour, I suggest he is an eye witness to what he has told us about. And he's testified to more than that. The question is if that is the only thing he witnessed. He told us for two days —

MR. CHRISTIE: I am not going to go through everything he witnessed.

THE COURT: Let me make it easier for you. You can ask the question.

MR. CHRISTIE: Q. To be a little more precise, sir, as far as people killed are concerned, I believe it's true that, notwithstanding a great deal of what I concede to be very severe suffering on your part and an unjust detention and a total deprivation of your freedom, all of which I very obviously heard you describe, as far as people being killed is concerned you saw some people shot and you saw some inmates kill inmates. {417|418}

A. Yes.

Q. All right. Other than that you saw no-one killed.

A. No.

Q. That is correct.

A. Correct.

Q. Were you in contact with adults at all in the camp from your section "D"?

A. Yes.

Q. There were adults in there?

A. Yes.

Q. And do you know if some of them were regarded as communists? You don't know?

A. There were some that had the designation on their number that would be a triangle of various colours like red or yellow which would indicate whether he was a murderer or he was a communist, but I wouldn't — I wasn't concerned with that.

Q. There were designations for murderers and communists, and you did see some of them, I suppose.

A. Yes.

Q. Did those people try to spread rumours, as well? {418|419}

A. No.

Q. The rumours were general, were they, throughout the camp? Everybody talked about the camp?

A. Yes. Nobody was muzzled from talking in the general context, but there were no gatherings of speeches, no gatherings to hear lectures or speeches or anything like that.

Q. No. I am sure of that.

A. Just general talking.

Q. What I am getting at is, there was a lot of people gossiping about what's going on in the camp. Right?

A. Guessing, yes.

Q. Guessing. You gave evidence about your family and the people that you lost after the war that you couldn't find, I guess. They didn't return to your village. Right?

A. Yes.

Q. Where were you actually — I suppose you were taken over by the Russian or Soviet Army, were you?

A. No. I was liberated by the American Army.

Q. You managed to get all the way to the {419|420} west, did you? Or where were you liberated, shall we say?

A. I was liberated in the mountains in the vicinity of Garmisch-Partenkirchen.

Q. Can you tell us where that is, sir?

A. Yes. That's near Munich, or fairly close to Munich, and —

Q. It's a long way from Auschwitz, sir, isn't it?

A. Yes. And near Dachau.

Q. Were you transported by German authorities from Auschwitz to that area?

A. We were force marched to a place where, after two days, we were given — we were loaded on coal trains and transported to a prison camp called Gross-Rosen. We were there for a couple of days, and then we were taken by train again, destination Dachau.

Q. Mm-hmm. No doubt there was bombing along the railroad line at the time?

A. I imagine so.

Q. Were you not aware of it at all?

A. I didn't inspect the lines.

Q. No, but bombs, did you notice any bombs? {420|421}

A. Yes, there was one bomb that didn't explode and held us up a couple of days after we were moved from Dachau to this area and near Garmisch-Partenkirchen.

Q. Would it be fair to say that people died along the road?

A. Yes.

Q. And you, no doubt, along with other prisoners, were suffering a great deal as a result of being moved from the east to the west. Is that right?

A. Well, I am not sure about the direction, whether it was east or west.

Q. Well, you were east of Munich?

A. But a lot of people were dying and suffering.

Q. That's right. And the whole of Europe was in turmoil. The part you could see was in absolute chaos, wasn't it?

A. The part that I could see from my view looked a hell of a lot better than the part where I was in. So to me, they were in heaven.

Q. You mean the ones in Gross-Rosen were in heaven?



A. No. The ones along the road you asked {421|422} me.  
 Q. Oh, I see what you mean. The people that weren't internees.  
 A. That's right.  
 Q. So you were moved in cattle cars, I suppose?  
 A. No. At that time we were moved in coal cars to Dachau. From Dachau we went into a different train after a stay in Dachau.  
 Q. Would it be fair to say that in those camps the treatment was very much the same as it had been in Birkenau?  
 A. No.  
 Q. Was there a delousing procedure?  
 A. There was delousing procedure at all times.  
 Q. Mm-hmm. This was to kill —  
 A. It was heavier in Birkenau because it was summertime, whereas Dachau was in wintertime.  
 Q. Yeah. There was a constant effort to delouse people. Right?  
 A. Yes,  
 Q. Because of the danger of typhus. {422|423}  
 A. Whatever. Anybody that looked weak was eliminated.  
 Q. Taken out —  
 A. Was taken away from my presence, yes.  
 Q. From the group. That's right. And you were sleeping four or five to a bed at that time. Is that it?  
 A. Eight, ten.  
 Q. Okay. Do you know what was done with the sewage in the camp at Birkenau where you stayed for nine months?  
 A. Well, I saw a women's camp and some men were hauling wagons with what was, what we were told was sewage that was being hauled to somewhere.  
 Q. Well, in your own barracks —  
 A. These were tanks.  
 Q. Sorry?  
 A. These were tanks on a wagon, a wooden wagon drawn by twenty or so inmates, men or women.  
 Q. What did you do with sewage in your own barracks?  
 A. Well, I don't know how they cleaned the latrines. {423|424}  
 Q. They were just latrines. There was no running water there.  
 A. In those last two barracks of each camp there was — one camp was long pipes of water and the other was latrines.  
 Q. I see. So the waste —  
 A. For overnight use we had, at the end of each barrack, there were containers which are emptied every day, every morning.  
 Q. Where the sewage for the whole camp was dumped, I don't suppose you know.  
 A. No.  
 Q. It could have been in cesspits and cesspools.  
 A. I can't judge, could I?  
 Q. No.  
 THE COURT: Is this a convenient time?  
 MR. CHRISTIE: Yes, Your Honour. One question if I may before we go, I'm sorry.  
 THE COURT: Yes. Certainly.  
 MR. CHRISTIE: Q. All right. Was the sewage that you smelled or were aware of, I assume, in the cans that — truck loads or cart loads — did it smell {424|425} like every other kind of sewage you would be familiar with?  
 A. I just saw them on the road outside our camp. I just saw them being hauled.  
 Q. Thank you.  
 — The jury retires 1:03 p.m.  
 — Luncheon adjournment.  
 — Upon resuming.  
 — The jury returns 2:35 p.m.  
 MR. CHRISTIE: Q. Witness, you were telling us about your endeavours to celebrate certain Jewish holidays. Can you tell us about those again?  
 A. We were attempting to celebrate holidays on occasion.  
 Q. You told me about three or four Jewish holidays that you were

aware of and things you did on those days. Do you remember that?  
 A. Yes.  
 Q. What were the names of those holidays?  
 A. In camp or before?  
 Q. In camp.  
 A. There was the Jewish New Year and the {425|426} Day of Atonement, which is about ten days thereafter. Then the Festival of Tabernacle is shortly thereafter. During those days we had four selections.  
 Q. Four selections. How did you know the days of the religious holidays without anybody having a calendar?  
 A. Well, they were Orthodox people, senior people who had that information and —  
 Q. Yes.  
 A. If they led, if they gave out that information, then prayers just followed into that pattern.  
 Q. Yeah. They must have had a calendar, then?  
 A. Well, I don't think they had a calendar, but —  
 Q. Did they know the dates without a calendar?  
 A. I presume so.  
 Q. I am going to show you a photograph from a book called the "Auschwitz Album" and I am going to ask you if you recognize anything in the photos. Specifically, page 21. Do you recognize the area there at all?  
 A. Yes. More or less. {426|427}  
 Q. What does it look like to you?  
 A. It looks like an area where a bunch of people were dumped in the middle of nowhere, and there are some silhouettes of barracks in the background.  
 Q. Do you recognize the silhouettes in the background?  
 A. In a fashion, yes.  
 Q. Well, what fashion?  
 A. Well, considering I only spent about —  
 Q. Nine months.  
 A. — an hour at that particular spot —  
 Q. I see.  
 A. — of unloading area most of the time.  
 Q. That is the particular spot, isn't it, the unloading area?  
 A. That may very well be. That's fine.  
 Q. That's what it is, isn't it?  
 A. I don't see the trains and I don't see anything beyond than a zeroing in of the camera on a bunch of people.  
 Q. So you don't recognize the spot?  
 A. I could not testify that that was the spot in Birkenau, although it looks very much like it. {427|428}  
 Q. I suggest to you that the silhouettes in the background with the chimney is what's marked on Exhibit 8 as "Krema III", Crematorium No. 3, which I will show you in Photograph No. 8. Excuse me, "Krema II". I am holding Exhibit 8 in front of you and I am pointing out to you what's indicated as "K II" for Crematorium 2, and I suggest to you that that's what is depicted in the back of the photograph in silhouette. Would you agree?  
 A. I would have trouble relating the two.  
 Q. I see.  
 A. Because I don't know from what angle that was shot or how that relates to this.  
 Q. Okay. Is there any smoke in that picture?  
 A. No.  
 Q. Okay. Could we turn the page? Now, do you recognize that picture at all?  
 A. Yes.  
 Q. Is that looking in the other direction? That's page 22. Looking in the other direction towards the gate?  
 A. Yes. {428|429}  
 Q. Marked "A".  
 A. Yes.  
 Q. Now, do you see any smoke in that picture?  
 A. No. I don't see much else than a bunch of people with a main gate

and tower in the background.

Q. I see. The railroad tracks are on the right there.

A. Yes.

Q. All right.

A. And the left.

Q. And the left?

A. Yes.

Q. I see your point. That's in the middle, I guess, between the railroad tracks, Exhibit 8. Right?

A. Well, it may be related to that, yes.

Q. It seems to be, because there are tracks to the right of the people in the picture and to the left. Right?

A. I would say that shot is taken from the north to the south.

Q. Right. So if the photographer is in {429|430} the position you've described, his back would be towards crematoriums 2 and 3. Right?

A. Yes.

Q. Okay. And shooting towards the gate.

A. Yes.

Q. And there's no smoke in that picture either.

A. Not much of that picture, except —

Q. Lots of people.

A. The people, yes.

Q. Turn the page. Same photograph. Do you recognize it?

A. Yes.

Q. Same direction, sort of?

A. Yes.

Q. Okay. Could you turn the page again?

THE COURT: We are now at page 24?

MR. CHRISTIE: I think we are on page 26 and 27, sir. I guess we've got two pages in there. Can I just open it to a page?

THE WITNESS: There's no 24 here.

MR. CHRISTIE: Q. There doesn't seem to be 24. It's not numbered. Going to 26 and 27. Right? {430|431}

A. Yes.

Q. Now, we are now looking in which direction, sir? It is sort of hard to tell. Do you recognize that, though, as the railroad siding at Auschwitz? Sorry, Birkenau?

A. Yes.

Q. Okay. Would you just turn the page again? And further around the railroad. Is that right?

A. Yes.

Q. There's a selection taking place there, isn't there?

A. Yes.

Q. Okay. Turn the page again. We are looking at page 28 and 29. There's a selection process?

A., If I may clarify, 28 gives you a selection process. 29 gives you a questioning of an individual.

Q. I see. Okay.

A. And if I may explain that, if you'd like to know what that questioning was, they were searching out professional people, even amongst the older people, before relegating to one side. They would ask if there are any physicians, or certain people that they were looking for {431|432} at the particular time, like engineers.

Q. Engineers?

A. And so on.

Q. They wanted to use their skills, I guess. Is that right?

A. At that point I don't know what they wanted, but that is, I am just explaining to you the selection process as I know it.

Q. So obviously they were selecting them for their skills for some reason or other.

A. From time to time, yes.

Q. All right. Turning now, we have page 31, another around the railroad yard. Right?

A. Yes.

Q. No smoke there?

A. No.

Q. Okay. Turn the page. Page 33 has got another photograph on it.

What's going on there?

A. Well, you've got the truck in the background that's picking up the luggage that came with the people in the trains, You also. see the civilian —

Q. Internee.

A. — internee. {432|433}

Q. He is in the foreground in the striped suit?

A. He is in the foreground in the striped suit, yes. And these are the baggage handlers, if you like.

Q. They were prisoners?

A. They were prisoners, yes.

Q. And they were handling the baggage coming in?

A. Yes. They are not handling it. They are confiscating it. They are loading it on trucks because these people were not let to carry anything with them.

Q. The arrivees, shall we say, or the arrivors, or whoever is arriving, has their goods taken into the truck by the prisoner. Is that right?

A. Yes.

Q. Okay. Could you turn the page? Same thing going on there?

A. No. This is herding the mothers and children and people who were not selected for working groups.

Q. Into another direction?

A. These are the leftovers, and they are now being — {433|434}

Q. Moved into another direction?

A. — moved into a grouping.

Q. Right. Now, is there any smoke in that picture at all?

A. No.

Q. Carry on and turn the page. You see a bunch of people working there in a direction. Do you recognize that direction? It's into the barracks area, isn't it?

A. Yes.

Q. Page 37.

A. Yes.

Q. Any smoke in that picture?

A. No.

Q. Okay. Page 38 and 39 have photographs on them as well. And do they depict what's going on there by the train?

A. It's hard to tell what they are doing, but it looks like the train is being pulled out and the people are left standing there.

Q. No smoke there either.

A. No smoke.

Q. Now, we are looking towards page 41. {434|435} We are looking towards the main gate again. There is a whole bunch of people arriving, and is there any smoke there that you can see?

A. No.

Q. Okay.

A. There is a haze, but I don't know what that would consist of. It is a background of —

Q. Photographs. Yeah. Could we turn the page, and there's just people in that picture. Is that right?

A. Yes.

Q. All right.

A. A selected group.

Q. Selected group. Does it look like working men?

A. No. These look like professional people selected out of a group as opposed to this group where you have mothers and children and sort of not accepted people.

Q. Okay. And turning to page 44 and 45 do you see more — what's that — more selection process? It seems as if there are people coming from the trains again.

A. Yes. These look as if they have {435|436} just got off the train and have not got the message to separate, working from non-working.

Q. All right. And there's no smoke there either. Right?

A. No.

Q. It's a different — it appears to be a different day. Would you agree?

A. I wouldn't be able to judge that, but most probably on a different day, because these are all pictures at the station where the trains arrived.

Q. Mm-hmm. Okay.

A. And it doesn't seem to zero in on anything else.

Q. Have you ever seen this album before? It is called the "Auschwitz Album".

A. Yes.

Q. I suggest to you you could see all through those pictures and you don't see any evidence of smoke. Do you agree?

A. I haven't searched it for that purpose.

Q. All right. Then what I'll do is file it, if I may, and then we will put it in as an exhibit. {436|437}

THE COURT: Have you seen it, Mr. Griffiths?

MR. GRIFFITHS: No, I haven't, Your Honour, and I am not sure for what purpose it's being filed. We don't know when these photographs were being taken, whether it is for the truth of the contents of the photograph —

MR. CHRISTIE: The witness had identified them as being in Auschwitz. I think that they are relevant for that reason, to try and depict the situation. He agrees that it is Auschwitz.

THE COURT: What is your purpose?

MR. CHRISTIE: Pardon?

THE COURT: What is the purpose?

MR. CHRISTIE: To display the situation there. My friend can say what he wishes. I think that's why I want to show them.

THE COURT: Mr. Griffiths can look at it and we will talk about it later.

MR. GRIFFITHS: Thank you, Your Honour.

MR. CHRISTIE: Q. Mr. Friedman, I now produce and show to you two copies, or photocopies for identification of the Encyclopedia Britannica 1910 and 1902 on the subject of cremation, and if you'd just like to glance at that I will ask you whether you know anything, or {437|438} you can see anything there that shows the existence of smoke or the existence of flame coming out of a chimney of a crematorium.

THE COURT: Members of the jury, will you excuse us, please?

— The jury retires. 2:50 p.m.

THE COURT: Mr. Christie, where is all this leading?

MR. CHRISTIE: Well, Your Honour, I was going to lay the foundation for the suggestion that if there was smoke and flames coming out of the chimney, it was most certainly not a crematorium chimney.

THE COURT: Why would you want to do it through this witness?

MR. CHRISTIE: Well, he is the one who said he saw the smoke and flames and smelt the smoke of burning flesh.

THE COURT: Does that make him an expert on the crematoriums and their construction elsewhere in the world?

MR. CHRISTIE: No. I concede he doesn't claim that, and I don't suggest that. {438|439}

THE COURT: I don't see that the documents are admissible or inadmissible, but the question at the moment, subject to what you might indicate, is why they are admissible necessarily through the mouth of this witness.

You said he has testified — we all heard him testify. We will not go into that at the moment, but merely because he has seen certain things at a certain period of time in a specific place, does that make permit you to lead evidence from the Encyclopedia Britannica on crematoriums?

MR. CHRISTIE: I suppose in a way, I am suggesting that standard authorities would suggest that he's wrong about it being a crematorium.

THE COURT: That might be something you might want to mention to the jury. I am not prepared to say anything about that; but I am just wondering what characteristic, in this witness, in what he said, would make him a person who would be knowledgeable on the subject you seek to adduce before the jury.

MR. CHRISTIE: Well, I think he would be in the same sense knowledgeable as, for example, Mr. Williams was knowledgeable upon the subject of the book. {439|440} He sort of read from it, and that merely proved that he could read the book; but he hadn't read other parts.

I think, perhaps, I will withdraw the question because I see it is rather convoluted. I think I can ask a simple question in another way, and I can —

THE COURT: Why don't we hear that now?

MR. CHRISTIE: That is a good idea. Thank you, Your Honour. I would ask the witness if he has any professional or other knowledge that enables him to say that the smoke came from any crematorium, if he saw it.

THE COURT: Other than what he said he saw, or — ask it again. I just missed part of it.

MR. CHRISTIE: Well, does he have any professional knowledge that enables him to say that the smoke came from a crematoria or cremation, because that, in this context, is quite ridiculous.

THE COURT: What does the Crown say?

MR. GRIFFITHS: Well, Your Honour, I think that he can be asked whether he is an expert on crematoria, either here or anywhere else. If the answer is positive, then he can be asked further questions about the construction and use; but if he isn't, Your Honour, then hearsay evidence from the Encyclopaedia Britannica is as {440|441} inadmissible as what he hears on the street; and I don't think he is in a position to be able to answer this question. He can only say what he saw, and that is what he testified to.

THE COURT: Mr. Christie?

THE COURT: Can I put it to the witness that it is ridiculous to suggest that smoke comes from a crematoria where human beings are being cremated?

THE COURT: You can put that suggestion to the witness if you wished, yes.

MR. CHRISTIE: And then I can put another question to him, that he has no knowledge whatsoever of crematoria to make that statement that it came from a cremation.

THE COURT: It seems to me you can either put that suggestion, or you can ask the question. Whatever way you choose, to your satisfaction.

MR. CHRISTIE: Yes, of course. And I think — I'm afraid I might ask other questions on that line. To exactly phrase them at the moment ...

THE COURT: Well, we will hear them when they arrive. Anything further from Mr. Griffiths?

MR. GRIFFITHS: No, Your Honour. {441|442}

THE COURT: Bring in the jury, please.

— The jury enters. 2:55 p.m.

THE COURT: Yes. Go ahead, Mr. Christie.

Q. MR. CHRISTIE: I put it to you, Mr. Friedman, I suggest to you that it is quite impossible for smoke to come from a crematoria for human beings, sir. What do you say to that?

A. Nothing.

Q. You don't really know anything about it, I suppose?

A. No. I have never worked in a crematoria, nor do I know the workings of a crematoria.

Q. Well, I put it to you that in crematoriums there is no smoke, no noxious gasses produced, there is no flame shooting out the chimneys, and those things, if you saw them, sir, were not a crematorium at all, I put it to you.

(Page 443 follows){442|443}

A. Well, if you are talking a crematoria in Toronto or a crematoria in Auschwitz, they are two different things. I know nothing about what —

Q. Are they?

A. I know nothing about what would be produced here. I have passed a crematoria in Toronto. I haven't seen any smoke. But in Birkenau there was smoke coming out of the crematoria.

Q. Well, I put it to you that in the crematorium in Auschwitz, the Birkenau camp, Topf & Sons were the builders of that crematoria and that they followed a patent and that there was burning of all of the substances that were produced in the cremation of a human being and that there was, therefore, no smoke, no flames up the chimney and no evidence whatsoever of the kind that you've described coming from the crematorium. Do you know something to the contrary to that?

A. Well, I know the information that was —

Q. Circulating.

A. — circulating in camp. And I saw and I heard and I smelled whatever I saw and felt and smelled. {443|444}

Q. I agree.

A. But if Mr. Topf and company wish to submit evidence, I will step aside.

Q. Well, I am putting it to you that you don't really understand anything about a crematoria to say, "Uh-huh, that smoke is from the crematoria", because that would be quite wrong, sir. That's true, isn't it?

A. I never saw what went on inside the crematoria. The information we had from where we were incarcerated was that this is what is happening. We saw the bodies go daily by the wagon load into that direction and this is what was accepted as truth.

Q. The explanation.

A. As the explanation.

Q. I see. But I suggest to you, sir, that there could have been many other sources for the smoke in question from the immediate area.

A. There could have.

Q. In fact, there were factories some of whom you've mentioned, including Monowitz. Right?

A. No. These were distant.

Q. Well, you did name some other work camps or factories? {444|445}

A. These were distant from the camp.

Q. Are you sure you are swearing there was smoke and flames belching every day from these things?

A. I didn't say every day.

Q. Well, how many days of the week are you talking about?

A. There were times it was going twenty-four hours a day for weeks, and there were times that they were silent.

Q. If I was to say —

A. Just a little bit, just little smoke, especially around October, November, and so on. Very little.

Q. I think you tried to correlate or suggest that there was a relationship between the arrival of new trains and this smoke. Right?

A. Yes.

Q. Well, I suggest to you, sir, with the greatest respect, that crematoriums for human bodies such as existed, indeed, indeed existed in Kremas II, III, IV and V, did not produce smoke at all, sir. You deny that?

A. I don't know if I would have listened to you. Same time I would have listened to other people, maybe I would have attached more credibility to your portion {445|446} than theirs, but at the time I accepted theirs.

Q. Have you ever heard of the international tracing service at Arolsen, West Germany, that's attached to the Red Cross, I would suggest? You never heard of that?

A. No.

Q. You never made attempts to check with authorities to trace your family, or members of your family through — after the War?

A. No. I went back and stayed in my town for about six months, spoke to various people, whether there was any chance. I was made aware that my father was one of the workers at the crematoria, although I only met a neighbour from my next village who told me that he is alternate shift with my father and he will relate to my father that I was in that camp.

Q. I see. So you have no personal knowledge of the ultimate outcome of the members of your family. What became of them you really don't know.

A. No documented evidence, no.

Q. It's my understanding — are you familiar with the occasional thing you read in the newspaper about people actually finding each other after many, many {446|447} years?

A. Yes.

Q. This sometimes does happen, I think you will agree. Would you?

A. Yes.

Q. Would you agree that it was because after the Second World War many people were displaced all over Europe, some into Russian sectors, some into American, some into the British, some assumed the others were dead. Right?

A. Yes.

Q. And you're not familiar with the tracing service of Arolsen?

A. No.

Q. And never made attempts to check.

A. I did make attempts in Washington at a Holocaust gathering. I entered the name in the computer. The name was entered through in Israel on the computer to see if any would register, but the process of finding people is usually that people trace back relatives and identify with relatives, even searching similar names in different cities of the world, and phone books and so on. We have tried all kinds of gimmicks to {447|448} locate people, and I am sure they, in turn, are trying to do the same thing. So if there was anybody alive he wouldn't want to live alone. He would make attempts to contact the family.

Q. And sometimes, even recently, these attempts are successful.

A. Yes, in very rare cases, where both are adult and have drifted into different sections of the world, but younger children or parents have made all efforts to contact through the known channels like relatives and townspeople and so on.

Q. Do you have any idea of the daily death rate in the camp itself in terms of a percentage?

A. No.

Q. There are some days there were people dead in the morning, and some days there weren't. Right?

A. Could be.

Q. And these were some suicides, some didn't have apparent causes for their death, and some were shootings, and some were beatings, suppose.

A. Yes.

Q. I was also interested in finding out {448|449} one other thing. You mentioned this morning, I think, in answer to some of my questions, that there were certain people who were transient people in the camp next to yours, and there were certain people who went to other work camps and never did return. Do you recall that?

A. Yes.

Q. The exact percentages of that in the six or so months, nine months you were there...

A. Yes.

Q. ...it would be hard for you to calculate that, I suppose, because you would be confined within "D" and they would be in another barrack area. Would that be right?

A. Yes.

Q. And there is no doubt that there was continual movement in and out of the camp. Right?

A. What do you mean by in and out? People coming —

Q. People coming —

A. There were only transports. No people coming in from other camps for vacations or anything like that.

Q. I am sure of that, but it was a sorting {449|450} facility to get people to go to other camps, in some cases.

A. Yes, They were — capable people were brought in, within a couple of days sent out.

Q. Were you aware, sir, that there were, in a period of time during the War, that there were three thousand babies born in Auschwitz?

A. Well, there were none in the men's section where I was.

Q. No. Have you heard of that since?

A. No.

Q. I am going to read you a little portion of what I will identify as the "Report of a Midwife in Auschwitz" from the International Auschwitz Committee,

"In the inferno they maintained human dignity".

THE COURT; Just a moment. What is the document?

MR. CHRISTIE: It's a document. It's a publication. I am just identifying it.

THE COURT: Please don't till you answer my questions. Members of the jury, will you excuse us, please?

— The jury retires 3; 06 p.m. {450|451}

THE COURT: Mr. Christie, in British Columbia is it usual to show the document you propose to use to the witness to ask the witness whether or not the witness can identify it before you begin, in effect, to give evidence from it yourself?

MR. CHRISTIE: If I was trying to ask the witness for proof of its authenticity – I am only asking the witness to consider it in relation to his experience, and I was going to ask him if he could tell me that this could not have happened, or it is possible, or it is impossible in the circumstances that he lived.

THE COURT: However interesting that may be, what's the answer to my question?

MR. CHRISTIE: Well, I tried to answer it, Your Honor. I said —

THE COURT: Do you make it a practice; in your litigation process in British Columbia, to show a witness a document before you begin to refer to it yourself, or not?

MR. CHRISTIE: Not in all cases, Your Honour.

THE COURT: Then you will in this Court. Would you show it to the witness? {451|452}

MR. CHRISTIE: Yes. What I have to do, Your Honour, is — this is a translation — I was in the process of identifying its origin.

THE COURT: A translation of what?

MR. CHRISTIE: Well, I have in my hands a translation of — well, I will produce the book.

THE COURT: Tell me what the document is.

MR. CHRISTIE: International Auschwitz Committee, entitled, "In the Inferno they maintained Human Dignity". It is the blue anthology, Volume II, second part, produced in Warsaw 1969, "A Report of a Midwife in Auschwitz", at page 159, 169. That is the origin of this page, which is in French, the translation of which is in English. I propose to put the quote to the witness and ask him if that is consistent with his recollection of the place. That's all.

THE COURT: Why don't you ask him now?

MR. CHRISTIE: I would. I was going to.

THE COURT: Witness, do you recollect, or is that consistent, or can you answer the question?

THE WITNESS: I didn't understand the question. {452|453}

MR. CHRISTIE: Okay. Here is the question I would have asked him. I would have identified where this quotation comes from. I would have read as follows.

THE COURT: Why don't you do that now?

MR. CHRISTIE: I will:

*"I worked under these conditions for two years, day and night, without somebody to replace me. The women gave child-birth on the heating pipes. I delivered in this manner more than 3,000 babies. In spite of the dreadful dirtiness, the vermins and the rats, in spite of the infectious diseases and other horrors beyond description, extraordinary things occurred there which are unbelievable, but true. One day the 'Lagerartz'... [Lagerarzt], camp doctor, "...asked me to submit a report to him concerning the infections attracted by the pregnant women, the mortality amongst mothers and infants (sucklings). I reported to him that I had not one single case of death either with the mothers or newborn babies. The 'Lagerartz' looked at me with incredulous eyes and informed me that even in the best maternal wards in Germany they {453|454} could not boast of such results. His eyes were full of rage and hatred. Why, indeed, had there been no mortality at all? Perhaps the organisms were destroyed to such an extent that they constituted a sterile (barren) substance for microbes."*

I would then say, is this consistent with your experience of Auschwitz?

THE COURT: You can ask him.

THE WITNESS: I have no knowledge of what went on in the ladies' camp.

MR. CHRISTIE: I was going to ask him another question. I will carry on in the absence of the jury, and you can tell me what I am allowed to do.

Q. You said Auschwitz was an extermination camp. I put it to you that it is rather strange to have people give birth to children in these circumstances if one only wishes to exterminate them. Would you agree?

A. Well, there are also medical facilities — changing sexes and other experiments which Mengele was boasting of.

Q. Do you have personal knowledge of that? {454|455}

MR. GRIFFITHS: He has no personal knowledge of births, either. It does not stop Mr. Christie from asking that question.

THE COURT: I have the point, Mr. Griffiths.

MR. CHRISTIE: I am asking him if the conditions in the camp were conducive to childbirth, and if the purpose was to exterminate, why were there children born in that number?

THE COURT: How would he know if there were no women in the camp? He already said he did not know of the conditions?

MR. CHRISTIE: Well, I could ask him if he thought the women had a different kind of camp.

THE COURT: Ask him if he has ever been in a women's camp.

THE WITNESS: No.

THE COURT: The answer is no. You can't use the document. Is that clear enough?

MR. CHRISTIE: Yes, sir. I don't need to be told more than once, and I thank you for your advice.

THE COURT: I might add, for the purposes of the record, that the English version that was read, came {455|456} from a translation about which I know nothing at the moment.

Bring in the jury, please.

(Page 457 follows) {456|457}

— The jury returns 3:14 p.m.

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: Thank you, Your Honour.

Q. Mr. Friedman, have you received any compensation for the losses you suffered in terms of being interned for yourself?

A. Yes.

Q. And who pays that compensation — the West German Government?

A. I have no idea at present. In the course of tracing my family they found my records of my number and my identity of having been in Auschwitz, and as such they sent me at that time — and that goes back to my arrival in Canada in '48, roughly, '49, '50, thereabouts, I received a cheque, I think, for about \$300 which was, the explanation I think was a dollar per day.

Q. Let's not get into the explanation, if you don't mind.

A. That is what I remember having received, in the neighbourhood of \$300.

Q. You didn't receive anything else?

A. No.

Q. Not another penny? {457|458}

A. No.

Q. Do you ever receive anything for loss of any relative?

A. No.

Q. I was curious as to how the story went as to the colour of the flames. Which colour was produced by the skinny people, and which by the fat ones in the story that you retold?

A. I have a tough time remembering. I remember we distinguished them, that this is a clear yellow flame as opposed to a vermilion or pink type of flame, and the odour and so on. We were a bunch of kids ranging from very few twelve, mostly fourteen, fifteen, sixteen year olds and this was the discussion that we got from, information from those who worked at the clothing and other areas.

Q. I see. Thank you very much, sir.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour.

— {458|459}

RE-EXAMINATION BY MR. GRIFFITHS:

Q. Did you apply for any compensation?

A. Not that I remember.

Q. All right. And the cheque for \$300 that you received, was there a letter that came with that? Don't tell me what it said.

A. No. It is a bit confusing in my mind, because it came as an award of the Jewish Congress — an orphan, orphans, a group of orphans came to this country.

Q. All right. And what year was that that you received it?

A. In 1947. And the case worker did a lot of the correspondence.

Q. And do you know who the \$300 was from?

A. From Germany. It was part of the process of locating documentation, or tracing back my identity in Auschwitz and hoping that, perhaps, my father's identity would come to light; but it was negative.

Q. Thank you.

MR. GRIFFITHS: Is this a convenient time, Your Honour, for the afternoon recess? I might be a little bit early, but ...

THE COURT: Twenty minutes.

— The jury retires. 3:18 p.m.

— The witness stands down.

— Short adjournment.

— Upon resuming.

MR. CHRISTIE: May I ask for a ruling?

{459|460} I have, in the course of the defence, to call on translators from the Polish language, German, French, to the English language, and perhaps vice versa.

I take the view, and I have prepared my case in the belief that I can call anyone who swears that they are fluent in those languages and that they will translate, from the English language or vice versa to the best of their skill and ability – now, I hope that is true, because my translators are nothing special in terms of people, they are just ordinary people who speak both languages, and if I am wrong in my belief, then I am going to offer to get new translators.

THE COURT: I do not think you are wrong in your belief. You are talking about viva voce you intend to call?

MR. CHRISTIE: Yes. But I am also talking about parts of books that sometimes the authors may be called and this may, not all the time, may still create an objection from the Crown.

THE COURT: Have you indicated to the Crown, and has the Crown indicated to you on this problem what you each propose to one another?

MR. CHRISTIE: I haven't proposed to my friend at all.

THE COURT: Why won't you do that? I am not talking about matrimony. I am talking about what you propose to do.

MR. CHRISTIE: I haven't, I confess, revealed everything to my friend. I have no objection to doing so.

THE COURT: You don't have to. I am {460|461} asking you if you have, and why don't you?

All I am saying is, if you produce the translator in Court, then the translator will be known to the Court and to the Officers of the Court – namely, the Crown Attorney and yourself.

If it happens to be a blood relative of somebody who happens to have a stake in this trial, there may be a problem. On the other hand, if it is someone who is strictly a translator with no stake in the issues, I do not see that that is a problem.

MR. CHRISTIE: There's no relatives involved in this at all that I am aware of.

THE COURT: That is why we like to see the colour of the people's eyes. Then we know.

MR. CHRISTIE: This was requested of me, because there's a translator who I subpoena'd so that – they come from another country, as a matter of fact – so that they could be sure to be allowed in the country for one thing and they be allowed to come in. And unfortunately I have been told that that translator has been sitting in court, and I was grateful for the Court Officer telling me that this person with the subpoena has been in Court.

I want to make it clear I didn't realize this person was in, but they are not a witness, but a translator, and I hope they can continue to stay. But they are not giving evidence.

MR. GRIFFITHS: If they are not giving evidence, I have no trouble with them being in the courtroom.

MR. CHRISTIE: In the sense they are a witness, but not as to any fact, just to translate.

THE COURT: Do you see any problem that {461|462} has been raised here, Mr. Griffiths, that I have not appreciated?

MR. GRIFFITHS: No, sir. I think that a part of the translation is that the person not be a relative, nor have a stake in the issue so that there can

be some reasonable certainty that the translation is accurate. I don't know what we are all talking about.

MR. CHRISTIE: I am prepared to tell my friend this much. It involves translations of parts of books, and I will make my translator to translate any other part my friend may wish. I can't produce some independent translator, but I will certainly have my translator available to translate part of a book to determine that it is in context.

The problem will arise as to whether I am entitled to do that. I am prepared to meet it at the time, but I am prepared to tell my friend that that is what I am prepared to do, and the reason I propose to do it, I don't suppose I need to get into that, really.

MR. GRIFFITHS: And I have one matter, Your Honour, if I may, in the absence of the jury. It is something that has arisen twice that I am concerned about as this trial goes on, and perhaps apropos of Mr. Christie's comment now as well.

I don't know, this question of books going into evidence, I think I indicated at the outset, Your Honour, when Mr. Christie objected to me showing a page in the International Military Tribunal, that I had no intention of pitting my library against his library – and by "his", I mean that metaphorically in terms of the adversarial process. I still take that position, Your Honour. I think {462|463} that where there is an expert that can testify, he can get up and give his testimony. It is not necessary to put in all the books that an expert has written or published in articles and what-have-you as exhibits for the jury, then to spend the next six weeks poring over them to try and reach a determination here fairly and honestly.

A particular point at this time is the Auschwitz Album. Mr. Friedman has been able to identify a number of photographs there that he said appeared to be on the loading platform. There is no evidence that he can give as to when these pictures were taken, under what circumstances. Asking if there was smoke coming out of the chimneys, or whether there was smoke in the pictures – and certainly there is evidence from Mr. Friedman that from October '44 on what smoke there was was minimal, and before that time it was sporadic [sporadic] and depending on certain circumstances within the camp.

Those photographs, I think, are irrelevant because we don't know when they were taken. Other photographs – and it's a whole volume of photographs – are not identified by him. They are not people that he knows or doesn't know or anything else. There is a considerable text involved in the book of photographs, as well. The text –

THE COURT: May I see the book, please?

MR. GRIFFITHS: Quite frankly, Your Honour – and I only had a chance to skim through it in the twenty minutes of the break – but the text is descriptive of people being selected for going to the gas chambers and for extermination, and that's the nature of the text, so in that sense it is not a text that particularly hurts the Crown's {463|464} case, but at the same time –

MR. CHRISTIE: . I think it hurts the Crown's case.

MR. GRIFFITHS: Fine. But I still don't think that it is something that should go before the jury. I mean, we have all tried extremely hard so far to be very careful about hearsay evidence, and here is a whole book of it going in, – holus bolus, I'd suggest, without proper identification.

THE COURT: I would not say it is in.

MR. GRIFFITHS: No. Being tendered, perhaps, I think, is the better word. And really, I would have the same comment to make as to the book that was submitted as Exhibit "A", subject to further identification, of Udo Walendy the other day. The one photograph, a pair of photographs, was referred to in the article, and we are directed to several pages of the book, and I can't recollect now what they are, where those two photographs were also shown, and rather than a photocopy of those two photographs, we have a whole book of photographs, Your Honour. I don't know that any of the other ones are in the article, or I don't know why we have a whole book. So I am objecting, Your Honour, to the putting into evidence of entire volumes, either by the Crown or by the defence.

THE COURT: Thank you. Yes.

MR. CHRISTIE: I can understand my friend's concerns, and I certainly see his point. The book in your hands can be regarded in two ways, maybe three, I think.

First of all, it could be taken as an aide memoire that I simply showed the witness, and he said {464|465} yes, that looks like it. And I asked him a few questions about certain photographs, and then, if my friend's objection is upheld, it need not be tendered if Your Honour considers those points well made.

I can understand very well my friend's concern about the whole matter. The other way, I suppose, that might be used to deal with it is to have me photocopy the parts that I have shown to the witness and submit them, as my friend has, in extract form as exhibits. Then I suppose I could obliterate the text. It is only about the photographs that I want to ask him, and I think that is all I did ask him. I didn't ask him about the text of the book. I am not concerned about the text of the book, if it goes in as a whole.

I am aware of a mountain of what might be called literature that upholds the theory of the Crown that there was extermination and there were gas chambers that the Crown says is true and that this article says is not true.

THE COURT: Which article? Oh, Exhibit I and 2.

MR. CHRISTIE: Yes. So I am prepared, if it is agreeable to Your Honour, and if Your Honour feels that this is correct, to photocopy or to leave it out altogether, or put it in.

Now, I am only trying to be as co-operative as I can. I think that – may I say that there is a distinction between introducing evidence to prove that it is true, and introducing it as original evidence to prove that what is said about it in this article, for example; the Walendy book, is really in a different category, because {465|466} in this article it says certain things about the Walendy book that the Crown, by trying to, I suppose, call evidence of certain things, tried to imply it was not true. And that was done in respect to page 26, on that paragraph, "An excellent work on the fake atrocity photographs pertaining to the Myth of the Six Million is Dr. Udo Walendy's ..." and then that book was named. So I tendered a book that shows it is what it says it is about, fake atrocity photographs, and I suppose Your Honour can say that doesn't mean the book is true or false.

It is quite often the case that statements are admitted, not to prove their truth or falsity, but just to prove they were made, and in the same way, the book exists as the article says it does, and on page whatever there is the photograph depicted in the article on page 26, and it does say about that photograph that there is a fake, and the reasons why.

And then, I didn't raise the issue, so I don't see how I could do other than answer it by showing that what it says in this article is really true as far as that paragraph is concerned. All the paragraph says is that in the book, "Macht Ohne Moral" – in this case I produced a photocopy, the photograph that is regarded as a fake is purported to be original.

Now, I can alter call witnesses to show that "Macht Ohne Moral" is a real book, that it was published by those who fully believe in the exterminationists view that one is a photograph that we allege demonstrates to be a fake. I intend to call Udo Walendy from West Germany who made the document in question that is the exhibit. He will say, "I wrote that book", I believe, and he will also {466|467} say, "Yes, that is my opinion". Then you can rip him apart if you like, or cross-examine him to show that he is false; but he will be there.

Now, I concede that you don't prove the truth of anything by producing the book, but if the allegation is that the book is not the origin of those ideas, or if there is a falsity of that book, I think you can introduce the book to say that it wasn't true – namely, those photographs are fake and also reported in the book by Dr. Moreau (ph). So I produced both. It's a very complex question. I think we are going to run into this quite a bit. I am afraid that it is going to raise some difficulties, but I don't know how else I can deal with this really literary question without producing books.

THE COURT: Into evidence.

MR. CHRISTIE: Into evidence.

THE COURT: Total book.

MR. CHRISTIE: In some cases. Some cases I can't even get the total book. I have only been able to get photocopies, and I suppose one can say, "How can you prove they are real?" They are from the book —

THE COURT: Without the original, you mean?

MR. CHRISTIE: Yes. Maybe that will arise from time to time.

In the case, for example, of an Encyclopaedia, there is no problem, and documents; but this brings me to another topic. I think it will arise and I am not trying to waste time on it, but in the course of this trial I am going to have to show that my client had an honest belief, {467|468} and I will also introduce, attempt to prove that honest belief through evidence that could support a reasonable belief and that will involve books, not to prove their truth, but to prove that they were published, that they said this, and therefore the accused had a right to read them and believe them.

Now, that will happen — from time to time. So therefore the problem will arise, I can see, more frequently. Certainly when it comes to the defence that will arise.

THE COURT: Insofar as the Auschwitz Album is concerned, do I gather that your position is simply this: That it is immaterial whether the book, per se, is put in as an exhibit provided the ex[c]erpts from it in photostatic form are put in as exhibits, which said excerpts you referred to when you were cross-examining Mr. Friedman. Is that, essentially, your position?

MR. CHRISTIE: Yes. I would be prepared to block out the captions, or leave them in. I think they mean nothing to me, and they may even help the Crown. In that way we would just have before the jury the very thing we were talking about in the evidence — not the book, but the photograph. That might be the best way.

THE COURT: What I propose, gentlemen, at four o'clock on a Friday afternoon, is to order that the Album be marked as Exhibit "B" for identification. I will give some thought to what I heard from both counsel over the weekend. Hopefully Monday morning, given sufficient reasonable time, both counsel, after giving thought to what the real issues are, may be of assistance to me in the absence of the jury by making, in a more formal way, making {468|469} known your respective positions with respect to what the real concern, what the real issues in this trial really are.

MR. CHRISTIE: I could tell you right now, Your Honour.

THE COURT: I am not interested in hearing it now. I am getting to the end of a long week. I am not going to do it when I am tired, and I am tired. In that way I will be assisted, and in the process counsel may be assisting themselves.

MR. GRIFFITHS: Your Honour, if I may and I only have one or two very short questions of Mr. Friedman — and perhaps we could just finish him so he doesn't have to come back on Monday.

THE COURT: Oh, yes. I presume that. I will stay here till six o'clock to finish him off. Bring in the jury, please.

— EXHIBIT "B" (For Identification): Book, "Auschwitz Album".

— The jury enters. 4:00 p.m.

— The witness returns to the stand.

THE COURT: Yes. Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

Q. Mr. Friedman, did you ever see any babies in your camp?

A. No.

Q. And did you see any babies through the barbed wire in the other camps?

A. No.

MR. GRIFFITHS: Thank you. I have no {469|470} other questions.

THE WITNESS: I was just going to say we were —

THE COURT: A little louder, please.

THE WITNESS: We were talking to the women, because some of our kids had their mothers in there, there were some mothers, and we were constantly yelling across, or throwing food across, but never have I seen any babies in the nine months I was there.

MR. GRIFFITHS: Thank you.

THE COURT: Thank you, Mr. Friedman. You can step down, sir.

MR. CHRISTIE: Excuse me. That subject, I am not sure if that – if I could ask one further question.

THE COURT: About the babies?

MR. CHRISTIE: About the women's camp, the location of it.

THE COURT: Any objection to that? One more question, Mr. Friedman. Perhaps one or two more.

#### FURTHER CROSS-EXAMINATION BY MR. CHRISTIE:

Q. Have you got Exhibit 8 there, sir?

A. No.

Q. Isn't it true that the women's camp, in relation to "D", was across the railroad [railroad] tracks over here on the left side?

A. No. "C" was the women's camp.

Q. "C", was the women's camp? {470|471}

A. Yes.

Q. Thanks very much.

— The witness retires.

THE COURT: Yes, Mr. Griffiths.

MR. GRIFFITHS: I have another witness who is available, Your Honour, but it's been a long day and a long week. Perhaps that is enough for today.

THE COURT: Members of the jury, it being Friday afternoon I am going to stop a little earlier. As I have indicated, the case is far from over. Please keep an open mind. It is a human reaction – I was going to say human frailty – to read newspapers and watch television, sometimes it is entertainment and sometimes it is not.

Please do not come to any conclusions by reason of what you read or see concerning this case. My instructions are that you take extraordinary efforts to avoid reading about this case or watching television or anything else concerning this case. That is a difficult order to give. It is an even more difficult one to follow.

Please follow it as best you can totally. Have a good weekend. There will be certain matters that I will be discussing with counsel on Monday morning first, thing. In the result, I am going to ask you to please be here at five minutes to eleven, rather than at five minutes to ten, so that counsel and I can have a little time to go over certain matters in your absence.

Thank you very much. You are free now till that time.

— The jury retires. 4:05 p.m.

— Whereupon the hearing is adjourned to January 14, 1985.

— VOLUME III follows –{471|472}.

## VOLUME III

### JANUARY 14, 1985

— Upon the hearing resuming.

THE COURT: I asked that the jury return at eleven o'clock so that I could get a better notion or assistance from both counsel as to the issues to be tried, and to see if the issues can be a little more refined than, perhaps, they might have been prior to the commencement of this trial.

Start with the Crown or with the defence, it doesn't matter. Perhaps the Crown.

MR. GRIFFITHS: Perhaps it would be easier if it was me, Your Honour. Your Honour, it's the Crown's contention that the two articles contain false statements, or false tales, and in support of that contention it is not my intention of going through the two articles line by line, or paragraph by paragraph, but rather there will be specific things that I think we will be arguing are important to the overall structure of the articles that I will be attempting to prove, by evidence, are false, and I will be doing that through a number of witnesses. I propose to call, tomorrow morning, a Dr. Raul Hilberg, who is a Professor of History at the Uni-

versity of Vermont in Burlington, Vermont. He is the author of a book called, "The Destruction of European Jews". He teaches at the University of Vermont, {472|473} courses on the Holocaust, and he has commenced his research in this area in 1948.

He spent thirteen years researching this book up until 1960 when it was published – "The Destruction of European Jews" – and he spent the last twenty-four years writing the second edition of it which I expect will be out within the next six weeks or so.

He is intimately familiar with all of the various trials that have been held in west Germany and the immediate post-War period at Nuremberg [Nuremberg]. He is also intimately familiar with documents in their thousands – diaries and German documents that were captured at the end of the War, as well as Allied documents.

I purport to call him, Your Honour, for a number of reasons. First, he is specifically mentioned in the article on two occasions, on page 29 and page 30.

THE COURT: That's Exhibit 1.

MR. GRIFFITHS: Yes. Exhibit "Did Six Million Really Die?", where he is referred to as a Jewish statistician, which he is not, and gives – the article attributes to him a figure of 866,892 Jewish dead from all causes in the Second World War. And he, I expect, will deny that figure or anything approximating that figure, {473|474} and indicate that that is a total falsehood that he's ever said anything like that.

I also, Your Honour, in light of Dr. Hilberg, his extensive expertise and knowledge in the area, I will be trying to have him qualified as an expert, to give expert evidence on various aspects of the article. I expect that he will be testifying for some two days – Tuesday and Wednesday. I have arranged for Professor Rudolf Vrba to testify on Thursday and Friday.

Professor Vrba was in Auschwitz and Birkenau from 1942, June, to April of 1944, when he escaped from Auschwitz. He worked for, I understand, on the ramps, as it is called, at Birkenau and Auschwitz, and he kept mental tally of the trainloads that were coming in, how many people were sent towards the crematoria and how many people were allowed to come into the barracks.

He, I expect after he escaped, Your Honour, he prepared, with another Czechoslovakian Jew, a report on the conditions in Auschwitz which was ultimately published by the War Refugee Board in 1944 and became an exhibit at Nuremberg. He would be an original source that people like Dr. Hilberg would go to.

He, I expect, Your Honour, will be testifying on "Did Six Million Really Die", the article, specifically with respect to page 24 of that article, wartime conditions in the camp, humane conditions – talk about conditions in the camp.

On page 20 of the article there is an indication near the top of column one that certain affidavits that were adduced at Nuremberg were the only information about the death camps such as Auschwitz, and he will be testifying about such information. He will also be testifying, Your Honour, about a so-called factual eye-witness account of Auschwitz which appears on page 17 and 18 of that exhibit, and he will be commenting as well on the registration of every prisoner which is indicated as a fact on page 17, as well, of that pamphlet.

I will also be calling, Your Honour, representatives of the International Red Cross Society – oh, I will be attempting, Your Honour, to have Professor Vrba qualified as an expert, given the special skill in observations that he had an opportunity to make, having lived in many sections of the camp, and as such, to be able to express his opinions and give the basis of the information on which his opinions are founded.

I will be calling representatives of the {475|476} International Red Cross to introduce business documents with reference to page 30 of the article, the allegation that based on figures from the International Red Cross, only some three hundred thousand people died in Germany concentration camps, not all of them were Jews. And I expect the business document will deny that the Red Cross has ever published that figure or, indeed, ever counted anybody in the concentration camps.

I will also be introducing through those representatives portions of the



Report of the International Committee of the Red Cross on its activities during the Second World War that, I will be suggesting, indicate that many of the quotations on pages 26 and 27 of that exhibit, and a chapter entitled, "The Jews and the Concentration Camps: A Factual Appraisal by The Red Cross", that mainly the quotations are out of context and misleading, and some of the material attributed to the Red Cross are false, in particular, the sentence that the Red Cross found no evidence whatsoever at the camps in Axis-occupied Europe of a deliberate policy to exterminate the Jews.

I expect, as well, Your Honour, to be calling several other survivors who were in other camps. One of them was in Mauthausen and Dachau, and another gentle-{476|477}man was in Auschwitz, Dora, and Bergen Belsen. The gentleman who was in Mauthausen was there for five years. He helped to build the camp and was there at the time of the liberation. And he will be speaking to the specific allegation which doesn't leap to my fingers right now about the conditions in Mauthausen.

I also, with respect to Exhibit No. 1, Your Honour, would be proposing, subject to its admissibility, to show a movie to the jury that will be introduced by an archivist from the National Archives in Washington, D.C., as a business document kept in those archives. It is a movie said to be taken from a film of Allied personnel entering various concentration camps, and it's a copy of a movie I say "movie" – a true copy that was used as an exhibit at Nuremberg. The camps, I believe, are exclusively German camps that are filmed.

With respect, Your Honour, to the other exhibit, West, War and Islam, I expect to call Mr. John Burnett, who is a general counsel for the Royal Bank of Canada. He will testify as to the position of the Royal Bank in Canada, where I understand it is the largest bank, and internationally, where I understand it is in the top twenty largest banks in the world, and I expect him to {477|478} comment on that portion of "The West, War and Islam" that deals with international bankers that equates international bankers with international communism, and he will indicate that those things are false, and also about the control of Jewish people of banking.

I think I will also, Your Honour, be calling a representative from the Masons who will be testifying as to the relationship between Masonry and other organizations such as the Rotary, Lions, etcetera, whether there is any relationship, and what role, if any, the Masons play in the advance of world crime, corruption, poverty, revolution and chaos.

Finally, Your Honour, I will be calling a psychologist, a Dr. Harry Kaufmann, who is a Professor at Hunter College in New York. Formerly he was a Professor here in Canada, and in the decade of the nineteen sixties —

THE COURT: That name, again?

MR. GRIFFITHS: Harry Kaufmann. In the decade of the sixties he did a survey of the literature on hate propaganda very extensively and wrote a report at the request of what's known as the Cohen Commission on hate propaganda chaired by Dean Maxwell Cohen of the McGill Law School, and Dr. Kaufmann's report is an appendix in that {478|479} report and is relied on in that report as authoritative, and I will be calling him and hoping to qualify him as an expert in the field of psychology, in particular in hate literature, hate propaganda area, to testify as to the impact of Exhibit 1 and 2 on the public interest and racial and social tolerance and what effect that will likely have on the public interest.

I don't intend, Your Honour, to call evidence on the issue of whether social and racial tolerance is in the public interest in Canada, although I am prepared to do so. I understand, from looking at some of the cases, in particular Dean F.R. Scott's article from the Canadian Bar Review, a photocopy of which I handed up to you on my first day, Your Honour, called, "Publishing False News", I believe it indicates that what was in the public interest is a question of law for the judge. If I am mistaken on that, Your Honour, I would be proving that public interest through the filing of various statutes, both federal and provincial, including the Ontario Code of Human Rights, the federal Charter of Rights, Bill of Rights, and there are a number of other statutes to deal with discrimination.

Finally, Your Honour, I intend to argue and that will be the evidence overall that I will be calling {479|480} on the issue of the falseness of the material and the impact of the material on the public.

Finally, I intend to argue that the belief in the material can be disproven by recklessness, that having regard to the number and the nature of the falsehood in the two articles, Mr. Zundel, at the very least, showed such a wanton and reckless disregard for the truth in publishing them that his belief in the falsehoods, or his disbeliefs, rather, in the falsehoods, can be inferred from that recklessness.

I will be asking the Court as well, Your Honour, to take judicial notice of the Holocaust as a notorious fact, as a matter within the common knowledge of each and every person, and specifically what I will be asking the Court to take judicial notice is that millions of Jews died from 1939 to 1945 in Europe as a result of a concerted effort by Germany to annihilate them.

That's it, Your Honour.

THE COURT: Thank you. Mr. Christie, you are not bound to make any comment unless you wish to do so, but you are welcome to do so now.

MR. CHRISTIE: Well, as I have tried in the past, I will continue to endeavour to be completely {480|481} candid and tell Your Honour what it is we are here to dispute.

My friend says that the publication, "Did Six Million Really Die?" and "The West, War and Islam" is false overall. His recent discourse just completed is of great assistance to me, because every day I hear there are new and different witnesses.

I have just heard for the first time, for example, that the witness I expected for the proof of Masonic claims was unfortunately not available. We are back to the preliminary hearing which I have been told was changed, but all that my friend has said, it will be my contention, is to be proved by hearsay, largely the Crown's evidence through – for example, Dr. Hilberg, his position is not that of a witness, but of an expert, allegedly, to prove facts on hearsay. He teaches courses in all that my friend has said; there is one part of his evidence that might be relevant, and that is the matter of whether a figure was attributed to him. He can say, "That is not my figure", but I think that my friend, if he carefully looks at the context of the article in question, will find that it is certainly clear from the article that it is not a case of attributing the figure to Raul Hilberg, but the figures {481|482} attributed to a study by Professor Rassinier of France of Raul Hilberg's works from which Professor Rassinier derived the figure in the article. And that interpretation of the article is the interpretation which I would suggest is quite obvious from reading the article carefully.

My friend is endeavouring, or will endeavour to prove certain things about Auschwitz and Birkenau from Professor Vrba. I am very much looking forward to that because there is an interesting series of situations in regard to Professor Vrba that, no doubt, will come as a surprise, perhaps, even to my learned friend. The allegation of his being an eye witness is of great interest to us, and we will be cross-examining him on some of the publications, some attributed to him. He was not a witness at Nuremberg. His document, if it was filed as a document at Nuremberg, it is my understanding only part of it was filed. The War Refugee Board Report was not confirmed by him as to its facts, and so we will be interested in asking him some questions about that.

Now, as far as the Red Cross is concerned, we have documents to support the contentions in the article, and we will, in due course, be putting those to the Red Cross, I presume, expert, because I see from the preliminary {482|483} that nobody was called who claimed to have been in Germany during the War for the Red Cross.

We will be calling, in due course, people who dealt with the Red Cross on behalf of the German authorities during the Second World War. They will be giving evidence as to what took place at that time.

My friend takes issue with the material on a number of particulars. He intends to show the jury a movie. I will be arguing that that is quite improper. Even if it is, a record of business of an archive in Washington, it can't prove the truth of what it says in the movie. We weren't there and we don't know who produced it or – I have seen the movie, and it is called, "Nazi Concentration camps", and it is a sensational movie and it

shows a whole raft of bodies being bulldozed into pits. I can only see one purpose for that, and that is to sensationalize the jury.

I will be, in due course, calling a doctor who entered Bergen Belsen, I believe, and can give evidence about the conditions there. To put it simply, the whole of our contention is confirmed in a booklet that my friend has. This is not printed by any questionable sources. It is printed by those who refuted the article. Incidentally, {483|484} this article, "Did Six Million Really Die?", was answered by a publication by certain members of the South African Jewish Community who decided, I think quite rightly, to debate the matter in a literary way by refuting it with what they purport to have a good answer.

In this publication – I have checked to see if I am clear in my understanding of the context – they put out a map, and my friend has this publication, and I think to summarize our position, it will be very useful to explain to Your Honour that all the camps on the left of the map are in what is known in Germany, or was on that occasion. All these are referred to as concentration camps. The ones on the right are Auschwitz, Birkenau, Treblinka, Stutthof – these are all referred to as extermination camps.

The contention of the defence is that what is true about the western camps, which was found by the Allies at the time, was a horrible situation of starvation, disease, death, overwork and all that; but the same is true of the eastern camps. There is no evidence except from questionable sources, dubious sources, as to what went on in the eastern camps.

So that is the basic position, and it is ironic, because I am well aware in many publications that {484|485} just after the War there was allegations of gas chambers and gassings at Mauthausen and Dachau, and gradually the world has come to accept that those accusations are unsubstantiated.

So the allegation of the Crown is that the booklet lies in saying there was no extermination programme in the east. Our position is, there was no order, there existed no order, there existed no plan, there existed no budget, there existed, in fact, no gas chambers that we are aware of, and we intend to call experts as well to demonstrate that the allegation is made in many of the publications about the stink of burning flesh, the sky blackened by the ashes of the deceased in the gas chambers, cremations, the rapid manner by which it was possible to go in and haul out thousands of bodies and cremate them, and it is subject to grave doubt. So that's where the defence will be raising evidence to prove that this booklet, in its statements, is true.

Much of what my friend proposes to do was done in Nuremberg. The very film that is to be shown here was shown at Nuremberg. None of the defence counsel were there when it was made, but it was made to show massive suffering. {485|486}

Now, let it be understood by all that we are not here to dispute the suffering that, no doubt, existed in concentration camps, but that existed throughout the world in other circumstances. They are tragic, pathetic, disgusting situations, but the allegation is unique about the Second World War and the creation of the word "genocide" was accomplished to describe a unique crime in the history of the world accomplished by a unique means. The unique crime was the systematic elimination of a group with a systematic use of a weapon – gas chambers. In some instances there is an allegation of gas vans.

We will be introducing evidence to show that many of the allegations made at Nuremberg were incorrect. Much of the evidence was questionable and doctored in some cases, and that there was evidence in surrounding circumstances of torture of considerable degree that would astound some of us today if we were doing it in a Canadian Court of Law; it would raise some serious questions.

My friend said he proposes to call John Burnett. Well, that's good. He is the general counsel of the Royal Bank. What he knows about international banking will certainly be explored. {486|487}

We will be introducing articles in the course of the defence to show that there is literature to show that what is in the article, West, War and Islam is arguable. We don't have to prove anything beyond a reasonable doubt. I think we have to establish a reasonable basis for the belief

and a right to believe it.

I would respectfully suggest that calling Dr., Harry Kaufmann is another prejudicial piece of evidence outweighing the probative value. It will, no doubt, involve hearsay of some sort or another. It will deal with a man who researched the issue of hate propaganda. The issue is not that, but whether the statements in "Did Six Million Really Die?" and the allegations in it are true, and in the statements made in "The West, War and Islam", whether [whether] there is a basis for that as well.

My friend proposes to do something never before done in Canada in another matter – he proposes to ask you to take judicial notice of "The Holocaust". Well, that is a statement that absolutely perplexes me, because the Holocaust is a word that has a variety of definitions. It means many things. It could mean the gas chamber aspect of the story; it could mean the belief – you must believe that six million were killed; you must not question that; {487|488} you must believe that the gas chambers existed; you must not question that. If that is the case, I am saying he is asking you to dispose of the case and not to allow you to prove the basis for reasonable belief to the contrary, or, indeed, to question the validity of that belief. And I say, we are not taking away the Holocaust as an idea from current literature or anything; we are asking for the right to doubt it and the right to demonstrate the reasons why, and the literature.

My friend says that it should be regarded as a matter within the law, or rather, the common knowledge of our time. Well, when one deals with the complex question like what is now called the Holocaust, it certainly throws a wide blanket of obligatory belief on many – in fact, the whole country.

I suppose if it can be taken that a court can decide that it is a fact that the Holocaust happened in the way presented by the media, and it's a crime, then it becomes a fact that that is the truth, and to purview a contrary opinion becomes falsehood; well, then, the law has created a category of belief to disagree with, which becomes a crime.

That is, I hope, a novel proposition which {488|489} shall not be extended to the law of Canada, but that will, no doubt, remain to be decided.

So if I may just summarize, my client's position and the position of the defence, the booklet does not deny persecution of Jews, confiscation from Jews, deportation of Jews, forced labour of Jews in concentration camps, death by disease, death by privation, by War, and suffering ranging in the hundreds of thousands, perhaps; but the booklet does state – and the defence will raise the belief which the accused maintains he honestly believed that (1) there was no specific crime of genocide, which is a deliberate killing of Jews as a group, and (2) there was no specific weapon for the specific crime of genocide – that is, no gas chambers.

Now, gas chambers as defined by the Holocaust legend or story or truth, whichever way you want to believe or put it, were gas chambers of a unique kind. There were certainly gas chambers for the delousing of clothes, and we will be calling evidence to prove that – that, indeed, they did use the chemical Zyklon-B. That indeed, will be proved by an expert witness by the defence, or an attempt will be made to do that from an expert from the defence. {489|490}

As I understand it, the Holocaust, as alleged in the media and as represented through the literature, was a crime without precedent involving gas chambers, which the booklet alleges are not proven. In fact, the booklet disputes their existence.

The portion of the Holocaust involving gas chambers is a myth, since it was an attempt to explain a phenomena that was not known to the people involved. And since it is the core of the story which makes the Holocaust to a unique story, and a crime without precedent, then the Holocaust, as it has been represented with the gas chambers as a prerequisite element, is false.

The unprecedented crime by the history of both Nuremberg and current public opinion laid it squarely at the feet of Germany, and my friend did not say "Nazis", in his comments; he said "Germany", which is an interesting point – it is 'laid squarely at the feet of Germany. And this is unfortunate, and we feel – and rather, not I, but the accused feels – it is

unfair. He believes it is not correct. And this does not mean that he, the accused, believes that Jews did not suffer terribly, but he will be producing evidence to show that Canadians in Canada were in internment camps as they were in the United States of {490|491} America, in Britain, in Japan and in South Africa during the World War; and in those camps, unfortunate and terrible things happened.

Now, my friend addresses the issue of racial and religious tolerance. It will be the position of the defence that the best solution to any intolerance is an open and free discussion. And it may be that some people's opinions are regarded as untrue, but the answer to untruth is truth, not prosecution. If there is an untruth in "Did Six Million Really Die?" the correct and honourable thing to do is to publish another book like, "Six Million Did Die: The Truth Shall Prevail", which is published in Johannesburg, 1968, a copy of which is sitting on my friend's desk and is the basis for his answer, which is an interesting book in itself; but our position on the whole matter of racial tolerance is that racial intolerance is created by the refusal to permit discussion of controversial topics, that it should be proper to debate anything.

Nobody denies the right to the existence of God, and that should be sacred. In this country it is done every day. Nobody denies the right for the different interests of Jesus Christ; people believe strongly in that; but it is done every day and it should be in this country. {491|492} People should defend them. And the best opportunity of belief is to debate it.

So social and religious intolerance is open to debate, and it is going on here in that we are obliged – that is the accused is obliged, the defence on behalf of the accused is obliged to introduce a defence. And it's a very costly process for the accused, as I am sure Your Honour is aware. It puts the accused in a very difficult position to face the massive weight of power and money on the side of the State. It will be the contention of the defence that he, the accused, is not anti-Jewish. He may have had criticisms against Zionism; he may even have the right to criticize Judaism; it is open to him to criticize Christianity, Mohammedism, or anything in this country, and to criticize it for some reason; but Zionism is not a religion, and to some extent, "The West, War and Islam", Zionism is the attack. And neither is freemasonry – well, there is some debate as to whether it is a religion, but if it is a religion, it would be interesting to hear the point about what it is, and we no doubt will.

The position of the defence is that it shouldn't be improper to question its power and its influence. {492|493}

It is my submission right now, Your Honour, that the wisest thing that the prosecution could do in the interests of the racial and religious tolerance is to drop the charges, because in the course of this trial we have already seen many misunderstandings represented in the media about our position.

The accused is not denying what everybody says about the Holocaust. He is denying what, in essence, is the most unique aspect of it, the allegation of gas chambers.

Now, the booklet denies the fairness at Nuremberg as part of its thesis. It denies that the trial came to a right conclusion. It says that the trial at Nuremberg, and all the trials at Nuremberg were in an atmosphere of hatred, created by the War, against German people, and the accused takes the position, or will take the position in his evidence that he has tried for many years to rehabilitate the image of German people, because they suffer every day in the media from a reputation that they are a bunch of genocidal maniacs.

He was a German citizen at one time, and a person with a German name and German ancestry who has tried, through this brochure, to raise the answer to these {493|494} charges, and that is his position.

I want to say that there is something that I suggest has occurred in the trial which is unfair. It hasn't happened yet, but I am told that this is the way it is proposed to occur. The witness, John Fried, who I mentioned at the beginning, the Crown does not propose to call. The defence was relying heavily on the opportunity to introduce his evidence, because it demonstrates the very important part of the defence of the accused. Now, the Crown tells me they do not propose to call the complainant who laid the charge, although the Crown has taken it over, Sabina

Citron, who supports the contention of the defence that Auschwitz was a place from which people were transported to other camps. She, in fact, lived there with her mother; she worked there and she was later transported in a passenger car to another camp where she worked till the end of the War. Much of the Crown's evidence will allege that people disappeared. Well, if I stay in a prison and I don't see people again, then, indeed, they disappeared.

But Mrs. Citron is one of the people who were there and went to another camp, and she has told us about that camp in the preliminary. Now we can't have her unless we call her. In fact, my instructions are that we should like to do so. {494|495} I am also told that she is having a difficult home situation these days, that I certainly have sympathy for – there is illness in her family, I am told – and I very seriously sympathize with that, but her evidence would have been, indeed, important to the defence.

So the Crown has taken the position, and I dispute this right, to simply say, well, although I brought these witnesses at the prelim., we don't propose to call them now. And in the case of John Fried, he being in New York, we are stuck.

Now, as of Friday I was told we were going to see, today, the Masonic expert, a man by the name of, I think, Archer.

MR. GRIFFITHS: Arthur.

MR. CHRISTIE: Arthur, excuse me. Today – I know this is a problem that my friend is – we are now told, no, today is Mr. Bassett, having prepared to meet Mr. Arthur.

That is not too serious a problem in that adaptations can be made in this point, but the introduction of Dr. Kaufmann is totally surprising as well, as is the case of Mr. Vrba – this is another surprise witness. And Mr. Fulop, I am told, is another surprise witness. These {495|496} are witnesses that have never been called at the prelim., so we are confronted with new witnesses every day, it seems, and changes of those. I want to say, in respect to the booklet, "Did Six Million Really Die?", and the pamphlet, "The West, War and Islam", I would respectfully suggest that the jury should be allowed to read the booklet at home. The danger of independent research which my friend addressed is certainly a real danger, but nobody stops a jury from reading popular literature, or having watched the various and sundry representations in the media against which Your Honour has correctly warned them.

If the jury can accept that warning, and it certainly does, then I would suggest that they could also be warned that they should not decide the truth or falsity of the booklet, but they should at least read those publications to understand what they say. I say to Your Honour that they will never get the chance to get the whole context of the two articles unless one of two things happen: They do read them in their own home, because they can't read them in Court, or my friend has somebody read the whole thing to them – me, or I suppose I would be cast with that duty, because if the Crown doesn't do it some day, {496|497} somehow somebody has to understand what the whole thing says. We can't take pieces out and say, "That's false. We got ya."

If it is in context, the whole thing makes a different meaning, and then it is that which they have to assess. We can't take it that they look at a comma or a quote, if it is out of place, and if that's false, then we have the accused somehow in a position of lying. It is my contention they should read the whole thing and understand it – not believe it or disbelieve it, but simply understand it. I think that's a practical solution, because we can't spend the time necessary to read this whole thing through to the jury. I am prepared to do that if I have to, but it would take a lot of what I suggest is unnecessary time. They could be warned about not doing independent research and to decide the case on the evidence in Court, but to read it so they will know what it says.

So to capsule what our position is that is, the accused's and the defence position – we maintain that Dr. Fried, or John Fried, should be called. We have prepared with his expert evidence in contemplation. We maintain that Dr. Raul Hilberg – I think he is a Doctor – is going to be giving entirely hearsay except for the part {497|498} referable [sic] to the quote attributed to him, that he does have –

THE COURT: I have that point.

MR. CHRISTIE: Yes. And that we should be entitled to have an opportunity to examine Sabina Citron, and I think that this demonstrates that the problems that I think are now becoming clear demonstrates that s.177 should never be directed to a historical issue, only falseness about present facts to which direct eye witnesses can testify.

It is my submission that we are confronted with a massive body of evidence that s.177 was never created to cope with. Section 177 is not competent, as a section, to deal with this massive inquiry to which the Crown is endeavouring to use the section in the present case. This is a question of history.

My friend said at the outset he didn't want to debate the Second World War. Unfortunately, he has chosen to attack the truth of a pamphlet that does question what went on; not who won – there is no doubt about that it looks to me there is no doubt about Germany losing, anyway – but there is straight doubt about exactly what went on and how does he or anyone have the right to decide for {498|499} the rest of society what went on during the Second World War and make that a matter of indisputable fact? The figure of six million is not supported by Dr. Hilbert, [Hilberg] who says 5.1 of European Jewry.

The figure of 4.9 is introduced by Dr. Reitlinger and a group of people who believe that the extermination of Jews was a plan. In fact, in Germany, as late as 1983; I believe, conferences were called by exterminationists who believed in the deliberate and systematic elimination of Jews in gas chambers. Those are what are called as exterminationists; and there's the vernacular group of people called revisionists who deny that.

In Germany, as late as 1983, there was a discussion among those who believe in exterminationism to decide whether or not it was a functional process or an intentional process. The functionalists maintain that it sort of developed out of a sort of economic problem – there were no direct orders; the intentionalists, among whom is Dr. Hilberg, believe it was a plan, but they concluded – and there's new reports on it – that they couldn't find the plan, they couldn't find the order. They tried to analyze from the Wannsee [Wannsee] Conference and the use of the word "final solution" and other such phrases. {499|500}

So that is where, in my submission, the dispute lies. I have tried to be as candid as I can, and perhaps more than I had to be, of course, to explain what our position is.

I think, with respect, it is a historical dispute between revisionists and exterminationists. My client happens to be a revisionist, and there were many reports of Belgian babies being bayoneted, and soap was made by the Germans. After the World War they were accepted as propaganda.

The theory of the defence is unfortunately, through political reasons, some wartime propaganda is still being used for political reasons, and we maintain the right to question the validity of what the accused refers to as false beliefs.

It is also of interest, and I think the Crown should know that I will be arguing, that at the very beginning of this booklet, "Did Six Million Really Die?", the accused sets out his reasons for publishing it. He sets out that he doesn't want thought crimes to exist in Canada. He refers to the process of dispute between the Attorney General of British Columbia, in fact, surprisingly enough, and the Attorney General of Ontario, as to whether he should {500|501} be allowed to publish the article and the letter at the beginning of this article will be of great moment to the defence in that it indicates the position of the accused on the whole matter, to the effect that he is not saying that you have to believe it, but – he will testify that he distributed this widely with the question, should you have the right to think these thoughts, or should they be illegal thoughts?

I think that's well-known, and because the Crown has a copy of the article, and it's there, I want the Crown to know that I will be arguing that it was the position of the accused all along that this article, which he believes to be true, should be open to debate, and he invited that debate. In fact, he invited the very thing that happened in South Africa – the publication of some other reasons to the contrary.

Thank you.

MR. GRIFFITHS: If I could just very briefly reply, Your Honour, on two points or perhaps three.

First of all, as I know my friend is aware, in a trial like this, with the amount of publicity that there is, I have four or five people coming up to me every day saying they can be a witness; and obviously, I am not {501|502} utilizing all those witnesses, but there are some changes, and my friend knows that as soon as I am aware of that, I have notified him. I have provided him with as much information as I can.

Professor John Fried, Your Honour, is an eighty-three-year-old professor emeritus from New York. He testified and was cross-examined at the preliminary hearing. If my friend wishes, it is available to him, under a section of the Criminal Code, to read in that evidence.

There is one final matter, Your Honour, that I neglected to say that the Crown will be arguing as a very basic issue in the "Did Six Million Really Die?" pamphlet, and that is that this is more than historical revisionism, a new look at World War II. What is alleged in this pamphlet is a massive fraud based on imaginary slaughter to wring monetary compensation out of West Germany.

Each of the various witnesses, Your Honour, that are called by the Crown, with the exception, perhaps, of Dr. Kaufmann on Exhibit 1, "Did Six Million Really Die?" are all people who have either been intimately involved in the research of this issue, or who will testify as to enormous losses in their family and from their towns. Each {502|503} of those people would have to be part of the conspiracy, and they will testify that they are not.

That's all, Your Honour.

THE COURT: Thank you.

Well, I am grateful to both counsel for defining again the issues.

What I propose, subject to the comment of each side concerning the necessity for each juror to read the two Exhibits 1 and 2, will be this, that for the moment, at least, and subject to further order, as the trial proceeds, I propose to have the jury come to the jury room each morning a half an hour early so that they will get an opportunity to read both of those exhibits. That is my initial thought.

Mr. Christie, do you see anything wrong with that, subject to any further order I may make?

MR. CHRISTIE: No. I think that's a better idea than I had. I would like Your Honour to couple that with the suggestion that they shouldn't decide on its truth or falsity, or perhaps even discuss that matter among themselves until they have heard the case, but that they should read it, and I think it will probably be possible in half an hour to read, depending on the person's comprehension {503|504} and whatnot, pretty well all of it in four days or so. So thank you.

THE COURT: Do you see anything wrong with that, Mr. Griffiths?

MR. GRIFFITHS: No, Your Honour. I am content with that procedure.

THE COURT: Are you gentlemen ready to proceed?

MR. GRIFFITHS: Yes, Your Honour.

THE COURT: Is defence ready?

MR. CHRISTIE: Yes, sir.

THE COURT: Bring in the jury, please.

— The jury enters. 11:10 a.m.

— The jury polled – counsel content the jury is present.

THE COURT: Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour. My next witness is Mr. Roy Bassett.

— {504|505}

#### **ROY BASSETT, sworn**

#### **EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:**

Q. Mr. Bassett, I understand that you are a member of the Metropolitan Toronto Police Force.

A. I am, sir, yes.

Q. And you are what rank?

A. Staff Sergeant.

Q. How long have you been on the Force?

A. I joined in 1957, which is about close to twenty-eight years on this

Force.

Q. Are you also a Mason?

A. I am, sir, yes.

Q. How long have you been a Mason for?

A. Approximately twenty-two years.

Q. Have you ever held any offices in Masonry, any elected office or serve as an officer?

A. I am presently the secretary of my Blue Lodge. I went through all the chairs to become the Master of my Blue Lodge, and I am presently a member of Grand Lodge.

Q. Were each of those things – maybe you can help us as to what they are. First of all, Masonry – what is Masonry?

A. It's a fraternal organization.

Q. And who may join?

A. Any male person over the age of twenty-one who is not an atheist.

Q. And how does one become a Mason? How does one join? {505|506}

A. Well, to be a Mason it must be of your own free will, and in Ontario a Mason should not and must not ask another person to be a member. Therefore, a person wishing to become a member would have to approach a Mason and ask him if he may become a Mason, and that would start the process.

Q. All right. And what would finish the process – take us all the way through – to become a Mason?

A. If the Mason approached felt that the person could become a Mason, he would give him an application which would be filled in by the applicant, and I, then present it to the Lodge; the application would be presented to the Lodge and a committee would be appointed to investigate the applicant to see that he met the criteria that I mentioned.

Q. Which criteria is that?

A. That he must be over twenty-one years, a male person and not an atheist. And then the application, the report of that investigating committee would go back to the Lodge and ultimately the members of that particular lodge would vote as to whether they wished that person to be a member.

Q. Is there a secret ballot, or —

A. It is a secret ballot, yes.

Q. Is there any bar to Masonry by reason of race, religion, colour, country of origin – anything of that nature?

A. Not that I know, sir, no. Only the atheists, or a person who practised that type of thing, that would definitely be the bar to becoming a Mason. But, no, {506|507}religion, there is no bar.

Q. Are there any dues paid?

A. Yes. They vary from each Lodge. For instance, in Toronto there's approximately a hundred and ten Blue Lodges, and the dues differ. The ones that I know of, the dues would be between \$50 and \$75 a year.

Q. You have to help us now. A lot of people don't know how this works. Are there different colours of lodges?

A. No. The Blue Lodge, we call it the Blue Lodge as the first three degrees, and they are the normal, regular lodges. Beyond that there is no higher lodge, but there are different lodges such as the Scottish Rite. It goes to thirty-two degrees, and there is no colour attached to that Lodge.

Q. How many of those would there be in Ontario, or Toronto?

A. I don't know how many in Ontario, but there is one in Toronto, it's called the Vally of Toronto. There is one Scottish Rite. There is another one, I know, in Barrie. I don't know of any others.

Q. All right. Do you take any obligation when you become a Mason?

A. Yes, we do.

Q. Can you tell us what that obligation is?

A. I couldn't tell you what the words to the obligation are.

Q. Without using those specific words, could you tell us what the meaning of the words is?

A. I would say it would be very consis-{507|508}tent with living a lawful and honourable life.

Q. And what's the primary goal of Masonry?

A. I would imagine that there could be interpretation to this, but certainly

ly the goals that I have seen set and achieved by members of the fraternity that I know have been to practise charity, to make good men better, and certainly to live a lawful life.

Q. Is there anything in the obligation that you undertake as a Mason that is in conflict with your obligations as a police officer?

A; Absolutely none, sir. It's in concord with my obligations as a police officer.

Q. You told us about Toronto lodges and something about Ontario-wide. What about beyond Ontario? Do you have any knowledge of Masonry beyond Ontario?

A. I have no direct knowledge, no. I have read many books. I know Ontario comes under the Grand Lodge of Canada in the Province of Ontario. I have no relationship at all, really, with any other lodges or any other jurisdictions. There is the one exception to that, sir. My brother is a past Master of a lodge in Vancouver, and although I don't speak to him very often because of the distance, the times that we have discussed lodge practices, they have been —

THE COURT: Just a minute, now.

MR. GRIFFITHS: I am afraid we can't get into hearsay about what your brother told you they did in B.C.

THE WITNESS: No. All right.

Q. MR. GRIFFITHS: Is there a world {508|509} organization of Masons?

A. I don't really think I can answer ' that, sir. There is not one that I know of, not as a world organization itself.

Q. All right. Is there something that – is there internationally, if anything, that would combine ...

A. I think most of the origins come from the Grand Lodge of England, the Grand Lodge of Scotland, and with the charters issued by them over the last few hundred years, there have been lodges and jurisdictions established in different countries.

Q. Charters issued by the Masons in England and Scotland.

A. Yes.

Q. Do any of your dues go to England and Scotland?

A. None that I know of, sir. The dues from the Blue Lodge, except for a small amount per member, goes entirely on the administration of that lodge. Other than that, there is a small amount goes to Grand Lodge per capita, but —

Q. The Grand Lodge. Is that England and Scotland?

A. I'm sorry, the Grand Lodge of Canada in the Province of Ontario.

Q. Can you tell us if Canada has one charter for all the various provinces, or if each province is a separate entity?

A. Each province would be separate, sir.

Q. Is membership in Masonry secret? {509|510}

A. No.

Q. How do I know – if I want to join how do I find somebody who is a Mason?

A. Quite a few Masons wear rings or other Masonic regalia – not regalia, I'm sorry, Masonic emblems; or it could come into conversation.

Q. All right. Are you wearing a ring?

A. I am, sir, yes.

Q. Mason's ring?

A. Yes.

Q. On the index finger (sic) of your left hand?

A. Yes, sir. In conversation it may be that one person would say, "I am not going to be working tonight because I have to go to Lodge", and of course, this would indicate to other people that he may be a Mason. So it's nothing that's secret that it shouldn't be known to other people that you are a Mason.

Q. How often do you meet in your Lodge?

A. In my Lodge we have a regular meeting each month, and an emergent meeting each month. So we meet approximately eighteen times per year.

Q. And how large is your particular Lodge?

A. We have, at the present moment, two hundred and fifty members.

Q. And do you know how large the Ontario Chapter is?

A. I'm sorry. I don't know, sir.

Q. Are you a member of a Lyons Club?

A. I'm not, no. {510|511}

Q. Or Kiwanis?

A. No, sir.

Q. Rotary?

A. No, sir.

Q. Any other group like that?

A. No, I'm not a member of any other group at all.

Q. Are you aware of any – can you tell us whether or not there are any ties between Masons and service clubs such as I have just mentioned?

A. There is none that I know of, sir. I do know many Masons who are members of different organizations, but there's no tie between the two – the service club and Masonry.

MR. GRIFFITHS: If I may, Your Honour, I will just distribute "The West, War and Islam" book to the jury this morning.

THE COURT: Yes.

Q. MR. GRIFFITHS: I am showing to you what has been marked as Exhibit No. 2.

A. Yes, sir.

Q. "The West, War and Islam". Have you ever seen that before?

A. I saw it once before, approximately two to three months ago, yes.

Q. At the preliminary inquiry.

A. That's right, sir. Yes.

Q. All right. At the bottom of page 1 there is a paragraph entitled, "The International Secret Societies".

A. Yes, sir. {511|512}

Q. It starts off saying:

*"Unknown to most people of the Islamic World is the tremendous power and influence exercised by Freemasonry and all its cover organisations like the Kiwanas, Rotary, Lions, etc."*

Can you tell us whether Rotary, Kiwanis and Lyons are cover organizations for Freemasonry, or Masonry?

A. No. I could say they are definitely not, sir.

Q. All right. Are you a secret society?

A. No, sir. We are not.

Q. Is there any publication of your meetings?

A. Yes, there are. It's common knowledge when the lodge meet, there are books published – books are available to anybody, and our meetings, our regular meetings, are always on the same – for example, our lodge is the second Monday of each month. It has always been that way. And it's just known to everybody that wishes to find out when our lodge meets.

Q. All right. Are there secret things that go on at your lodge, or could any member of the public attend a meeting?

A. No – before a visit?

THE COURT: You asked two questions.

Q. MR. GRIFFITHS: All right. Could any member of the public attend your meetings?

A. Not unless he was a Mason, sir.

Q. All right. And are there secret {512|513} things that go on at your meetings?

A. There are some secrets that are known only to Masons, except for those that are published that anybody can read but may not understand. And this is to identify the person, to see that he is entitled to attend a meeting, and it's very similar to a deuce card. We all have deuce cards. And it should be the first duty of any lodge, before they admit a visitor, is to see his deuce card. This will be the first thing. And then, if they are satisfied the deuce card is okay, they could ask questions that would establish whether he is a Mason or not. These are the only secrets, if you wish to call them secrets, that we have.

Q. All right. At the top of page 2 it says:

*"This is the same ..." –*

referring to predecessor, so-called, Masons – The Assassins.

It says:

*"This is the same satanic structure which we detect in Freemasonry: lies, secrecy, duplicity, infiltration and where necessary, assassination."*

Let's take that a little bit at a time. "Satanic structure" – do you worship

Satan?

A. No, sir. I do not. And no Mason that I know does.

Q. All right. Is this your Masonry ring here?

A. Yes, sir.

Q. May I see it for a moment?

A. You can take it off if you like. {513|514}

Q. You offered to take it off. No. That's all right. Thank you.

Do you find in Masonry lies – you have told us about secrecy. Let's talk about lies. Are there lies in Masonry?

A. There are no lies in Masonry, sir, no.

Q. "Duplicity, infiltration" – do you know what that's referring to there?

A. I don't really understand what that would mean at all, sir. If you added on to the last word "assassination", obviously it is incorrect. We have nothing to do with assassinations. And infiltration into what? I don't know. We are very open. We are Masons and we don't have to infiltrate anything. We are there.

Q. All right. "... and where necessary, assassination". Is that a policy of Masonry?

A. Absolutely not, sir.

Q. *"That most Freemasons are unaware of the directors and direction of their secret organisation does not preclude their blind, unthinking support of this organisation and their obedience to its directives."*

Is there anything other than the directives you've told us to make a good man better and act charitably in Masonry – any other goals or directives?

A. Basically, sir, that does cover the teachings of Freemasonry. Certainly law abiding citizens, and nothing else but that.

Q. All right. And do you have a blind, unthinking support of this organization? {514|515}

A. I do not, no, sir.

Q. Are you aware of the directors and direction of Masonry?

A. I am, yes.

Q. All right. The office-holders for Ontario, is that published somewhere, who they would be?

A. Yes, it is published.

Q. Is that public knowledge? Could any of us get this information?

A. I have seen it printed in newspapers, yes, soon after the elections in July of each year. I have seen names of our Grandmaster in newspapers notifying the public that a certain person was elected Grandmaster of our jurisdiction.

Q. *"The orientation and rituals of these secret societies of the West come directly from the Kabbala of the Babylonian Talmud." Do you know what the Kabbala of the Babylonian Talmud is?*

A. No, sir. I don't. I have no idea.

Q. Moving along, then.

A. I could say that it mentions secret societies again, and we are not a secret society, so the whole issue doesn't come out there.

Q. Next sentence says:

*"Their content is Jewish, their goals are Jewish and their masters are Jewish."*

First of all, Mr. Bassett, are you Jewish?

A. I am not, sir. {515|516}

Q. Are the goals of Freemasonry Jewish goals that you know of?

A. No, sir. No.

Q. And are the people who head up Freemasonry Jewish?

A. I am sure there are Jewish members in different positions.

Q. It's open to Jewish people to belong?

A. It sure is, sir, yes.

Q. Okay.

A. And, yes, sir, I am sure there are Jewish people who are in different offices.

Q. Are there non-Jewish people in different offices as well?

A. Yes, sir. There are, yes.

Q. Do you know what the goals and machinations, if there are any, of international Jewry are?

A. I don't know, sir.

Q. And what role, if any, have you made in directing the advance of

world crime, corruption, poverty, war, revolution, collapse and chaos from your position as a staff sergeant in the Metropolitan Toronto Police Force?

A. Absolutely none, sir.

Q. Do you know of any members engaged in that kind of activity?

A. If I did, I would take steps to have him charged and ejected from the fraternity.

Q. And when you say "charged", you mean charged in the fraternity, or charged under the Criminal Code of Canada?

A. Of course, that would depend as a {516|517} police officer, if it was an offence under the Criminal Code, I would pursue it that way, as well as a Masonic offence, which it is. It is a Masonic offence to be engaged in any of this type of thing.

Q. All right. What is the offence? Can you describe it for us, or ... You say it is a Masonic offence. What ...

A. It is a Masonic offence to do anything contrary to any law, and obviously, all of that is contrary to the law of Canada in the section of terrorism.

Q. And if a Mason commits such an offence, what happens?

A. Are you talking Masonically?

Q. Yes.

A. Well, anybody that has information on a Mason committing any offence – and that is any offence against the Criminal Code of Canada or other – would report it and a committee would be set up and, in essence, the person would be tried and, if found guilty, he would be struck from the books of Freemasonry.

Q. Let's see what's next:

*"On behalf of the Zionists, the Gentile members of these secret societies have spread these plagues not only in the West, but throughout the entire world in which Western influence exists."*

I think you have already told us about that.

A. Yes, sir.

Q. *"Most members who are aware of their organisation's role in causing world {517|518} suffering rationalise these horrors as 'change' and as necessary steps in the creation of a world government suitable to their Zionist masters."*

Do you have any interest in a world government, Mr. Bassett?

A. I have none. No, sir.

Q. Do you know what that is referring to at all?

A. No, sir. I think it would be ridiculous to even think that Freemasonry had anything to do with that type of thinking.

Q. All right. And you've already told us about Zionist masters. You have testified about that. And you can't tell us about travels in America. All right.

Just towards the end of that long paragraph there is a sentence that's underlined:

*"No wonder U.S. policy always differs in practice from the pre-election promises made by these hypocrites!"*

It is the next sentence I am interested in:

*"A child could readily perceive the truth that no organisation which claims to do good, as do the Freemasons, need be secret; but brainwashed children become brainwashed adults and the thorough Zionist brainwashing has made the Western majority blind to the enemy that works in their very midst."*

Do you have any comment on that, sir? {518|519}

A. I repeat what I said before, that of course we are not a secret society. The only work that I know that Masonry has done in the City of Toronto is good. We have collected money for charities. And the rest of that remark that's printed here is ridiculous to even accept as being true.

Q. Okay. Excuse me just a minute.

The standard symbol for Masonry that you find on a ring ...

A. Yes, sir.

Q. ... your ring looked different from what I had seen other times.

A. I wear a Scottish Rite ring. The status symbol for the Blue Lodge, the first three degrees is a square and compass with the letter G denoting God as a centre.

MR. GRIFFITHS: Thank you. I have no further questions.

THE COURT: Yes, Mr. Christie.

#### CROSS-EXAMINATION BY MR. CHRISTIE:

Q. Are you a member of the Scottish Rite?

A. I am, sir, yes.

Q. What degree?

A. 32nd Degree.

Q. Are you familiar with a church known as the Roman Catholic Church?

A. I am, sir, yes. {519|520}

Q. Are you familiar that it is a fairly large church?

A. Yes, sir.

Q. It claims to have represented Christianity for quite a few years; do you agree?

A. I don't know, sir.

Q. You don't know that?

A. No.

Q. I put it to you that the truth is that the Roman Catholic Church, on the 15th of December, 1983, said: The question has been raised whether the Church's position on Masonic associations has been altered, especially since no explicit mention is made of them in the New Code of Canon Law, as there was in the old Code. This sacred congregation is able to reply that that circumstance is to be attributed to a criterion adopted in drafting. This criterion was observed also in regard to other associations which were likewise passed over in silence, because they were included in broader categories.

THE COURT: Mr. Christie, why don't you ask the witness whether or not he is aware of what you are reading from? Otherwise you are giving evidence and he is not.

MR. CHRISTIE: I am going to ask him that. I would like to read what it says and ask him if he is aware of it.

THE COURT: Why don't you ask him now?

MR. CHRISTIE: Well, I haven't finished —

THE COURT: I don't want you to finish. I want you to ask him now if he is familiar with a document that you are reading; otherwise you are giving evidence. {520|521}

MR. CHRISTIE: Well, when I put something to the witness I have to know if it is the truth, otherwise I am committing a grave offence; second, I have to put it to him to be identified.

THE COURT: Haven't you put enough to him yet, or do you want to put the whole thing?

MR. CHRISTIE: Well, it is about a hundred and sixty words.

THE COURT: What is the document?

MR. CHRISTIE: It is issued on the 26th of December, 1983, by the Vatican's Doctrinal Congregation, signed by Cardinal Joseph Ratzinger, and approved by the Pontiff John Paul II.

THE COURT: That identifies the document.

Q. MR. CHRISTIE: Are you aware that the Catholics are forbidden to be Masons?

A. I am not aware of that, sir, no.

Q. Well, I put it to you that you are aware that Catholics in the past have been forbidden to be Masons, haven't you?

A. No, sir.

Q. You are totally unaware of that?

A. My information is that Catholics can become Masons.

Q. Well, I put it to you that the truth is that the Church has said on a number of occasions that Masonry and Catholics enrolled in Masonic associations are involved in serious sin and may not approach Holy Communion, that they are excommunicated. Do you claim you didn't know that? {521|522}

A. That is true, sir. I didn't.

Q. You claim you didn't know that?

A. Yes, sir.

Q. You claim that the biggest Christian denomination and their position on Masonry, you didn't know.

- A. That's right.
- Q. You claim that.
- A. Yes, sir.
- Q. Do you know any Catholic Masons?
- A. I do, sir, yes.
- Q. What is their name?
- A. Last name of one is Burke.
- Q. Both their names.
- A. Denis Burke.
- Q. Where does he live?
- A. He lives in Mississauga.
- Q. Well, you claim that you don't know that the Catholics who are members of the Masonic orders are excommunicated; right?
- A. That's right. I didn't know that.
- Q. Did you know that excommunication from the Catholic Church is regarded as a very serious matter?
- A. I would assume so, but I know nothing about the Catholic Church.
- Q. I see. So that is an aspect of Masonry you just don't know anything about – the fact that the largest Christian denomination condemns it. You don't know that.
- A. I have never heard that before, no.
- Q. Okay. Did you ever consider that {522|523} there might be reasons why other groups don't believe in Masonry, that they think it is evil, very sinful? Did you ever consider that?
- A. I can't consider that, sir, because I know different.
- Q. You know different, eh?
- A. That's right.
- Q. You know all there is to know about Masonry?
- A. I know about the portion of Masonry that I live, yes.
- Q. That's right. And you could be ignorant of many of the secrets above you, couldn't you?
- A. I could be, yes.
- Q. And that is what the Masonic does, it keeps the lower initiates ignorant of the secrets at the higher level.
- A. It is not true.
- Q. You mean to tell me the secrets that you know as a 32nd degree members are known to the others at the lower degrees?
- A. If they wish to know them.
- Q. If they wish to be initiated.
- A. It is available to them.
- Q. But they have to go through initiation, don't they?
- A. That's right.
- Q. And that can take many years; isn't that right?
- A. Many months, not years, sir. But it is still available to them, sir. {523|524}
- Q. I put it to you that the Church to which I referred condemned Masonry by Papal Order in 1751, 1821, 1825, 1829, 1932 [1832], 1845, 1849, 1864, 1865, 1869, 1873, 1882, 1884, 1890, 1894 and 1902. I suppose you are ignorant of all that, too.
- A. If what you are saying is true, that's right, I am ignorant of that, sir.
- Q. Totally unaware that in everyone of those years the largest Christian denomination denounced Masonry.
- A. No, sir.
- Q. I put it to you that you don't know much about the history of Masonry, do you? Yes or no?
- A. I know what I learned about my years as a member.
- Q. You didn't know this?
- A. I didn't need to know that. From the day I joined, any person was able to join Masonry except a person who is an atheist.
- Q. So you are saying for all these years you honestly believed that Catholics can join the Masonic order.
- A. It is true. They have been able and they have.
- Q. Are you a Catholic?
- A. No, sir. I am not.
- Q. Then how do you know they have been entitled as Catholics to join?
- A. I said that Catholics were entitled to join the Masonic Lodge.
- Q. You allowed them. {524|525}
- A. Yes.
- Q. You didn't know that it was regarded as a significant sin by the Catholic Church?
- A. No, sir.
- Q. You know that the Lutheran Senate also condemn Masonry and those who joined the Masonic orders?
- A. No, sir.
- Q. Do you know that the Christian Reform Church, the Society of Quakers, also condemns Masonry? Do you know that?
- A. No, sir.
- Q. Did you know that the Mennonites, the Jehovah Witnesses, Church of the Latter Day Saints, the Mormons also condemns Masonry?
- A. I don't know that, sir.
- Q. Just oblivious of all. The United Church, Seventh Day Adventist Church, General Booth in the Salvation Army condemned Masonry? Do you deny that?
- A. It is the first time I heard that said.
- Q. You never read it even in an encyclopaedia about Masonry?
- A. No, sir.
- Q. Just something you didn't know.
- A. That's right, sir. Providing it's true, of course.
- Q. I see. Oh, yes. You deny that's true.
- A. I don't know, sir. I told you I never heard of it before. {525|526}
- Q. Okay. I put it to you that the Lodge originated in the sixteenth century as far as we know, in the United Kingdom. Is that right?
- A. Approximately, yes.
- Q. And many times the explanation is offered for it involved reference to King Solomon's Temple among other things?
- A. There are some references, yes.
- Q. You say there is no connection between Masonry and Judaism. Right? To the best of your knowledge.
- A. The Freemasonry that I practise, no, sir.
- Q. Well, what's the difference about that from other Masonry – the Scottish Rite, for example? You are in the Scottish Rite.
- A. Yes.
- Q. I am just going to show you a medal. Do you recognize that?
- A. No, don't.
- Q. You don't.
- A. Well, I'm sorry, I will correct that. It is not a Scottish Rite medal. It is a medal —
- Q. — of a Royal Arch Mason.
- A. That is not Scottish Rite.
- Q. So you don't know anything about the Royal Arch Rite?
- A. No.
- Q. Why not? Is it secret?
- A. No. It is another branch.
- Q. You know that this is a Royal Arch medal? {526|527}
- A. Yes.
- Q. What is in the centre of it?
- A. I don't know, sir.
- Q. You don't recognize the Star of David?
- A. Oh, in the centre.
- Q. That's right.
- A. Yes, it's the Star of David.
- Q. What other group has the Star of David for a symbol – the six-point star?
- A. I'm sorry. What do you mean?
- Q. What other group has for its symbol the six-pointed Star of David, sir?
- A. Within Masonry you are talking about?
- Q. No. In the world. You don't know about the State of Israel? You haven't seen the State of Israel's flag?
- A. Yes, I have.
- Q. What is it?
- A. I don't know, sir. I couldn't tell you exactly.
- Q. What does it look like – like that?
- A. Yes.



Q. How different is it?

A. I don't know, sir.

Q. You don't know. Look carefully and tell me if there is a difference between that symbol and the symbol on the flag of Israel today.

A. You will have to show me the flag of Israel.

Q. You don't know the flag of Israel?

A. No, sir. {527|528}

Q. I put it to you it is the Star of David, and it is like what is in the centre of the Royal Arch Mason's. Do you agree?

A. I can't agree with you. You are likely right, and I don't know what this even means on the Royal Arch medal.

Q. What's in the centre of the Star of David, if you look carefully – another small symbol? I will put it to you so you don't have to guess – the square and compass. Right?

A. No, sir.

Q. No?

A. No, sir.

Q. The square and compass is not in the centre of the Star of David in that medal?

A. It looks like a triangle to me with – I don't know what it will be.

Q. Your eyesight – you are having difficulty? It is a small thing to see, I suppose. Right?

A. No. I can see very clearly. It is a triangle in the centre. It is not a square and compass.

Q. What does the square and compass represent?

A. To who, sir?

Q. To you.

A. They are part of the working tools of a Freemason.

Q. Aren't they the symbols usually associated with Freemasonry?

A. Yes. {528|529}

MR. CHRISTIE: Could I file that as an exhibit, please, the article identified by the witness as a Royal Arch Mason medal?

THE COURT: It's been referred to. Exhibit "C" for further identification.

MR. CHRISTIE: Thank you.

— EXHIBIT "C" (For Identification): Arch Royal Mason medal.

Q. MR. CHRISTIE: I now produce to you a piece of paper on the front of a book. What is the piece of paper?

A. I presume you are referring to what appears to be a one-dollar bill – United States of America.

Q. That is what it is, isn't it?

A. Well, it certainly looks like that yes.

Q. Whose face is on one side and whose face – it is George Washington on one side. Correct?

A. Yes.

Q. And he was a Freemason. Correct?

A. I don't know, sir.

Q. You don't know anything about that?

A. Well, I am told that he was, but don't have personal knowledge.

Q. Are you purporting to have some knowledge of Masonry generally such as you expressed to my friend just so you could assure my friend that Masonry were a group of people to help others and do charitable works? You must have told him you had some special knowledge of {529|530} Masonry, didn't you – a man of long experience.

A. Yes, I have special knowledge of Masonry.

Q. You answered my friend that it was stupid to say that – it was ridiculous to say that Masonry was an international secret society.

A. Yes, it is.

Q. Well, do you have any knowledge of the international workings of Masonry?

A. Masonry is not a secret society.

Q. Is that right? What's on the top of the pyramid in the American one-dollar bill in the middle of the triangle?

A. An eye.

Q. What kind of eye? Just an eye? It's the Mason's all-seeing eye, isn't it?

A. It's an eye, sir.

Q. You don't know what it means?

A. No, sir.

Q. You've got no idea?

A. No. Not on an American dollar bill.

Q. No, you don't know. The Master Mason's symbol in America – I am going to ask you if you know of the "Symbols of Masonry", which is the title of this book.

A. Some of them, yes.

Q. All right. I am going to turn to page 47 of this book. What's indicated at the top of the page as the glossary of symbols? What's that, at the top of the page?

A. What is which, sir?

Q. What is that, right at the top of {530|531} the page, the symbol?

A. It is an eye.

Q. An eye. What's it called? It's called the Masonic all-seeing eye, a symbol of watchfulness and the Supreme Being, whom the Sun, Moon and Stars obey and under whose watchful eye even Comets perform and even invades the inmost reaches of the human heart. Isn't that right?

A. I don't know, sir. That's an American version of that.

Q. Do you have any knowledge of a symbol in Masonry called the all-seeing eye?

A. Yes, we do.

Q. You do.

A. Yes.

Q. Do you know of any other organisation that uses that symbol besides Masonry?

A. No, I don't, sir.

Q. So strangely enough, we have a unique symbol to Masonry situated in a very interesting position – on top of a pyramid situated on the American one-dollar bill. Don't we?

A. We certainly do.

Q. We do. And underneath it we have some Latin words, don't we?

A. Yes.

Q. And it says, "Novus Ordo Seclorum". Doesn't it say that?

A. It does, sir, yes.

Q. What does that mean but "new world order", sir? {531|532}

A. I don't know what it means, sir.

Q. You don't know. That is a Masonic secret you don't know, right?

A. Yes, there could be.

Q. Well, for a lot of people less than thirty-three degrees or thirty-two degrees, there's a lot of secrets they don't know, too, isn't there, that you do know?

A. Yes.

Q. So you can claim ignorance of the words "Novus Ordo Seclorum". Right?

A. I have no idea what it means.

Q. Have you ever heard that term in common conversation – new world order?

A. Not that I can recall, sir.

Q. Mm-hmmm. You have the knowledge of no Masonic history? Is that your position?

A. I'm sorry, sir?

Q. You don't know your Masonic history?

A. I have read Masonic history, but I don't think I could be considered an authority on it.

Q. I see. Well, I put it to you that George Washington was a Mason, so was Thomas Benjamin Franklin a Mason. Do you deny that?

A. I can't deny it, sir. I don't know.

Q. You didn't study anything about it; is that right?

A. I have been told that they were Masons. Yes, sir.

Q. You also have knowledge, do you not, that Benjamin Franklin was a member of something called the Hellfire Club in London? {532|533}

A. I don't think I know anything about that, sir.

Q. A group known to practise Satanism. You don't know that either.

A. No, sir.

Q. Do you know that there have been many examples of Masonry involved in revolution throughout the world, especially in the nineteenth

century? Do you deny that?

A. I know of none, sir.

Q. Are you interested in the matter of police responsibilities?

A. Yes.

Q. Are you aware that in the United Kingdom there have been instances of Masonic involvement in crime involved with the police department, and investigations of those subjects received much great publicity?

A. When was that, sir?

Q. In 1981, I believe. Are you familiar with this?

A. No, I'm not, sir.

Q. You are not? Have you ever read this book, "The Brotherhood"?

A. No, I haven't.

Q. By Stephen Knight?

A. No, sir. I haven't.

Q. Are you aware that at the lower level of Masonry God is referred to as The Great Architect of the Universe?

A. Yes, he is.

Q. I recall in answer to my learned {533|534} friend's original questions as to something you said, "I couldn't answer that". Do you remember saying that?

A. Yes, I do.

Q. It's not that you didn't know, is it? My friend asked you, could you tell us what the words to the obligations are? And you answered, "I couldn't tell you what the words to the obligations are". Right?

A. Yes, sir.

Q. You know the words to the obligations, don't you?

A. I do, yes.

Q. But you refused to answer his question because you don't want to tell. Right?

A. No. Because I swore not to tell.

Q. Now, you have sworn an oath to the Masonic brotherhood, and you are on the stand under oath to Her Majesty The Queen, and you swore you won't tell, and you won't tell.

MR. GRIFFITHS: He swore he couldn't tell, and the question was, "Could you tell us", Your Honour. Let's not twist it.

THE COURT: I agree.

Q. MR. CHRISTIE: You are under oath to tell the truth, the whole truth and nothing but the truth.

A. I am, sir.

Q. And you declined to answer the question because you didn't want to give the words of the obligations.

A. The actual words, yes.

Q. Because you swore an oath to keep it {534|535} secret.

A. Yes.

Q. And you wish to respect that oath.

A. Yes.

Q. And if I ask you to answer questions about that, what will you do – answer me truthfully, or refuse?

A. I would suggest you asking the question, sir.

Q. What are the words to the obligation?

A. Which obligation, sir?

Q. Your last degree.

A. I have no idea. I couldn't tell you right now. The 32nd degree?

Q. Yes.

A. I have no idea, sir.

Q. What are the words to any obligation?

A. I can tell you what they were, which I said the meaning of the whole thing, but I wouldn't tell you the words of the obligation, no.

Q. You wouldn't tell us the words of the obligation. You would give me a description of them in your words, but you wouldn't tell me the words of the obligation. Right?

A. Yes.

Q. You would refuse.

A. Yes.

Q. So if I ask you to tell me the words so I can judge for myself what they mean, you won't answer me. Is that right?

A. That's correct, sir. {535|536}

Q. So now I know whose oath takes precedence with you – your Masonic oath. Right?

A. The one that I took on the same Bible that I swore to.

Q. But the one you took in the Lodge, not the one you took here.

A. It is identical to this one.

Q. Same Bible; but when I ask you questions that you don't want to answer, you'll refuse because you have taken the Masonic oath to keep it secret. Correct?

A. That's correct, sir.

Q. So if there was a conspiracy of Masons, would you tell me the truth about it?

A. I would, sir, yes.

Q. I see. Even though you have told me now that you will not tell me those things you swore to keep secret in the Lodge. Right?

A. That's right, sir, yes.

Q. That Lodge oath takes precedence over the oath to tell the truth, the whole truth and nothing but the truth, to that extent, doesn't it?

A. No, sir. I have told the truth, and I have told the whole truth.

Q. Well, you haven't told me the words to the obligation because you swore not to.

A. That's right, sir.

Q. So it's not the whole truth, is it? You won't tell me those words, will you?

A. I've actually seen them written in books that are available to the public, and if you had {536|537} a book that had them in there, I would tell you if that was the oath I swore.

Q. Okay. How about any other question? If you knew of a Masonic conspiracy, would you tell me?

A. Conspiracy to do what, sir?

Q. To promote Masons to positions of power. Would you tell me about that, sir?

A. I sure would, sir, yes.

Q. Would you?

A. Yes.

Q. What do you know about the case of the P2 scandals in Italy? Nothing, I suppose.

A. They are not recognized by our Lodge, so —

Q. That's right. There are many lodges throughout the world that are not recognized by you lodge, aren't there?

A. There are, yes.

Q. And they are Masonic Lodges, aren't they?

A. They purport to be Masonic Lodges, yes.

Q. Yours is the only true Masonic Lodge, I guess, eh?

A. It is what we consider the true Masonic Lodge.

Q. Right. But there are many other Masonic Lodges whom you don't recognize, and they practise Masonry and secret rituals and all sorts of things you wouldn't know anything about. Right?

A. That's right, sir. {537|538}

Q. You do know a certain amount about what was on that dollar bill, though, don't you?

A. Such as what, sir?

Q. That all-seeing eye – you knew what that was, didn't you?

A. I didn't know it referred to the all-seeing eye that I consider the all-seeing eye, which is God.

Q. Mm-hmmm.

A. That is no secret, sir.

Q. Why is it no secret – that that eye represents God?

A. That's right.

Q. I thought you said it is a Masonic symbol.

A. Yes.

Q. They are not secret?

A. No, sir.

Q. They aren't, eh? I suppose anybody understands what an eye means if it is on a piece of paper. Is that your position?

A. Any person wished to research it would know what it means in Masonry, yes.

Q. If you looked in the Masonic publications, and if you looked in the library, you would find this is a Masonic symbol. Is that right?

A. That's right. Yes.

Q. So you don't know anything about the Masonic Lodge called Propaganda, do you?

A. No. I know nothing of it, sir.

Q. Masonry is not necessarily compatible {538|539} with Christianity, is it, sir?

A. I think – could you explain that a little bit wider, sir?

Q. Well, what is Jahbulon? Isn't that a Masonic Lodge? Isn't that a Masonic name for God?

A. Not one that I recognize, sir.

Q. Is there a degree of Masonry higher than you – 33rd degree?

A. Well, not really higher, sir. The highest degree is the third degree, and we are all equal as far as high. The other degrees go lateral in the Scottish Rite and the York Rite.

Q. They just go lateral; is that right?

A. Yes, sir.

Q. Well, is there a 33rd degree Mason?

A. There is, sir, yes.

Q. Was Gerald Ford a 33rd degree Mason?

A. I don't know, sir.

Q. Is he referred to as the Sovereign Grand Inspector General?

A. I don't know, sir.

Q. You don't know?

A. No.

Q. That's a secret, is it?

A. No. I just don't know. I only knew Gerald Ford as a past president of the United States. I don't know anything about him.

Q. Well, is a 32nd degree Mason referred to as a Sublime Prince of the Royal Secret?

A. Yes.

Q. And that is you. And a Grand {539|540} Inspector Inquisitor Commander is a 31st degree Mason. Is that right?

A. That's right, sir.

Q. Have a look at this diagram which purports to set out the Masonic categories of the Scottish Rite.

A. Yes.

Q. Is that correct.

A. What are you talking about?

Q. The categories, the thirty-three degrees of the Scottish Rite of Masons. Is it accurate? Is it accurate?

A. It looks to be accurate, sir, but I would have to compare that to my own list at home.

Q. They appear to go vertically, don't they, up to thirty-three degrees?

A. Well, it's just the way it is set out on the paper, yes.

Q. Mm-hmmm. So getting back to what I asked you about before, you don't know what Jahbulon means, eh?

A. No, sir, I don't.

Q. You are familiar with a lot of other secret passwords, though, aren't you?

A. Yes, sir, I am.

Q. And you are obliged not to tell any of those passwords, aren't you?

A. That's right, sir.

Q. And so you refuse to tell me those passwords, wouldn't you?

A. Most likely I would, yes. {540|541}

Q. And you have refused to tell me what Jahbulon means.

A. No. I don't know what it means. I would tell you if I knew, sir.

Q. So that might be something in the nature of a secret that you don't know.

A. It would be a word for one of many of the degrees, either in the Scottish Rite or the York Rite.

Q. So you wouldn't be able to dispute the fact that it is a Masonic word for God that replaces the words, "The Great Architect of the Universe", which is used at lower levels, would you? You wouldn't dispute that?

A. I don't believe that's true, sir.

Q. You don't?

A. No, sir.

Q. And part of the word in that word has reference to Baal. Do you deny that?

A. Never heard of that word, sir.

Q. Do you know anything about Scottish – York Rite Masons?

A. None at all, sir.

Q. So their secrets are kept by them, and yours by yours. Right?

A. I don't know anything about the York Rites, sir. I don't know if they are secret.

Q. That's the interesting thing about secrets, isn't it? You don't know what secret somebody is keeping.

A. That's right, sir. {541|542}

Q. Do you know anything about the Kabbala?

A. I don't know.

Q. The mystic use of numbers? Do you know anything about that?

A. I don't know.

Q. Do you know anything about the origin of the Masonic degrees?

A. I know some of the origins, yes.

Q. You deny it has anything to do with the Kabbala?

A. Well, how can I deny it, sir? I don't know what the Kabbala is. I haven't read anything about the Kabbala.

Q. So again you claim that you just don't understand what that means. Right?

A. I don't know, sir. That's true.

Q. Mm-hmmm. Do you have any idea why, if I am right, that the Catholic Church has forbidden Catholics to join Masonry? Have you any idea why they might not support it?

MR. GRIFFITHS: Objection, Your Honour.

THE COURT: Where is all this leading us, Mr. Christie?

MR. CHRISTIE: Well, it seems to me it is somewhat relevant if a large Christian Church takes such a severe view of the matter.

MR. GRIFFITHS: If it does.

MR. CHRISTIE: Well, I am prepared to prove that, if I have to, but I can't at this point. That is why I am asking the witness. {542|543}

THE COURT: Hasn't he already indicated that he doesn't know anything about the Roman Catholic Church?

MR. CHRISTIE: Fair enough. Thank you.

Q. Now, witness, are you aware of the fact that in the United Kingdom and other countries, too, judges are Masons? Correct?

A. How can I possibly answer that?

Q. All right. How about here in Ontario, then, where you do live – judges are Masons, aren't they?

A. Correct, sir.

THE COURT: Not this one.

MR. CHRISTIE: Thank you.

Q. And many lawyers are Masons. Right?

A. Yes, sir.

Q. All part of something that is regarded as a brotherhood. Right?

A. Yes, sir.

Q. They all meet in the Lodge from time to time. Right?

A. Yes, sir.

Q. You mean to tell me they never discuss what they are doing in their daily lives?

A. Yes. There would be discussion on what happens in their daily lives, among all members.

Q. Do you know of Masonry in South America and Mexico?

A. I don't know, sir, no.

Q. Do you know that Benita Juarez and certain Mexican revolutionists were Masons? Well, you said {543|544} you don't know. You don't know about America. You don't know about Italy. You don't know about Germany.

A. I have met a person who was in Germany, but I don't know about the —

Q. Was he in the Scottish Rite in Germany?

A. No. In the regular lodge.

Q. What lodge?

A. The Blue Lodge.

- Q. So he is part of your lodge.  
A. Yes. He is in the same type of lodge I was in, yes.  
Q. Do you know about what Masonry involves in those countries?  
A. I don't know, sir.  
Q. So far as it being conspiratorial or political you couldn't deny that, could you?  
A. I have no idea what they do. I can only tell you what happens here in Ontario.  
Q. And in the United States, perhaps?  
A. No, primarily Ontario. This is what I would be concerned with, sir.  
Q. Do you know that Robert Jackson the prosecutor for the Nuremberg Trial in the United States, was a Mason?  
A. I don't know, sir.  
Q. Do you know that a judge by the name of Simpson, who investigated allegations of impropriety during the Nuremberg trial, was also a Mason?  
A. I didn't know that, sir, no.  
Q. Do you know that many, many Presidents {544|545} of the United States have been Masons?  
A. So I have been told, yes.  
Q. Do you know which ones?  
A. I don't know, sir.  
Q. Do you think they favour the Masonic brothers in terms of advantages and benefits of office?  
A. I would sincerely hope not.  
THE COURT: How can he say that if he doesn't know? Didn't he just say he didn't know, Mr. Christie?  
MR. CHRISTIE: The previous question he said he didn't know, yes. I didn't think that meant he didn't know for the question I just asked.  
THE COURT: What was the one you just asked?  
MR. CHRISTIE: Whether he thought it likely that those who were the officers in Masons would offer benefits of office to other Masons.  
THE COURT: You can answer that.  
THE WITNESS: I would say I would hope not, sir, because that is contrary to our belief.  
Q. MR. CHRISTIE: Oh, it's contrary to your belief to help other Masons?  
A. In the manner that you mentioned. Yes, sir.  
Q. Oh. Now, do you deny that you have any knowledge of the scandal involving fifty-two police forces in England in 1981 and Masonry? Do you deny that?  
A. I would have to, sir. I have no knowledge of that. {545|546}  
Q. No knowledge of it, eh?  
A. No, sir.  
Q. You sound as if you, perhaps, come from England at one time.  
A. Yes, I did.  
Q. Were you involved in Masonry there?  
A. I was not. I was a police officer in England, but not a Mason.  
Q. Not a Mason.  
A. No, sir.  
Q. Most police officers, we should say lots and lots of them, are, aren't they, in England?  
A. I'm sorry. I don't know.  
Q. Are your lodge meetings open to the public?  
A. No, they are not.  
Q. So people who aren't members of the lodge can't come to the meeting.  
A. That's right.  
Q. That is what the man at the door is for, to keep out strangers?  
A. That would be his duty, yes.  
Q. Do you read the newspapers?  
A. I do, sir, yes.  
Q. Did you ever see any accusations in the papers that connected the KGB and the Masons in the United Kingdom [Kingdom] in regard to spying?  
A. No, sir. I have never read anything about that. I must have missed that. What newspaper is that?  
Q. The Toronto Star, Friday, January {546|547} 27th. The year is missing, but I think it's '83 or in '82. It says, "KGB used Masons to spy. U.K. Book", and it is the book I had in my hand, "The Brotherhood". Did you ever see that article?  
A. I haven't, sir, no.  
Q. Have you ever heard of Sir Roger Hollis?  
A. No, I have never heard of him.  
Q. Hollis – you don't know anything about that case.  
A. No, sir. I have lived in Canada for twenty-eight years. I have no idea what —  
Q. Wouldn't it interest you if Masons are accused of espionage? Doesn't that interest you at all?  
A. Well, if I had seen it, I would have read it, yes. I certainly would have read it.  
Q. The Globe and Mail, Thursday, September 22, 1984, L2, "Masons within the U.K. ... controversy over the influence of law and order is widening. Scotland Yard earlier —"  
THE COURT: All right. Just show it to him.  
Q. MR. CHRISTIE: Have you read that?  
A. I have not, sir.  
Q. Is that a surprise that it is attached to such an organization as Masonry?  
A. Well, it's not too much of a surprise that some people can do things that they shouldn't be doing; and of course, if that happened here in Toronto they would be charged, and they wouldn't be Masons very long, if it was an offence [offence] against the law. {547|548}  
Q. Mm-hmmm.  
A. Whatever they are doing.  
Q. But doesn't it happen, too, sir, that the loyalty of the lodge is sometimes greater than, shall we say, the loyalty to the law?  
A. No. It can't be, sir.  
Q. It can't be?  
A. Absolutely not.  
Q. Well, I just ran into a situation a short while ago when a Mason was asked to tell us the truth, the whole truth and nothing but the truth, he couldn't tell us certain things. Do you think that could happen?  
A. I have told the truth, the whole truth and nothing but the truth.  
Q. Except for the obligations, the words.  
A. Certain words, yes.  
Q. We are not allowed to hear that to decide for ourselves so that we could all ascertain they were innocent words and have no evil intent. Is that correct?  
A. That's correct, sir.  
Q. Because your oath to keep that secret is greater than your oath to tell the whole truth; isn't that right?  
A. I have told the whole truth. I have told you that the obligation has nothing contrary to any unlawful act.  
Q. That is your opinion; but we won't hear the words to decide for ourselves. Right?  
A. That's right, sir.  
Q. Okay. So we have to take your word {548|549} for it that it is all innocent in terms of meaning. Right?  
A. That's right, sir.  
Q. Were you aware that Sir Roger Hollis was the director general of MI5 in 1956 to '65, and that he was a Mason?  
THE COURT: Mr. Christie, he has already said that he doesn't know anything historical. Now stop reading from it.  
MR. CHRISTIE: It is a different article, Your Honour.  
THE COURT: Then file it. You know the rules.  
MR. CHRISTIE: I do, Your Honour.  
THE COURT: Then please show the witness the article.  
MR. CHRISTIE: I wasn't using it as evidence.  
THE COURT: You are doing it indirectly. You were reading it without showing it. Now, please show it and continue your cross-examination. And stop groaning or I will excuse the jury and have a word with you.  
Q. MR. CHRISTIE: Well, I will refer to an article, the Chicago Tribune, 1984. I suppose you are unaware of that, too, sir. Will you have a look

at it?

A. It's the first time I have ever seen that article, sir.

Q. Thanks very much. Again, totally oblivious to anything involving Masonry and the fact that the KGB might use Masonry. Right?

A. Not in Canada. They wouldn't do it in Ontario, no. {549|550}

Q. No. But if it's a secret, as you maintain, how do you know what goes on in other lodges?

A. Well, it isn't a secret – I haven't maintained that it's that secret, sir. All I have said is that there are certain things that identifies one Mason to another, and primarily that is to gain entrance to the Lodge.

Q. And in daily life isn't it true that you identify a Mason by certain grips and handshakes and signals?

A. Not necessarily, sir.

Q. Not necessarily, but isn't that done?

A. It is a form of recognition, yes.

Q. Like for example, if you wanted to make a signal to somebody in this courtroom, you could do so. If they were a Mason, they would know the signal and they would know and nobody else would. Is that right?

A. It's likely, but it would never be necessary, sir, because I would never tell anybody that I am a Mason. I wouldn't need to have any secret signal. But the secrets are to gain admission to our lodge room.

Q. Are there secret signals?

A. There are signals, yes.

Q. Are they used in daily life outside the lodge, ever?

A. You are asking for me, myself, sir? No, I don't use them at all.

Q. Are you familiar with the form of Masonry known as Grand Orient Masonry?

A. No, sir. I am not.

Q. You don't know about that. {550|551}

A. No.

Q. And I suggest to you that on the Continent it is more common on the Continent of Europe. Do you deny that?

A. I can't affirm or deny it, sir. I don't know anything of it.

Q. You don't know. Have you studied anything about the relationship between Napoleon and Freemasonry?

A. I have not.

Q. French Revolution and Freemasonry?

A. No, sir.

Q. The theology of Masonry – have you ever studied anything about?

A. I haven't, no.

Q. Have you ever read other books to study Masonry? What have you read?

A. The books about Freemasonry in Ontario.

Q. Produced by whom?

A. By the Grand Lodge.

Q. So you rely on all your information from what comes within the Grand Lodge?

A. I do, yes.

Q. You don't read books outside the Grand Lodge about Masonry.

A. None that I can recall, sir. No.

Q. Have you ever heard of illuminism?

A. I have not, sir. No.

Q. The article doesn't seem to reflect any reference whatsoever to Ontario, does it, that my friend {551|552} read to you?

A. Which article, sir?

Q. Well, you read the article called, "The West, War and Islam" which was a message to the Islamic world. It says on the top, "A Message to the Islamic World". Now, you don't consider Ontario the Islamic world, do you?

A. I wouldn't think so. No, sir.

Q. No. And everything that was read in it by you, after the word, "International Secret Societies", does that refer to Ontario anywhere?

A. I don't think it specifically refers anywhere. May I have a look at that? No, there's no mention other than The Western World.

Q. Well, the Western world, that includes Europe, does it, and South America and the United States – areas of Masonry you know nothing about? Right?

A. That's right.

Q. So then you can't say that article is ridiculous at all, can you?

A. I can as far as Ontario.

Q. Ontario, yes, but with your experience in Ontario, it doesn't seem consistent, but you have to admit that the knowledge of Masonry in the rest of the world is a little inadequate. Would you agree?

A. Inadequate in what? I have no knowledge of the types of Masonry.

Q. No. Do you know that they do exist, though? Have you ever heard of Grand Orient Masonry?

A. No, I haven't, sir. {552|553}

Q. No. You have heard of the York Rite, though.

A. Yes.

Q. That's another branch of your lodge, or is it not?

A. No. It's similar to the Scottish Rite, and any third degree Mason can join the York Rite, as they may join the Scottish Rite.

Q. Are you aware of any international meetings of the Masons?

A. I'm not, sir, no. I'm sorry, international meetings?

Q. Right.

A. We have American Lodges meetings here in Toronto the odd time, if that can be considered international.

Q. Are you aware of these words spoken on the 20th of September, 1876, by the then Prime Minister of England, Benjamin Disraeli?

If my friend is going to object, I will stop. I am going to use these words.

MR. GRIFFITHS: I'm sorry, 1876?

MR. CHRISTIE: 1876. I am going to read what he said.

MR. GRIFFITHS: What is the source of it?

MR. CHRISTIE: A speech he made in Aylesbury on September 20, 1876, and I am going to quote a paragraph.

THE COURT: Have you seen the quote?

MR. GRIFFITHS: No, Your Honour. I just don't know – perhaps the question now should be whether {553|554} the Officer is familiar with that speech.

THE COURT: I agree.

Q. MR. CHRISTIE: Well, you are obviously unaware of any speech of Benjamin Disraeli in 1876. Is that right?

A. Yes, sir.

Q. Would you agree that Masonry has been condemned throughout history on a number of occasions by very prominent people?

A. I wouldn't go so strong as to say "condemned", sir.

Q. Would you say there is a condemnation in "The Modern History of Europe" —

MR. GRIFFITHS: The same objection, Your Honour.

MR. CHRISTIE: Well, I am asking if he considers this a condemnation. I want to know if he approves ...

THE COURT: Go ahead.

Q. MR. CHRISTIE: The modern history of Europe can only be written by one who is initiated in the secrets of the secret societies. These societies can bring all political arrangements to nought. Their agents are everywhere, unscrupulous agents that incite murder.

Would you consider that a condemnation of secret societies?

A. Yes, sir.

Q. And isn't it true that many people throughout history have referred to Masonry as a secret society, whether you agree or not with that statement?

A. They may refer to them, sir, but they are not secret societies. Freemasonry is not a secret society. {554|555}

Q. Yes. You have said that over and over again.

A. Yes, sir.

Q. But would you agree that you are aware that throughout history, at least the Catholic Church – now, you don't know about that either. Many people, you will agree, have referred to Masonry as a secret society, haven't they?

A. Many uninformed people refer to it as a secret society, yes.

Q. You, as a Mason, you know better.

A. That's right, sir. I do.

Q. Sure. Although the meetings are not open to the public, and there are secret signs and passwords, you don't consider it secret.

- A. That's right, sir.
- Q. Mm-hmmm. Have you ever studied how the American Revolution was financed?
- A. I have not, sir.
- Q. Have you ever studied how the French Revolution was financed?
- A. I have not.
- Q. Are you familiar with General MacArthur?
- A. I only know him to be an American general. I don't know anything about him, no.
- Q. No. You don't know what his relationship, if any, was with Masonry.
- A. No, sir.
- Q. Does it surprise you that many of the prominent people of the world were Masons, or is that what you would expect? {555|556}
- A. It doesn't surprise me, sir. No.
- Q. Because the Brotherhood helps its own, don't they?
- A. In what way, sir, are you suggesting?
- Q. Well, do the words make plain, ordinary sense to you, like helps its own? Is that confusing to you?
- A. It is, yes.
- Q. Do you agree that Masonry has taken the view that all churches are equally right? In fact, all religions are equally right?
- A. We don't discuss religion at the meetings, and we don't have any view on other religions.
- Q. You wouldn't, therefore, deny that Christianity, as such, is never mentioned in the Lodge.
- A. Not as a discussion, sir, no.
- Q. This reference to the Bible, it exists in the Lodge and it is there for the purpose of oaths; is that right?
- A. In my Lodge. Yes, sir.
- Q. You don't know whether that is true of Grand Orient Masonry or other kinds of Masonry.
- A. I don't know anything about that at all, sir. I know there's other Holy Books in other Lodges other than the Bible itself.
- Q. Yes. What Holy Books?
- A. I think the Koran is one of them.
- Q. Mm-hmmm. Others, too, though, aren't there?
- A. Yes.
- Q. So it's sort of a universal brotherhood {556|557} that transcends religious groups. Would you agree?
- A. No, I don't agree with that, sir.
- Q. Why not? What's wrong with that statement? Is there an error in it?
- A. Well, because we are not a religious group.
- Q. I said it transcends religious groups. It goes above them and breaks through various religious groups. There's Islamic Masons; there's all different religious groups are in Masonry, aren't they?
- A. But as I said, we don't discuss religion, and I won't ask any other member of the Lodge what religion he was.
- Q. So do you know what it means by "transcends religion"? It crosses all religious lines, doesn't it?
- A. Yes, I would agree with that.
- Q. The Lodge might use a Bible one day and a Koran in another lodge somewhere. Right?
- A. That's right. Yes.
- Q. It might use a different book somewhere else.
- A. Yes, sir.
- Q. It is by no means true to say that it has any connections whatsoever with any church or religion.
- A. That's correct. Yes.
- Q. In fact, it is somewhat anti-religious, isn't it?
- A. It is not.
- Q. Would you agree that in the past it has sponsored attacks on certain churches? {557|558}
- A. To my knowledge it has never sponsored any attack on any religious establishment.
- Q. I'd like to show you the front cover of what I suggest is a popular magazine on the Continent of Europe and ask you whether that has any relationship to Masonry that you know of.
- A. Well, it has words on it such as Scottish Rite and York Rite, White Masonry, Rotary, Blue Lodge.
- Q. Masons without the apron, secular humanism.
- A. Yes, sir.
- Q. It's called "Diagnosam" and it is dated September 1984. Is that right?
- A. Yes, sir.
- Q. It seems to have on top of it that triangle with the all-seeing eye, doesn't it?
- A. Gee, I don't think I can agree with that one, sir. That looks like a blurb within the triangle. don't think that's an eye.
- Q. Mm-hmmm. Could I use that as an exhibit for identification?
- THE COURT: Where is the original? That appears to me to be a photostatic copy.
- MR. CHRISTIE: It is. I can't undertake to produce the original at the moment.
- THE COURT: Then when you can, we will decide the matter.
- MR. CHRISTIE: All right. It is identified by date publication.
- Q. Would you agree with me, sir, that {558|559} at least in popular literature, that it's often represented that there is a relationship between various Masonic orders outside the Scottish Rite?
- A. I'm sorry, you will have to repeat that. I didn't quite catch the question.
- Q. Did you ever read in popular literature about Masonry?
- A. No, I haven't. Could you name an article or a book?
- Q. All right. I did, but I will try again. The book that I suggest to you was reviewed in a lot of papers, "The Brotherhood" by Steven Knight, you have a picture on the front of two hands being clasped – obviously somebody's right hand and another person's right hand. Is that right?
- A. Yes.
- Q. You are oblivious to that book?
- A. I have never seen it before, sir.
- Q. Or the book, "Freemasonry Unmasked As The Secret Power Behind Communism" by Monsignor George F. Dillon, D.D.; you are oblivious of that?
- A. I'm sorry, I have never read that.
- Q. Never read that.
- A. No, sir.
- Q. Do you think people should be free to know what it's all about, your type of organization?
- A. Yes, sir.
- Q. They should be free to analyze it and discuss it.
- A. If they wished, yes, sir.
- Q. And even criticize it? {559|560}
- A. Providing they don't lie about it, yes.
- Q. Yeah. But none of the words in the article that you read, "The West, War and Islam", referred to Scottish Rite Masonry; right?
- A. Well, it referred to Freemasonry, not Scottish Rite Masons or Freemasons, so, yes, it did indirectly refer to them.
- Q. So your complaint is that it was not precise enough. It didn't specify which Masons it referred to; is that right?
- A. No, that is not my complaint, sir. My complaint is that I believe that to be lies, what's in there.
- Q. Well, if it is talking about Grand Orient Freemasonry, or even your lodge, you don't know anything about the actions of your lodge in the United Kingdom at all, do you?
- A. My Lodge is in Scarborough, Ontario, sir, not in the United Kingdom.
- Q. So there is no relationship to the Grand Lodge in England?
- A. Yes, there is a relationship.
- Q. What is that relationship?
- A. We originally got a Charter from the Grand Lodge of England.
- Q. Right.
- A. We have no communication with them now.
- Q. And that's why you have no knowledge of whether they were involved in corruption at all. Right? {560|561}
- A. I don't know if they were involved, sir. No.
- Q. Not being familiar with the situation there you cannot say that the

criticism in the article is false, can you?

A. I can when it is referring to Freemasons as referring to them here in Ontario, sir, yes.

Q. There appears to be a great deal about Freemasonry that you don't know. Would that be correct?

A. Oh, yes. That's correct, sir.

Q. Do you get the American publications on Freemasonry?

A. I do not, no.

Q. You don't subscribe to the Northern Light?

A. No, I do not.

Q. "A Window for Freemasons".

A. No, I do not, sir.

Q. And do you know what that publication is?

A. I do not, no.

Q. Would you agree that your position in Freemasonry appears to be that of a person who has faith in the organization, much of which is secret even to you?

A. No, that's not correct, sir. I do have faith in the organization that I belong to, mainly because I know so many people personally within it, and I know their beliefs and I know their actions.

Q. Yes. But there is an awful lot more that you don't know about Masonry generally, is there? {561|562}

A. I don't believe so, no. Could you expand on that a little bit?

Q. Well, I have tried to ask you about Masonry in Britain and you don't know, in the United States and you don't know.

A. No. I have told you from the beginning, I am a Mason in Ontario, and that's what I know.

Q. You have told us, too, that the Masons in the Lyons Club and the Rotary and whatnot, there is no direct connection, but there are lots of Masons in those organizations: right?

A. Oh, yes. I would imagine so.

Q. And would you agree that those organizations are often places which are, shall we say, good resource material for Masonry? Lots of people go there, and then they become. Masons?

A. No, I don't believe so, sir.

Q. You prohibit just atheists and females; is that right?

A. Yes, sir.

Q. Are there any bloody oaths in Masonry?

A. Do you mean by letting blood?

Q. No.

A. Could you describe or explain what you mean by that one, sir?

Q. Well, oaths that are rather terrifying oaths.

THE COURT: Involving blood?

MR. CHRISTIE: Yes. Mutilation [Mutilation].

THE WITNESS: No, sir. {562|563}

Q. MR. CHRISTIE: There aren't?

A. No. I have never seen blood shed —

Q. I didn't ask you that. Don't misunderstand my question. I said, are there any oaths involving mutilation?

A. I don't understand the question, sir.

Q. Why not? What about it don't you understand?

A. Well, I've answered that there is no mutilation [mutilation], there is no blood-letting in lodge rooms.

Q. I understand that. I think you understood my question when I asked you whether the oaths involve discussions of, "my tongue torn out by the roots, my body buried in the rough sands of the sea at low water-mark, or at cable's length from the shore where the tide ebbs and flows twice in twenty-four hours". Is that familiar to you?

A. It is, yes.

Q. Tongue torn out by the roots, eh? Why would someone want to swear that?

A. I have no idea, sir.

Q. But you did swear it.

A. I didn't, no.

Q. You didn't?

A. No, sir.

Q. You have never heard that initiation?

A. Who says it's an initiation, sir?

Q. Well, is that part of an oath in the Masonic Lodge?

A. Not that I know, sir. {563|564}

Q. You don't have any knowledge of that?

A. No, sir.

Q. You ever heard of an oath where someone would discuss their intestines being pulled out, or disembowelled?

A. No, sir.

Q. Never?

A. No.

Q. Is there the use of a dagger in the rituals of the lodge?

A. No, there's not.

Q. A knife, maybe?

A. No. If you are asking, there is a sword inside for the inner guard, but there is no dagger or knife.

Q. You maintain there are no oaths that involve candidates for membership in saying that they would suffer physical pain; is that it?

A. Not actual pain. No, sir. That's correct.

Q. Well, does it involve saying that they would receive physical pain, or the acceptance of that?

A. No, because it wouldn't happen, sir.

Q. That's not the question, with the greatest respect.

A. Well, repeat the question, then, sir.

Q. Well, does your oath at any time involve the fact that if you did certain things you would accept physical pain?

A. No, sir. {564|565}

Q. And your vows are not reinforced by threat of physical harm; is that it?

A. That's right, sir.

Q. And you are under oath ...

A. Yes, sir.

Q. To tell the truth, the whole truth and nothing but the truth here today.

A. That's right, sir.

THE COURT: You don't have to remind the witness of his oath.

Q. MR. CHRISTIE: What about this having the tongue torn out by the roots? Has it ever come up?

A. I have heard it, yes, sir.

Q. Where did you hear it?

A. I am not free to tell you, sir.

Q. Why not?

A. Because I don't wish to.

MR. CHRISTIE: He should, Your Honour.

THE COURT: No

MR. CHRISTIE: I ask that the witness answer the question.

THE COURT: Why is it relevant?

MR. CHRISTIE: Because it involves the very question of whether a person would suffer physical pain. It's part of the ritual, and if he is under oath to tell the truth, and I am here to say that Masons keep secrets, then I can demonstrate it by the fact he refused to answer the question.

THE COURT: He already said secrets are kept. {565|566}

MR. CHRISTIE: I want to demonstrate what the secrets are.

THE COURT: I will not let you ask the question. It is irrelevant to the issue to be tried.

MR. CHRISTIE: May I say that the issue to be tried is whether Masonry is involved in the use of force and the use of secrecy to conceal threats, and I suggest that's exactly what is involved in the oath.

THE COURT: I made the ruling. What's the next question?

MR. CHRISTIE: May I have the noon recess?

THE COURT: No

MR. CHRISTIE: Thank you.

Q. You maintain, in Masonry, that there is no such threats of violence to the person if they break the oath; is that right?

A. That's correct, yes.

Q. And are you familiar with the case of Captain Morgan from New York in the nineteenth century and the suggestion that he was murdered for daring to reveal Masonic oaths?

A. I am not aware of that case at all, sir, no.  
 Q. Are you aware of a man called Colby (ph) found hanged on a bridge in London?  
 A. I read that in the newspaper, yes.  
 Q. Yes. A member of the P2 Lodge in Italy.  
 A. That I don't know, sir.  
 Q. Involving millions and millions of {566|567} dollars? Are you aware of that?  
 A. Only what I read in the newspaper, sir.  
 Q. So that involves Masonry that's in Italy; that is not part of the Scottish Rite, and you don't know about that. Right? Or is it that you don't know anything about —  
 A. Well, from what I understand, that is a lodge that is not recognized by our lodge here in Ontario.  
 Q. Mm-hmmm. It is certainly public knowledge, and you know that there was an accusation of the extortion of millions and millions of dollars and the Banco Ambrosiano was a part of that conspiracy, wasn't it?  
 A. I have no idea, sir.  
 Q. You didn't read that in the paper?  
 A. I did read it in the paper, but I don't know whether that is true or not.  
 Q. But that accusation is widely made, is it not?  
 A. I read one article in the paper about it, sir.  
 Q. Isn't it true that initiates to the Brotherhood, if we can call the Masons that — do you call them the Brotherhood?  
 A. We call it the Masonic Order.  
 Q. Do you ever refer to it as the Brotherhood?  
 A. No, sir.  
 Q. Have you ever asked such questions as, "Are you on the square?", or, "Are you on the level", {567|568} to people?  
 A. Yes, this is a question.  
 Q. Do you do that in general, public discussions with people sometimes?  
 A. No, I don't, sir.  
 Q. Isn't that a way of finding out whether a person is a Mason or not?  
 A. Could be used, but it's a common word. I don't know that I would ever use it, sir.  
 Q. Well, when a person finds out that another person is a Mason, you talk to them with more candor than you do with strangers; right?  
 A. Not necessarily. I wouldn't waste time asking questions of another person other than I might ask him, "Are you a Mason?" I wouldn't need to ask him about on the square or on the level.  
 Q. Where is that phrase ever used, then?  
 A. Which one, sir? On the level? It means to speak to somebody on the level of the floor, of the lodge room.  
 Q. Is it true that the candidate for initiation then has to repeat — this is when a candidate is initiated, "I, John Smith, in the presence of the Great Architect of the Universe" — is that the first line of the pledge?  
 A. That is part of my obligation that I can't mention.  
 Q. In that obligation I put to you that the person is under no less a penalty on the violation of any of them than that of "having my throat cut across, my tongue torn out by the roots". Isn't that true? {568|569}  
 A. No, sir.  
 Q. Pardon?  
 A. Not in Ontario, not at the present day; no, sir.  
 Q. Not at the present day.  
 A. No.  
 Q. Did you swear such an oath?  
 A. No, sir. Could I ask where that book is printed, sir?  
 Q. Sure. 1984 —  
 A. No. Where? Is it an American publication?  
 Q. It says, "British Library Cataloguing and Publication Data". It has a number — ISBN 24612164-5. So your evidence is that that's just not the oath.  
 A. That's correct, sir.  
 Q. I thought at one point you agreed you heard something about "my tongue torn out by the roots". Did you not say that?

A. I heard that, yes.  
 Q. Just somewhere out in conversation, not in the Lodge.  
 A. Well, I don't wish to discuss that part with you, sir.  
 Q. Thanks very much.  
 A. But it isn't exactly the way that you've read it.  
 Q. Then tell me exactly how it is.  
 A. I am not going to, sir. I told you I am not going to discuss that part. {569|570}  
 Q. You tell me it is not exactly as I say, but you won't tell me exactly how it is; is that correct?  
 A. Correct, sir. It is very easy to pick up a book and read anything out of it, or any person can write anything they wish.  
 Q. And it's very difficult to cross examine somebody who won't answer questions and can keep silent about it, isn't it?  
 A. I have told you the truth.  
 THE COURT: Just a moment. Do you have another question?  
 Q. MR. CHRISTIE: Would you say, sir, just as a general observation on the average, and your intelligence and mine, that if, just per se, if someone had to swear that these several points, "I solemnly swear to observe without equivocation or mental reservation of any kind, under no less penalty on the violation of any of them than that of having my throat cut across, my tongue torn out by the roots and my body buried in the rough sands of the sea at low water-mark", would you think that a pretty solemn oath?  
 A. If a person meant it, yes, I think it would be quite solemn, provided it was sworn properly, yes.  
 Q. And if I asked you whether that was an oath that you know existed in the Lodge, you will say what?  
 A. Right now? I will say no.  
 Q. No. Right now.  
 A. Yes, sir. {570|571}  
 Q. What, at the moment?  
 A. Are we playing with words, or —  
 Q. I don't know what we are playing with, because I don't think you answered my question. Was it ever?  
 A. I will say, 1984, 1985, no.  
 Q. If I suggest to you that that was the obligation of the first degree, would you agree?  
 A. I disagree, sir.  
 Q. Why? Is it inaccurate?  
 A. I just disagree with what you say, sir.  
 Q. Would you agree with me that secret societies, or shall we say those societies that administer oaths of secrecy, are open to infiltration?  
 A. Oh, yes, they are.  
 Q. And do you agree with me that Masonry has been regarded as a means of promoting oneself in society?  
 A. No. I would deny that, sir.  
 Q. Isn't one of the objectives of Freemasonry the reconstruction of King Solomon's Temple?  
 A. I have never heard of it.  
 Q. Have you ever heard reference to King Solomon's Temple?  
 A. Yes.  
 Q. In the Lodge?  
 A. Yes.  
 Q. What do they say about it?  
 A. Describe the Temple, the inner Temple, the pillars approaching the Temple, the area that {571|572} the priest walked on inside the temple — this is the symbolism of Masonry.  
 Q. That's right. It all revolves around King Solomon's Temple.  
 A. It doesn't revolve around it.  
 Q. Well, whose temple?  
 A. I don't know how they chose that as being the Temple, but it is the Temple that we do get our symbols from, yes.  
 Q. So we agree that you don't know why the symbols are there, or how they got the symbols, more correctly, but you agree that the symbols of the Masonic Temple or Lodge are those of King Solomon's Temple.



A. No, not of the Temple. They were taken from it.

Q. They were taken from it.

A. Yes.

Q. Now, King Solomon's Temple was built where?

A. In the area of Galilee, I believe.

Q. What about Jerusalem, does that ring a bell?

A. That is in the same area.

Q. Was he the King of a group of people, King Solomon?

A. Yes.

Q. Who was he the King of?

A. I believe the Jewish people at that time.

Q. I see. So we agree that the Lodge involves rituals that show us how King Solomon's Temple {572|573} functioned – no? Sorry. You tell me, then, what does the Lodge do with these symbols from King Solomon's Temple?

A. They are symbols that we use, such as the square and compass that you mentioned before, and the pillars to the entrance of the Lodge, the steps, the stairways into the Lodge, it just reminds us of things – the symbols remind us of things, that's all.

Q. If I was to ask you how many Masons there are in this room, could you answer me?

A. No idea, sir.

Q. None, eh? Well, King Solomon's Temple, then, has a relationship, a bit of a mysterious one to the Lodge.

A. Yes. It's used in our stories, our history, yes.

Q. What is the name of the fellow who – he is famous in your Lodge as being someone who founded it all.

A. The builder. Abit. High Roman Abit. The person who built the Lodge.

THE COURT: We will hear about it after lunch. We will adjourn to two-thirty.

— The jury retires. 1:00 p.m.

— The witness stands down.

— Luncheon adjournment.

— Upon resuming.

— Discussion regarding scheduling of witnesses, Mr. Fulop and Dr. Hilberg.

—— {573|574}

— The jury enters. 2:40 p.m.

— The witness returns to the stand.

THE COURT: Go ahead, Mr. Christie.

MR. CHRISTIE: Yes, Your Honour.

Q. Witness, earlier this morning you were asked to direct your mind to the pamphlet entitled, "The West, War and Islam". You were asked to read the portion referable [sic] to Freemasons, and in respect to the, "Their content is Jewish, their goals are Jewish, and their masters are Jewish" in respect to the orientation 1 and rituals of Masonry. Do you recall that?

A. Yes, sir.

Q. Now, in respect to the content of Freemasonry, I put it to you that in the passwords there are a number of Jewish words called, "Shibboleth". Do you deny that?

A. I can't discuss that, sir.

Q. Well, I put it to you that you can tell us that they are Shibboleths, because this is a common English word to describe passwords. Isn't that right? You can see it in the dictionary.

A. That is part of the obligation I don't wish to discuss.

Q. I understand. But if it is part of the obligation and it is also in the dictionary as a word, defined as "password", you can tell me that it does exist, can't you?

A. No, I can't, sir. All of the words are contained either in the dictionary or in the Bible.

Q. Right. The word "Succoth" is {574|575} also a password, isn't it? You don't have to tell me what it means or what it is.

A. No, that isn't a password that I know of.

Q. "Zaradatha", are you familiar with that?

A. I believe I am familiar with it. Is it the name of a town or city in Beth-

lehem, or that part of the world?

Q. Mm-hmmm. It is referred to as being between those two places that Solomon ordered all the holy vessels to be cast, and that is part of the ritual, isn't it?

A. No, it's not part of the ritual, but I have read that in part of our learnings, yes.

Q. Then we can discuss the learnings, because you can discuss those, can't you?

A. Well, I guess I'd have to wait and see what the question was.

Q. All right. It is my suggestion to you that certainly that content of your learning is Jewish, sir, in origin. Nothing wrong with it, but it is Jewish, isn't it?

A. Well, I think from the mere fact that that is a part of the country that we are talking about, yes, but it doesn't mean anything Jewish to me, though.

Q. Well, let's be frank about history here. Isn't it the case the King Solomon built his Temple in Jerusalem, and that is a part of Old Israel, and he was regarded as the King of Israel? {575|576}

A. Yes. That was in those days. I am talking about my last twenty-two years.

Q. Oh, I know you are, sir: and I am talking about the content of the Masonic ritual, and I put it to you that it is Jewish in origin. Do you agree or disagree?

A. I don't know that I can agree with you.

Q. Tell us about Hiram Abit, who he was.

A. Well, he was the builder of the Temple.

Q. What Temple? Solomon's Temple?

A. Solomon's Temple.

Q. And you talk about the people who murdered Hiram Abit in the third degree?

A. I'm sorry, I don't remember each one of the degrees that closely, sir.

Q. And isn't it discussed how that murder should be avenged? The ninth degree is the Master Elect of Nine, isn't it?

A. Yes.

Q. Isn't it discussed in that degree, the murder of Hiram Abit?

A. I can't confirm or deny it whether that's the portion.

Q. I suggest that throughout all of the Masonic ritual, there is constant reference to Solomon's Temple, to various and sundry Jewish traditions and words that, I agree, are in the Bible, but that's the substance of it: isn't it?

A. Well, I've got to a degree where {576|577} there are a lot of Jewish words. I'm not too sure about the traditions, though.

Q. Okay. You don't know anything about Jewish traditions, I suppose?

A. No, sir.

Q. You wouldn't even know if I was right or wrong if I told you that part of the Jewish hope is to re-establish the Temple of Solomon in Jerusalem? You wouldn't know that?

A. Well, if that's true, that has nothing to do with the hopes and thoughts of Freemasons.

Q. No. You don't talk about establishing the Temple of Solomon?

A. No, sir.

Q. Never?

A. No. We talk of the Temple, but not about resurrecting a temple or rebuilding a temple.

Q. Mm-hmmm. So whether the word "Shibboleth" is used in your ritual or not is one of the things you refuse to tell me, I suppose.

A. Yes, sir.

Q. If it wasn't in your ritual you would tell me, wouldn't you?

A. I would tell you what?

Q. You would tell me if it wasn't in your ritual, wouldn't you, because then you wouldn't have to keep it secret?

A. I told you it's in the ritual, but I don't want to discuss the word itself.

Q. Okay. Now, isn't it true that Masonry throughout the world has kept certain of its {577|578} secrets that you are aware of so that nobody who wasn't initiated would know about them? Right?

A. The only secrets, as I mentioned before, are so that we could recognize another Mason coming into the Lodge room.

Q. Yeah. I didn't ask you to explain why you keep them secret, but I asked you to confirm just from the point of starting another question that you do keep these secrets from uninitiated persons.

A. Yes, sir.

Q. Also true that the higher degrees of Masonry keep secrets that do not become known to the lower degrees of Masonry. True or false?

A. That's true, sir. Yes.

Q. And it's also true that it's difficult from anyone outside of your organization to determine how innocent it is, as you have assured us, because they don't know what goes on inside. Right?

A. That's true, sir, yes.

Q. You assured us that it is an innocent and totally lawful group of people; right?

A. Yes, sir.

Q. But you won't tell us exactly what goes on inside those rituals. Right?

A. That's right, sir. Yes.

Q. We just have to take your word for it that it's a nice bunch of guys getting together for a good time. Right?

A. No, not for a good time.

Q. To help society and generally do good works; is that right? {578|579}

A. Yes.

Q. And we agreed that we've seen already that when your Masonic oath is threatened, you simply maintain that oath of secrecy. Right?

A. That's right, sir. Yes.

Q. Now, you understand that Mr. Zundel, in this article, had a complaint about a particular advertisement in a newspaper in West Germany that attacked Arabs?

A. No, I am not aware of that, sir.

Q. You are not? Are you aware that in West Germany certain Masons put articles in newspapers that portrayed Arabs as being in the same category as Adolf Hitler? You are not aware of that?

A. No, I am not aware of that.

Q. So you don't know, really, why Mr. Zundel said what he did about Freemasons at all; right?

A. I don't, sir.

Q. And he doesn't know you and you don't know him. Right?

A. That's right.

Q. So as far as whether he was talking about your group of Masons is concerned, you really don't know; true?

A. Well, I can read the words there, and it doesn't imply that he knows Freemasons.

Q. Well, does he say all Freemasons, or Freemasonry generally?

A. It is the same thing to me, sir.

Q. But you agree that Freemasonry is not homogenous. It is not all one body.

A. That is correct, yes. {579|580}

Q. So it doesn't necessarily refer to Ontario Freemasons; right?

A. Well, I would say it does, sir.

Q. Mm-hmmm. Because that is what you are familiar with. Right?

A. Yes.

Q. But you acknowledge that it is a whole bunch of Freemasonry around the world that you are not familiar with?

A. That's correct, sir, and a lot of them who allege to be Freemasons who aren't.

Q. Well, let's put it this way. They might call themselves Freemasons, but you would disagree?

A. Yes.

Q. Because you belong to a Charter from the Grand Lodge of England through a Charter to the Grand Lodge of Ontario and, in your words, they are innocent. Is that right?

A. Yes.

Q. And they criticize the United States, and you can't give us an opinion on that, can you?

A. No, I can't, sir.

Q. Can you tell me any good reason why good works need to be per-

formed in any kind of secrecy at all?

A. The works aren't done in secrecy, sir.

Q. Well, I understand the term "Masonic works" to mean the obligations and rituals and the discussions therein. Am —

A. The only secrets, as I mentioned {580|581} before, are recognition, so that only Masons attend the meetings.

Q. Mm-hmm. And lower Masons don't know what the higher Masons know; right? We've discussed that about degrees — the higher degrees have secrets that the lower degrees don't know. Right?

A. That's right. Yes.

Q. So not all Masons at every level know all there is to know. Right?

A. But only recognition signals, not any other Masonic work that we are doing such as our charity work.

Q. I see the difference, yes, but in this Masonic work that you do, there are things discussed and communicated, aren't there?

A. Yes.

Q. But we won't ask you what that is, because we don't want you to be put in a position of having to answer that. Can you understand why a person looking at the outside of this organization might think that it was Satanic? Did you think that there might be that reasonable interpretation because they don't know everything you know?

A. Well, I certainly never thought that before I became a Mason. I can't think of any reason why they should.

Q. But you didn't know anything about Masonry before you became a Mason as to how it ritualized, did you?

A. No.

Q. So how could you know what Masonry was when you weren't a Mason? {581|582}

A. That's right.

Q. So from the outside it looks very suspicious, doesn't it?

A. No, it doesn't look suspicious. There are many clubs that I might wish or not wish to join, and from the outside I wouldn't know what they were until I made enquiries.

Q. Right. How many of them hold meetings that only members can attend and have secret signals that only the higher members of the group understand? Tell me what other groups are like that.

A. I don't belong to any other groups, I don't believe, sir. I would suspect there would be others.

Q. Do you know who the Assassins were?

A. Which assassins, sir?

Q. How many do you know of?

A. It is a question I don't understand. You said —

Q. All right. Assassins as an ancient term to define a secret society that killed people for money. Do you know anything about them?

A. I don't, sir.

Q. No. Well, did their rituals have similarities? You don't know therefore you cannot say.

A. Correct.

Q. I suggest to you that the Assassins used blood-curdling oaths that involved that if any Assassin ever revealed the identity of any other Assassin, he would have his throat slit and his tongue ripped out and he would understand that by that oath.

THE COURT: I thought that he didn't {582|583} know anything about Assassins.

MR. CHRISTIE: I am putting it to him.

THE COURT: All right. Put it to him.

Q. MR. CHRISTIE: I just wish to put to you that that is the type of oath that was characteristic of the group known as Assassins. If that is my understanding and you agree with that, do you see any similarity to that in Masonry?

THE COURT: Now, wait a minute. Just because it is your understanding — unless you want to take the gown off and give evidence ...

MR. CHRISTIE: Well, surely, when put a question to a witness I can put to him things that I can later introduce evidence of.

THE COURT: I don't know that you can, but go ahead. Do you want the question read back?

MR. CHRISTIE: No. I think I can rephrase it.

Q. I put it to you, witness, that in history there has been a group known as Assassins; they originated in India, in the Far East; they had secret rituals and identification methods; they kept those secrets to themselves; they kept them so their identity would not be known to outsiders; they had passwords and they had oaths that if ever a password of the identity of another Assassin was revealed, they would suffer severe, vicious punishment.

Now, if that was a group known as Assassins, do you see any similarity to the oaths administered in Masonry? {583|584}

A. In the way you described it, yes, sir, I do.

Q. Such as an oath to have the throat cut or the tongue torn out? That doesn't exist as an oath in Masonry?

A. No. I mentioned before, that may be part of it that I can't discuss with you, but I have answered the question honestly before.

Q. Yeah. Now, just to clarify, that's a part that you can't discuss with me, but if it wasn't part of the Masonic ritual, you could tell me. Right?

A. Well, I am not saying that is part of the Masonic ritual, though.

Q. No. I didn't ask you to say that is part of the Masonic ritual, but if it wasn't, you could tell me; isn't that true?

A. Then I am just contradicting myself. I can't answer that at all, sir. I can't answer the question.

Q. Not because you don't know, but because you won't say.

A. I am just going to refuse to answer any of that question, sir.

Q. That's right.

MR. CHRISTIE: Thank you.

THE COURT: Yes, Mr. Griffiths.

MR. GRIFFITHS: Thank you.

——— {584|585}

#### RE-EXAMINATION BY MR. GRIFFITHS:

Q. A couple of things, Staff Sergeant Bassett. First of all, has it ever – you mentioned one Catholic in your lodge. Has there ever been a Master in your Lodge who was Catholic?

A. Yes, there has been.

Q. And recently, or —

A. Two years ago.

MR. GRIFFITHS: That's all. Thank you.

THE COURT: Thank you.

— The witness retires.

THE COURT: Now, Mr. Griffiths, in the absence of the jury you indicated you had scheduling problems insofar as one witness is concerned who is coming to testify tomorrow.

MR. GRIFFITHS: That's correct, Your Honour.

THE COURT: You have a witness here now that you have indicated you are not too anxious to start if he does not finish, due to what you hope will occur tomorrow.

MR. GRIFFITHS: That's right, Your Honour.

THE COURT: How long do you think you will be with that witness?

MR. GRIFFITHS: Tomorrow? {585|586}

THE COURT: Today – if I indicate you should call that witness today.

MR. GRIFFITHS: I expect half an hour, forty-five minutes, Your Honour. It's hard to judge.

THE COURT: Mr. Christie, do you know enough about this to be able to give an estimate?

MR. CHRISTIE: Unfortunately my friend provided me with very brief notes on this matter, and I really don't know. My first intention, if we start now with this witness, is to arrange to pick up an expert who would be observing the evidence.

THE COURT: Did you not indicate to me you would not be very long when the jury wasn't here?

MR. CHRISTIE: Yes.

THE COURT: How long do you think you will be?

MR. CHRISTIE: Depending on what the witness says.

THE COURT: I agree. In other words, you don't know.

MR. CHRISTIE: I'm sorry, that's the truth.

THE COURT: Mr. Griffiths, I don't like to adjourn at three o'clock in the

afternoon in a case that – to inconvenience the jury, the taxpayers and everybody else. My inclination now, unless you really feel that you really cannot continue, is to call the witness and let us see what the witness has to say, and let's start the cross-examination and if we have to start here a little earlier than ten o'clock, subject to what the jury has to say, we will start it. I just don't want to stop a court {586|587} case at three o'clock in the afternoon.

MR. GRIFFITHS: I understand, Your Honour.

THE COURT: Or not if I can possibly avoid it.

MR. GRIFFITHS: I am in your hands. As I said, I am prepared to proceed. For the reasons I indicated to you earlier, I would prefer to start with Dr. Hilberg in the morning, but I am prepared to go ahead, Your Honour.

THE COURT: Yes. Go ahead.

MR. GRIFFITHS: Thank you.

Could I, Your Honour, on a separate matter, could I speak to you for just a minute in the absence of the jury, please?

THE COURT: Certainly. Members of the jury, would you excuse us, please?

— The jury retires. 3:00 p.m.

THE COURT: Would you like the witness in when he is making his submission?

MR. GRIFFITHS: I think it affects him – not his testimony, but him, so I have no objection to that. I don't think it will interfere.

I have a request to make, Your Honour, and in fairness, Mr. Christie doesn't know I am going to say this.

In speaking with Mr. Fulop —

THE COURT: Mr. Fulop is the next {587|588} witness?

MR. GRIFFITHS: Yes, Your Honour. As you are aware, there has been a tremendous amount of publicity that has gone along with this trial. Mr. Fulop is a family man with children, and he has some concerns about testifying if his name is being broadcast far and wide. He is prepared to do that, if Your Honour so orders; if possible, he prefers that he can testify, give his name in Court here, but I would ask that there be some order that his name not be broadcast.

THE COURT: What is the basis for the fear?

MR. GRIFFITHS: I think, Your Honour, that in all fairness, the fear is a subjective one. There have been no direct threats on Mr. Fulop. It is something that arises out of his experience in life, not with this particular matter, and as a concern to him; and I told him that I would make this request on his behalf. He would be prepared to testify regardless, Your Honour, but would prefer not to have his name broadcast.

That would be the request of the Crown, Your Honour.

THE COURT: Mr. Christie, I don't know that I need to hear from you on this unless you wish to say something.

MR. CHRISTIE: Well, my position is that no witness should have any special treatment in regard to names at all. It is the same for everybody. I realize it's unpleasant. We don't like to see, sometimes, our name written down. I don't blame anybody for that, but I don't believe that we should make exceptions to the general rule. {588|589}

THE COURT: That is your submission?

MR. CHRISTIE: Yes.

THE COURT: Crown counsel, in the absence of the jury and before he calls to the stand the next witness, has requested of the Court that an order be made pursuant to the relevant section of the Criminal Code that the name of this witness not be disseminated through the media to the public at large.

Crown counsel indicates, when asked by me, that the basis for the request made on behalf of the witness is, subjectively speaking, to the eyes of the witness, a subjective fear, as Crown counsel put it; the fear is subjective having been one acquired by the witness through the process of living. He would just as soon not have his name mentioned with respect to the evidence he proposes to give.

I have not asked, nor has either counsel stated to me, the proposed type of evidence that the witness is going to give. In consequence, I

must make the ruling on the basis of what I have heard.

Mr. Christie points out that however odious and disagreeable the prospect is of having one's name {589|590} put in the newspapers and broadcast over the television and radio media, that all witnesses in our open Courts should be identified within the bounds of law, and the content of their testimony should be the subject matter of dissemination to the public.

I am inclined to agree with Mr. Christie. However unfortunate it may be, I am not prepared to make a judicial ruling ordering that the identity of this witness be kept confidential or within the confines of the courtroom, however well-intentioned the proposed witness may be and however sincere Crown counsel is in making the request.

For those reasons, the request is denied.

MR. GRIFFITHS: Thank you, Your Honour.

THE COURT: Bring back the jury.

\_\_\_\_\_ {590|591}

— The jury enters. 3:07 p.m.

THE COURT: Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you. Mr Fulop, please.

### **IGNATZ FULOP, sworn**

#### **EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:**

Q. Sir, I understand you are fifty-eight years of age?

A. Fifty-eight.

Q. And you were born in Hungary?

A. Hungary, yeah. Nyirdass.

Q. Do you know Mr. Zundel?

A. No. Never met him.

Q. Okay. Are you Jewish? Is your, faith Jewish?

A. Yes.

Q. Can you tell us if, during the War years, you and your family were ever arrested?

A. We were deported to Germany, Auschwitz.

Q. Can you tell us when that would be, sir?

A. I can give approximate date. It was 1944, April, when we were taken to the ghetto, and approximately six weeks later, what would be approximately May 15th or the 20th, taken to Auschwitz.

Q. Who in your family went to {591|592} Auschwitz?

A. My mother, my father, six sisters and I.

Q. And how did you get to Auschwitz? What was the transportation?

A. Cattle car.

Q. Was your family all together in the cattle car?

A. We were all together in the cattle car, yes, with other families.

Q. Can you tell us how long it took you in that train ride to get to Auschwitz?

A. Approximately three days.

Q. Was the car opened at all during that time?

A. It was open once.

Q. When you arrived, was it daytime or nighttime?

A. Between five and six at night.

Q. In the evening?

A. In the evening.

Q. And can you tell us what happened when you arrived at Auschwitz?

A. When we arrived in Auschwitz they slammed the doors open. There was screaming of "Raus. Raus." "Get out. Get out", and everybody has to jump out, young or old. There was no platform going off, just jumping off. You left all your luggage, all what you had – but there wasn't much that you are allowed to take there – left in the car. You lined up, men separate and boys. Women, female, separate line. Five in a row. And that's when everything {592|593} started.

Q. All right. How old were you at that time?

A. Seventeen. I was born in 1926, September 3rd. I was seventeen, seventeen and a half.

Q. Did you see anyone have any trouble; any difficulties during the selection process?

A. Well, before the selection started it was actually, from my village, a

blind man with his adopted daughter, and the daughter went a little bit – she went crazy, and the blind man was holding on to her, and the girl wouldn't let the blind man go, the father who raised her. She was an adopted child. And I saw them both clubbed to death. The blind man and the crazy woman who went nuts in the ghetto, or in the train, in the ghetto and train ride, she was hysterical, like completely gone.

Q. Who did you see clubbed her to death?

A. Mostly the Kapos. The Kapos were doing the dirty job. Kapos by order from the S.S.

Q. Were there any S.S. in the area when this happened?

A. Oh, yes. They were all over. They were all over.

Q. Did they do anything to try and stop them?

A. They were ordered to do it. The Kapos was ordered to do it.

Q. Were you in the same line of five with your father, or were you in a different line of five?

A. Yes, I was the same line with my {593|594} father. My father was from my left. I was from his right.

Q. Can you tell us what happened during the selection of you and your father?

A. We started to walk, long road, walking in front of a man was called Dr. Mengele. As a matter of fact, his name was The Angel of Death. He pointed at me with a stick. I believe he was standing on a pedestal a little higher up. He had a stick in his hand, pointed at me – this way – pointed the rest that way.

Q. Yes. So you were to go to the —

A. I went to the right.

Q. In the group that you were with to the right was there anything that they had in common?

A. Young, healthy. Young, look strong and young.

Q. But what about the group that your father was in?

A. Never saw him again.

Q. Where did you go from that process?

A. They took us a big building, huge hall, where you stripped, undressed, shaved you, and they let you keep your shoes, your belt and if you had glasses. You walked in. As you walked in, you had to step in, like it was from cement made, like a bathtub, but came approximately ten inches water in it, but you had to put your shoes in it, what they call disinfection. And then you went in to take a shower, came out another door, another big room, and that's where I took the first beating and the worst beating in my life. One wall from the room was a bunch of naked women. Another wall from the room was a naked man. And they had a line. I don't remember if that line was red {594|595} or orange. And we were behind the line. The women walked behind the line and we walked behind the other line. And I looked at the women. I wanted to pick out if I could pick out my sisters. And as I got to the front, close to the line, one of them was screaming my name, was asking for father. So I didn't pay too much attention. I just started to walk. I was screaming if mother is with them. And they answered no. And I answered no. By that time I was knocked to the ground and beaten.

Q. Who beat you?

A. The Kapos; but one S.S. beat me because I got it with the butt from the gun – not the gun, the rifle. And I saw boots, and the Kapos didn't wear boots, and kicking.

Q. How long did that beating go on for?

A. I don't know, but it seemed like for ever; but I crawled back. I crawled back behind the line, crawled back to the rest of the people.

Q. Did you ever receive some clothing?

A. Clothing?

Q. Yes. Did you receive some clothing?

A. Yes, we received the striped clothing, pants and a jacket, the striped one.

Q. Where were you taken, then?

A. Then they marched us – that would have been, the closest figuring, around midnight, they were marching us. Where they were marching, I don't know. All of a sudden gates swung open and I had been thrown into that camp. Where I fall, I slept. I just fall asleep till the sun didn't get up. And then I found out it was the {595|596} gypsy camp, where

the gypsies were kept. They were kept there with the families, grandchildren and grandmothers and grandfathers.

Q. How long were you in Auschwitz for? Was this Auschwitz or the number of different camps? Do you know which camp this was that you were in?

A. I don't know if I was – I was in the "C" Camp, the "C" Lager, but if it was Birkenau or Auschwitz, I don't know. I don't know. I was in Auschwitz, yes. It was approximately eight days or ten days.

Q. How was it that you got out of Auschwitz?

A. I was taken out by an S.S. If that was the same one who beat me up or it wasn't, I don't know, because I didn't see his face when I took the beating, but he came to the gypsy camp. As a matter of fact, I was hiding when I saw – well, I was afraid, and I hide under the barrack. The barrack was built on a pedestal, like some blocks or bricks it was. It was higher up and I crawled underneath, but he saw me when I went, and I went around, around the barrack. He says, "Okay. I saw you out there," in German. "Let's not play games, mouse and cat, cat and mouse."

Q. So you came out?

A. I came out.

MR. CHRISTIE: I didn't hear what the last remarks were, but I am sure they were hearsay. I trust my friend is aware, we discussed this before, and if I could just have the last words again.

THE COURT: That was the hearsay part.

MR. CHRISTIE: Yes. {596|597}

THE COURT: "Don't play cat and mouse" was what the S.S., he said, said to him. Is that correct?

MR. CHRISTIE: Yes. I didn't understand.

THE WITNESS: He said to me, "I won't hurt you."

Q. MR. GRIFFITHS: You can't tell us what the guard said to you.

A. That is exactly what he said to me.

Q. You can't tell us what he said. Let me see if I can help you. You had a conversation with him.

A. No, I didn't talk. He was doing the talking.

Q. He did the talking. Did he give you anything?

A. He said, "I will take you out of that camp."

Q. Tell us what he gave you.

A. He didn't give me anything.

Q. Did he give you an instrument?

A. That was after he took me out of the camp.

Q. He took you out of the gypsy camp?

A. He took me out of the gypsy camp.

Q. And what did he give you?

A. A mike to measure the steel.

Q. A micrometer?

A. Yes. He didn't give it to me. He showed it to me. {597|598}

Q. He showed you how to use it?

A. Yes.

Q. Had you ever used one of those before?

A. Yes, I did.

Q. And after he showed you how to use it, did he take you somewhere?

A. Yes, he did. He took me to another camp. He said, "I won't hurt you."

Q. Tell us where he took you.

A. He took me to another camp where they selected three hundred people to go and work in a factory.

Q. All right. And was there a requirement that those three hundred people had to meet – some test they had to meet before they could go and work in the factory?

A. That was the mike what he gave me. He explained it how it works. He explained it how it works and that's all that it's gonna be. They give you the mike. What they call the shubler (ph). I don't know how to spell it. It's called a shubler. They gave it to me. And this – how should I explain how it looks?

Q. He showed you how to use it.

A. He showed me how to use it, and that's all it's gonna be. So he put

me in front of the lines and put me with that three hundred people to take me out.

Q. And did you get in with the three hundred people?

A. Yes, I did. {598|599}

Q. So did you leave Auschwitz?

A. I certainly did.

Q. And you told us you never saw your father again. Did you ever see your mother again?

A. No.

Q. Where did you go?

A. They took me to Falaslaben (ph). It is right now on the border of Eastern West Germany, what was a Volkswagen factory.

Q. And what were they doing at that camp?

A. Building the V2 rocket. Sorry, it was the VI Rocket.

Q. And how many people were working on it?

A. We went – there was people there already, but we went there three hundred.

Q. How long were you there, at Falaslaben?

A. I was there approximately two months, take a week or give a week. Approximately two months.

Q. Do you have a tattoo from Auschwitz?

A. No, sir.

Q. On page 17 of, "Did Six Million Really Die?", column one, second paragraph, it says:

*"Although several millions were supposed to have died at Auschwitz alone, Reitlinger has to admit that only 363,000 inmates were registered at the camp for the whole of the period between January 1940 and February 1945 {599|600} (The S.S. Alibi of a Nation, p.268) and by no means all of them were Jews. It is frequently claimed that many prisoners were never registered, but no one has offered any proof of this."*

Were you registered in Auschwitz?

A. I was not registered in Auschwitz except when they took me out. When they took me out they didn't ask any question. I just went with the three hundred. They didn't ask any question when they took me in.

Q. All right. Did something happen at Falaslaben in the VI factory that you were working at?

A. It was wiped out, bombed out.

Q. Were you inside the factory when it was bombed out?

A. Yeah, we were in the factory, in the bunkers.

Q. Where did everybody go from there?

A. From there —

Q. Where did you go? Let's put it that way.

A. All three hundred of us went from there to France, Merstille (ph). I don't know if it's Tilmerse or Merstille. I don't know if it's two words or one word. In a valley. It was a valley, mountains around it, and it was a valley.

Q. All right. Was there a camp there?

A. It was a camp there of about five hundred prisoners, joined to us later, to our camp, but when we got there, we had to build it ourselves, the camp, fence {600|601} around and build the barracks.

Q. Was there a crematorium as part of that that you built?

A. It was no crematorium there when we arrived, but we were building one. As a matter of fact, I was selected to build one.

Q. All right. And were you given any plans for the building of that crematorium?

A. Blueprint.

Q. What was the capacity of that crematorium?

A. One person.

Q. Now, how long were you at Merstille?

A. Till about the end of September, beginning of October.

Q. And where were you taken then?

A. Then I was taken to Dora.

Q. And what is Dora?

A. Dora was no camp, no camp whatsoever – no fence, no barracks, and I remember it must have been beginning of October when we were there because it was Yum Kippur, and as we were Jews, the S.S. de-

cided we should fast for Yum Kippur. They wouldn't give us our food. So they new better the holiday than we did. So we were there without the barrack, without fence, I would say till we were there, twenty-four hours rain, and that place must be by the Rhine, because it was nothing around, just wineries, like graperies.

Q. And where did you go from Dora?

A. From Dora they took us to Durno (ph). From there it was a camp of twenty thousand prisoners, what {601|602} was made up from France, Italians, Polish, Ukrainians – you name it, they were there, but all Christians. We were the only Jews as far as I know – one barrack.

Q. When you say "we", is this the same three hundred?

A. Well, it was 299. One died. It was 299. So same three hundred, yes.

Q. How did he die?

A. The one who died died in France when we arrived, when we put on the first barrack. So we were all forced into one barrack to sleep, and if you laid down, packed in like herring, if one turn, the whole row had to turn, and if one had to go out for nature call at night, so he had to watch who he steps on; and he step on somebody, and somebody gave him a kick and he fall in, that other fellow fall in this fellow's stomach and just rupture.

Q. How long were you there for? You are now in Durno in early October.

A. Not too long – ten days, fourteen days – just a stopover. I don't know why stopped over.

Q. Then where did you go?

A. Dora. We went to Dora.

Q. I'm sorry, perhaps I have the camps confused. There's one camp by the Rhine. You said there were no barracks.

A. That's Dora. That's Durno, and from Durno we went to Dora.

Q. So Dora is the big camp with the twenty thousand people?

A. With the twenty thousand people. {602|603}

Q. What were you doing in that camp?

A. Working on the V2.

Q. And how many days a week would you work?

THE COURT: That's the V2 rocket?

THE WITNESS: The V2. How many days?

Q. MR. GRIFFITHS: How many days a week would you work?

A. Seven days, twelve-hour shift.

Q. Twelve-hour shifts? And what kind of food would you be getting?

A. Once a day. I was in the day shift. Five o'clock in the morning it was feeding time. We used to get a cup and a half or two cups of hot water. Once we were lucky we would get a small potato or half a potato. Two hundred ninety-nine or three hundred people, we used to get one bucket hot water five o'clock in the morning. The bucket was the same bucket what the Canadian farmers used to have for the milk, shipping the milk to the dairy, and potatoes once a week. You're getting one half bucket, only one half a bucket for all three hundred. And we used to get like we have the white sliced toast, but very thin, a half of one slice of the toast, but very thin, thinner than they slice it here. That was the daily ration.

Q. Half a bucket of potatoes, a bucket of water and a little bit of bread?

A. A little bit of bread.

Q. What happened if someone, refused to work?

A. They hanged them. They shoot them. Or they put them to the post in January or February, to the {603|604} post, the main post from the appel place, the appel plaza –

Q. Is that where they do the counting?

A. Yes, the roll call. And they used to tie them, tie his hand to the post, tie his neck, tie his leg, take water, running water, let it run slowly on top of his head. By the time we were coming at night, the man wasn't there. No such a thing you refuse to work. Even if you know you are dying, you wouldn't go to, it was a so-called hospital, with a doctor, you never go there. You never come out.

Q. Did you ever go there?

A. No, sir.

Q. Were you ever moved again?

A. Yes, sir.

Q. And on that last occasion is that the last occasion you were moved?

A. Yes, sir.

Q. When would that have been, then?

A. That had to be in the early part of April 1945. I was moved to Bergen Belsen. In Bergen Belsen was liberated by the British the 22nd, I believe, the 22nd of April, around nineish. I was moved there. We went either seven days and eight nights, or the reverse – 120 of us in a cattle car.

Q. 120?

A. 120, and ten thousand people. Ten thousand people from it was two transports made up from the twenty thousand, so if it was in the end left seventeen thousand or eighteen thousand, I never counted them. And half of it went in one transport – 120 in one car.

Q. How many were alive in your car when {604|605} you reached Bergen Belsen?

A. Myself. The rest was all dead. They never opened the door. They never gave us a glass of water. They never gave us any food. It was terrible. I am ashamed to say – actually, I'm not. I never wasted any water. What I had on me, I used to save it in my hand and lick it up, or at night I put my hand out, find a little hole to get the wetness, and put it to my lips.

Q. How much did you weigh when you were liberated?

A. The British Army weighed me. They claimed seventy-two pounds. I didn't see it. I just go by what they told me when they took me to the hospital.

Q. Did you ever go to your village of Nyirdass after the War?

A. Yes. I went back – I came out from the hospital, the British Hospital, yes.

Q. Before the War can you tell us how large the Jewish community in Nyirdass was?

A. Sixty families.

Q. And how many in total before

A. Approximately four hundred.

Q. At the end of the War can you tell us how many people were left in Nyirdass who came back?

A. All together, even the ones who are already in Canada, or England or whatever, all together it wasn't forty people.

THE COURT: How many?

THE WITNESS: Forty. It wasn't forty people. By the way, I lived there when I went back four years till 1949.

Q. You stayed there till '49? {605|606}

A. Till '49.

Q. Did any over the age of forty return?

A. No, sir.

Q. Did you ever receive – well, first of all, did you ask for any money from West Germany?

A. No, sir. I wouldn't accept it.

Q. You wouldn't accept it?

A. No, sir.

Q. Are you involved in any conspiracy or hoax to fool people about the number who died, the number of Jews who died in the Second World War?

A. I beg your pardon?

Q. Are you involved in any conspiracy or hoax to fool people to the number of Jews who died during the War years?

A. I don't belong to any organization or anything. I am not – it's not a joke what happened, sir.

Q. No. I said hoax

A. No. You can't make a hoax of that, or joke.

MR. GRIFFITHS: Thank you very much. I have no further questions.

THE COURT: Please don't discuss this case with anyone. We are going to take a little adjournment now. You can step down, sir.

— The witness stands down.

— The jury retires. 3:40 p.m.

— Short adjournment. {606|607}

THE COURT: The jury, please.

— The jury enters. 4:00 p.m.

— The witness returns to the stand.  
THE COURT: Go ahead, Mr. Christie.

CROSS-EXAMINATION BY MR. CHRISTIE:

Q. When you were in Auschwitz, did you see a whole bunch of smoke?

A. Didn't see smoke. I saw flame.

Q. Where did you see flame?

A. At nighttime. Heat flame.

Q. Where did you see the heat flame?

A. When you looked out in the camp you saw the heat flame.

Q. Heat flame. Coming from where?

A. From the crematorium. That is the only place it can come heat flames.

Q. So how high were the heat flames coming from the crematorium?

A. Forty, fifty foot, thirty foot. All depends how hot it was the ovens.

Q. I see. So either thirty feet or forty feet flames.

A. Yeah.

Q. Out the chimney.

A. Yes.

Q. And you were in the gypsy camp, were you?

A. Yeah. The "C" Camp. I believe it {607|608} was the gypsy camp. The "C" Camp.

Q. You mentioned the fact that there were grandmothers and grandfathers there.

A. Yes. And —

Q. And children.

A. Grandchildren. They lived in families.

Q. They lived in families.

A. Yeah.

Q. So of the flame shooting forty, thirty or forty feet every night or sometimes fifteen ...

A. I don't think you could see a fifteen foot flame where I was.

Q. So it had to be more than fifteen-foot flame.

A. And it came from the crematorium. It is a heat flame. There are two differences between flames and heat flame.

Q. But you could see them.

A. Yes.

Q. At night?

A. At night you can see them.

Q. Did you have any personal knowledge of any gas chambers at all?

A. What you mean by that, sir?

Q. Well, did you see any gas chambers?

A. One who saw a gas chamber wouldn't testify. Once you got in there, you had no way out. It was like a cemetery. You go, they take you to the cemetery, you got no return.

Q. So this is what you've heard from {608|609} other people, I suppose.

A. Yes, sir. That's what I heard from Kapo, the first night.

Q. Kapos, they are prisoners, aren't they?

A. They are prisoners, yes.

Q. They are prisoners, and the person that you saw beaten to death by a Kapo —

A. By Kapos.

Q. — was beaten to death by a prisoner, then?

A. Yes. They are the foremen. They have the order to do it.

Q. Did you ever see the order to beat prisoners to death?

A. Did I ever see the order?

Q. You did?

A. Oh, yes. We had Kapos all along, all three hundred of us. We had Kapos. We had lageraltesters — what his name was, I believe, Grossjula (ph).

Q. Let's get back to the question. The question was, did you ever see the order for a Kapo to beat a prisoner to death — anything in writing?

A. No. I heard it verbally from the S.S. who ordered the Kapo to beat the hell out of them. They didn't give written orders.

Q. No, I'm sure. I just wondered —

A. Just verbal orders.

Q. And you heard the verbal orders.

A. Oh, yes, sir. So help me God.

Q. You say you were never registered; {609|610} is that right?

A. Right.

Q. Did I hear you say that the S.S. hauled you from underneath the barracks?

A. That's right, sir.

Q. Did I hear you say he called your name?

A. No, sir. I never said he called my name.

Q. How did he know you were underneath the barracks?

A. That is why I guessed he is the one who threw me in there, because it was the gypsies and me. The gate opened, and he threw me in.

Q. How did you know you were in the gypsy camp?

A. Because he threw me in there. I didn't know if he threw me in there, because I didn't look in the face. I was afraid.

Q. So what did he call?

A. He went around the barrack. He went around the barrack. He says, "Come on out. I know you in there. Let's not play cat and mouse or mouse and cat", or whichever way he said it.

Q. So you came out and he gave you something in the nature of a tool.

A. Yes. He showed it to me. He didn't give it to me. "This is a shubler, and that's how it operates. You hold it like this. You put your thumb on top of it." It had a little wheel like you wind your watch with. Pull it over, measure the thickness of the {610|611} material, push it back, and with the same thumb you tighten the winder, like the watch winder on top of it.

Q. You also told us about the presence of Dr. Mengele who you described as The Angel of Death.

A. That is what he was called — The Angel of Death.

Q. Did you meet him more than once?

A. I only saw him. I never met him. I wasn't that used to him. I only saw him. I believe he was on a pedestal, or like an orange crate. He was standing up.

Q. How did you know he was Dr. Mengele if he never introduced himself; he never used his name?

A. They said, Dr. Mengele.

Q. They said.

A. Yeah.

Q. Other prisoners who just arrived with you?

A. No. The Kapos.

Q. Is it your experience that you left with three hundred prisoners and you went to someplace called Falaslaben?

A. Yes.

Q. And then you went to Mistile?

A. Mers, Merstle, or it could have been pronounced Stilmers. I don't know if it is two little villages there or two cities, or just one, or it's only a district.

Q. And it was there that one of the three hundred prisoners died.

A. Yeah. {611|612}

Q. And he died because he fell on another prisoner in the middle of the night?

A. No. Somebody fall in his stomach.

Q. Somebody fell on his stomach.

A. Yes.

Q. When you moved from Merstle or Stilmers, sorry, I don't know for sure, you went to either Dora or Danau (ph), I'm not sure which?

A. Durno.

Q. And what did you do there?

A. Nothing. Nothing. I had no idea why even they stop us there.

Q. This was very close to the end of the War, wasn't it?

A. No, that wasn't close to the end of the War.

Q. What — October, November of 1944?

A. That was probably in October, because it was Yum Kippur, and Yum Kippur always in the beginning October, or tenth or twelve October, in that neighbourhood. Yum Kippur is always in October.

Q. And you were there for how long, at this Durno?

A. Not too long, just a few days. Could be eight days, ten days, twelve.

- Q. Was there bombing going on along there?  
A. No bombing.  
Q. And this was in October '44?  
A. That was in October '44.  
Q. Where was this place? {612|613}  
A. By the Rhine. It must be by the Rhine because of the wineries. It was only – you don't see nothing for miles and miles. You only saw one thing – grapes. They only grew grapes.  
Q. So you were there with how many prisoners?  
A. Three hundred, 299.  
Q. You weren't there with twenty thousand prisoners?  
A. No. No. We went to Dora from there, to the twenty thousand prisoners.  
Q. Twenty thousand prisoners in Dora. And this was in what month?  
A. That was till the end. We were on the 22nd freed by the British, take off approximately two or three days what I was there. What month we went to Dora?  
Q. Mm-hmmm.  
A. Or from Dora?  
Q. To Dora.  
A. That was August, October, beginning of October or middle of October.  
Q. And that's where you were liberated?  
A. No. I was liberated in Bergen Belsen.  
Q. That is what I heard the first time, but a minute ago you said the British arrived in Dora.  
A. I didn't understand your question. I thought you were talking about Bergen Belsen.  
Q. What did you do in Dora? You {613|614} worked there?  
A. Where the twenty thousand was?  
Q. Yes.  
A. Yes, I was working on the rocket.  
Q. What did you do?  
A. I was testing the fuselage, what they put in the explosion. I was testing it with water, putting a screw on a hose, put the air on it, and if it leaks, I suppose they send it back; but I didn't. I just let it go through.  
Q. So you were sort of sabotaging the enterprise, so to speak?  
A. I wasn't sabotaging. I was doing my job what they suppose to. They didn't pay me for it. They didn't feed me. Why should I do a good job?  
Q. So you were there for some time. How long?  
A. I was there in Dora working from end of October, middle of October, till beginning of April '45.  
Q. So you left Dora in the beginning of April '45.  
A. Yeah. They took me.  
Q. Was there sickness in Dora?  
A. Oh, yes. It was sickness in Dora, people were dying.  
Q. Was there typhus in Dora?  
A. I am not a doctor. I don't know if it was typhus or not. People were dying.  
Q. People were dying.  
A. Yes. Like flies. {614|615}  
Q. They were sleeping in close quarters there?  
A. There were three hundred in one barrack in Dora.  
Q. And were there cleaning facilities there?  
A. What do you mean?  
Q. Anyplace to wash  
A. Who needed washing? I never took off the rags from my legs all winter. So who needed washing? You never heard such a thing as water, soap, wash yourself.  
Q. Well, is it your recollection that you slept in rather dirty clothes and, obviously, unclean conditions?  
A. Yes. You slept in the same clothes what you wore all day. You never took them off.  
Q. And there were lice there, weren't there?  
A. Lice?  
Q. Lice.  
A. You have no idea how much. could have gone open my shirt, gone like this, and got a handful.  
Q. Lice.  
A. Lice.  
Q. Everywhere.  
A. Everywhere.  
Q. That is some of the things that spread the diseases there, wasn't it?  
A. I don't know what spread the disease. {615|616}  
Q. Certainly. There were lots of lice, and people —  
A. Billion. Billions.  
Q. You said that you counted a hundred and twenty people in a boxcar from one place to another?  
A. I didn't say I counted. That's what it was. We had a hundred and twenty people, could be a hundred and eighteen. It was a hundred and twenty people average in every boxcar.  
Q. How did you know a hundred and twenty? Did you count them?  
A. That is what they said they were going to put in.  
Q. Who said?  
A. The German, the S.S.  
Q. The S.S. said, "We are going to put in 120 in a boxcar"?  
A. They said, put in 120 and that's it.  
Q. This is a standard European boxcar – two axles, one on either end?  
—  
A. I didn't count the axles.  
Q. Do you know what a boxcar is?  
A. Yes, I know what a boxcar is.  
Q. You travelled from Auschwitz to the west in Bergen Belsen in one of those boxcars?  
A. In one of those boxcars. Not the same boxcar.  
Q. They weren't all the same?  
A. Not all the same. {616|617}  
Q. I am sure they weren't all the same, but they all looked alike.  
A. Sure.  
Q. They all looked like the same type of boxcar.  
A. Right  
MR. CHRISTIE: Could I give these to the jury?  
THE COURT: Yes.  
Q. MR. CHRISTIE: I suggest to you there is a photograph of those types of boxcars somewhere in here. Were they open boxcars, or closed?  
A. Closed.  
Q. Was it that size, or bigger?  
THE COURT: That is page number?  
MR. CHRISTIE: It looks like 23.  
THE COURT: Exhibit 1.  
MR. CHRISTIE: Yes.  
Q. Pretty hard to tell the size there anyway.  
A. You have here a few people in a boxcar. You haven't got a quarter of it there, or a tenth of it there.  
Q. No. I'm sure that's true; but there's a boxcar.  
A. That is a boxcar, but I tell you what – I am not supposed to say anything; I am supposed to answer questions, but if you give me the measurement of the boxcars, like you know it, I can mathematically figure standing up how many people you can put in.  
Q. I am only asking you what you — {617|618}  
A. What is the standard size? I don't know. No idea.  
Q. You don't recall how big they were.  
A. No.  
Q. Did you say something about a slide rule in your evidence?  
A. A slide rule? Slide rule?  
Q. Slide rule.  
A. You are referring to the mike, to the measurement to the steel?  
Q. Yes.  
A. Yeah.  
Q. Is that what you call a —  
A. It's a shubler. Do you know what a shubler is – a mike? You mike the metal, the thickness, with it.  
Q. Like a micrometer.



- A. Yes.
- Q. But not a slide rule?
- A. You see, we didn't have – it wasn't advanced, not even the Germans were advanced to have the same mikes what they are making now. They used a shubler. Ninety-nine per cent of using the shubler to measure the thickness for a metal.
- Q. So you say there were ten thousand people on one train. Is that —
- A. Ten thousand people in one train. If it could have been only eight thousand five hundred, I don't know how many died or how many transported was coming in there, bringing in fresh ones, fresh ones all the time, but I don't know how many was in April 1945 exactly; I never {618|619} counted them.
- Q. Well, I heard you say ten thousand people on a train, didn't I?
- A. Roughly, yes.
- Q. Well, how rough is that?
- A. All depends how many was alive. Was it seventeen thousand alive from the twenty, or was it twenty with the new transport?
- Q. Well, I did hear you say there were ten thousand people on one train.
- A. Half of the camp.
- Q. What?
- A. Half of the camp should have been ten thousand mathematically; but if three thousand died, then we only gonna have seventeen thousand left, so that's only half of seventeen thousand on it.
- Q. Well, when you said ten thousand people on a train, and 120 in each boxcar, you are saying this is a train of a hundred boxcars, are you?
- A. Sir, I will say it's a train of eighty boxcars.
- Q. Okay. You are sure of that.
- A. No, I am not. That could have been eighty, it could have been ninety, it could have been seventy, but it was close to eighty.
- Q. How do you know there were eighty boxcars on this train?
- A. Well, when you have on the track, you're gonna have the train, what they pack you in, what you have to jump on. Roughly you're gonna see there's fifty there or a hundred fifty or eighty. Roughly. You don't {619|620} have to count it. Roughly you're gonna see how many is in that transport.
- Q. So it's a guess, really, he[h]?
- A. If you want to call it a guess, sir, yes. They wouldn't let me count it.
- Q. I'm sure you wouldn't have counted from the inside of a boxcar.
- A. But you see it before they load you.
- Q. Of course. Did you count it then?
- A. Roughly, looked at it, so you know how big the transport is.
- Q. So were there a hundred boxcars in the train, or seventy-five?
- A. I said it would be eighty.
- Q. Eighty. When you were in Birkenau you weren't sure if you were in Auschwitz or Birkenau?
- A. Maybe you could tell me, sir, where was the "C" Camp, the gypsy camp. Was it in Auschwitz or Birkenau? We weren't there to ask questions, sir, so maybe you would know what it was.
- Q. What surprises me is that you found out somehow that the doctor on the crate was Dr. Mengele, but you don't know if you were in Auschwitz or Birkenau. How do you explain that?
- A. I listen to what they tell me. As far as I was concerned, the whole thing was Auschwitz.
- Q. Yeah. So as far as I have your evidence, you never saw the S.S. or any German soldier in the camp kill anybody, did you?
- A. Oh, yes, I did. I never said that I didn't. Oh, yes, I did. In Dora. {620|621}
- Q. In Dora?
- A. Oh, yes, I did. I saw them. They did the strapping to the doorpost, like the gatepost. Oh, I saw him hanging at one time with one rope. The rope was hooked on to a vehicle, and no Kapo and no Jew or no Ukrainian or any nationality except German was allowed to drive that vehicles, and they pulled the rope. They didn't put the rope on the prisoner's neck. Ten or twelve at a time, two posts, another piece across on the two posts, ten or twelve hanging coming down, all figured out from one rope hooked on to all ten or twelve, hooked into the vehicle, and the vehicle went and just pulled them all up. Yes, I saw them.
- Q. So you saw one rope hang ten or twelve people?
- A. That's right. They did it every day.
- Q. Every day?
- A. There was not one day pass when we had to go to the appel every morning where they shall not hang people.
- Q. So they hung ten or twelve every day.
- A. Every day.
- Q. And this is at Dora?
- A. This is at Dora.
- Q. Where you are working on the V2 rockets.
- A. Yes, sir.
- Q. And you went to work every day?
- A. Oh, yes. I went to work every day. {621|622}
- Q. Twelve-hour shift?
- A. Twelve-hour shift, seven days a week.
- Q. And before they sent you to work they'd hang twelve prisoners every day?
- A. At the Appel Plaza, yeah.
- Q. Did you ask why they were being hung?
- A. Who would you ask, sir? I asked God, but God forgot to answer me, sir. Who else would you ask? Who would you ask?
- Q. Well, you might have asked another prisoner.
- A. What does another prisoner know why they hang him? As long as they didn't hang me, I didn't worry. What can I worry about? I cannot do nothing about it.
- Q. So we have it every day – ten or twelve prisoners hung with the same rope.
- A. Oh, yes. Oh, yes. Mostly Ukrainians, sir.
- Q. I see. And these are healthy, able-bodied men who could otherwise work?
- A. Yeah.
- Q. So they took these ten or twelve men, able-bodied men, every day before you went to work and hung them with one rope.
- A. Yeah. They all had a different noose on their neck.
- Q. Different nooses, but the same rope. And then they pull on one and it lifts them all up at the same time. {622|623}
- A. That's right, sir.
- Q. And you were at Dora for how long?
- A. I was in Dora from approximately middle or the 20th of October 1944 till, take off seven and approximately ten days from twenty-two, till roughly the tenth, 1945, April. Could be the eleventh, you know. Tenth or eleventh.
- Q. Sure. So did you receive any other new clothing other than the time that you received some at either Auschwitz or Birkenau?
- A. I used to take it off a dead body.
- Q. Take it off a dead body.
- A. Take it off a dead body, so if you want to call it new clothing, yes.
- Q. I thought you never took your clothes off that whole winter. Remember?
- A. I didn't take off the rags from my foot because I had no shoes. It was warmer to take the clothes from the dead bodies, cut it up and make boots, like keep on rolling it on and keep on rolling it on. It was much warmer than the wooden shoes.
- Q. You had wooden shoes?
- A. I had wooden shoes, yes.
- Q. Where did you get those?
- A. They gave it.
- Q. Were there any gas chambers in Dora?
- A. I didn't even see a crematorium in Dora.
- Q. You say you built one in what camp was it?
- A. Durno. No. That was, the crema-{623|624}torium what I built, that was in France, Mers. I was working on it, yes.
- Q. Yeah. You saw plans for that, I suppose.
- A. It was from a blueprint. Yes, sir.
- Q. And you must be – you were fairly skilled in building things, I gather.

A. Yes. As a matter of fact, I have an incinerator, pollution-proof incinerator in Toronto, built it myself, designed it myself, and it is approved by the environment in Toronto, by the pollution controls, yeah.

Q. So you've built a new kind of incinerator, is it?

A. Yes. Would you like to see it?

Q. Well, I don't know. Maybe some other time.

THE COURT: Just answer his questions.

THE WITNESS: I do have it.

THE COURT: Just answer his questions.

Q. MR. CHRISTIE: Sir, what I am asking you is, at the time did you have some special skill that enabled you to build from blueprints?

A. First of all we had a foreman.

Q. Another prisoner?

A. I believe it was a German prisoner, yes.

Q. I see.

A. There were German prisoners, yes.

Q. Usually they were political {624|625} prisoners. Right?

A. I have no idea.

Q. Didn't they have special designators in the form of triangles for political prisoners, homosexuals, communists and Jews?

A. Oh, yes.

Q. And didn't he have a triangle?

A. I don't know what it was marked. I know the Ukrainians had different. The Poles had different – any nation had different colour. The Jews had yellow.

Q. You say for every nation there was a different colour?

A. Yes. For French it was different colour.

Q. What colour was it for French?

A. I think it was purple, I believe.

The Ukrainians were red; but I don't remember exactly what colour each one carried.

Q. So did you go into a factory to build the V2 rockets?

A. Yeah. It was underground. It was a long tunnel – long, long, long tunnel – and going like cutting off, going around, coming out back to the main line, and going like a snake.

Q. Underground?

A. Yes, sir.

Q. And so it was an underground factory somewhere.

A. Yeah. It was dugged under the mountain where you could not bomb it out. {625|626}

Q. M-hmmm. There was a lot of urgency to the building of this weapon, I suppose. Everybody is being forced to work hard.

A. I beg your pardon?

Q. Everybody was being forced to work too hard, I suppose?

A. Everybody did their job. If it came there, the tank, to me, I put on the hose and I open the air, so much pressure. They told you how much pressure they wanted in it and tested it. Then the water went back down. You had another hose what took the water back down and you kept on doing it.

Q. Mm-hmmm. The three hundred that left Birkenau, you say that you were not registered because you were put into the gypsy camp by the S.S. man.

A. No, I didn't say that that's why. I don't know why I wasn't registered.

Q. I see. But the other 299 I don't suppose you can say that they weren't registered, can you?

A. I don't know.

Q. And I don't suppose you can really say whether you were registered or not as a person coming off the train. Are you sure they didn't count you?

A. I beg your pardon?

Q. Are you sure they didn't count the people that came off the train?

A. Counted?

Q. Counted.

A. You didn't need to count them. They knew exactly how many they put in the ghetto, so they {626|627} didn't need to count.

Q. So you didn't keep track of the number?

A. Oh, I don't know. I didn't do their bookkeeping.

Q. But you did say a second ago that they knew exactly how many they got out of the ghetto?

A. They know exactly how many Jews out of this ghetto, and that ghetto, and they knew exactly how many they put in a transport.

Q. That's right. So you say that you weren't tattooed?

A. No, I wasn't tattooed.

Q. But you can't say that you weren't numbered and registered as such.

A. They never asked me anything, by name or anything.

Q. Well, that's right, but it's impossible for you to say whether you were registered or not, isn't it?

A. I couldn't say I wasn't. I couldn't say I have.

MR. CHRISTIE: Thank you.

#### RE-EXAMINATION BY MR. GRIFFITHS:

Q. Did any of the other three hundred men have tattoos on their arms?

A. No.

MR. GRIFFITHS: Thank you. Nothing else {627|628}

THE COURT: Thank you, sir.

— The witness retires.

THE COURT: Members of the jury, you will notice that each day you have been given copies of Exhibits 1 and 2. I think you will agree that you haven't had much of any opportunity to settle down and read those documents since this trial started. That is so because the evidence upon which your verdict will be based must be led in this courtroom, and it must be led under oath and it must be subject to cross-examination.

In your absence I have spoken to counsel, and it is their view, as well as mine, that you should get better acquainted with those two documents.

With that in mind, I propose to ask you to come to the courthouse tomorrow morning at half past nine, at which time those documents will be available to you in your jury room.

Please do the best you can to read as much as you can of those documents between nine thirty and ten. We will start sharply at ten.

I am asking you to do this because otherwise the full picture, at a propitious time, will not be in your possession. We may do the same thing on Wednesday, I am not sure. I will find out from you how you do tomorrow. If you would be here at nine thirty for that purpose I would be grateful.

Please do not discuss the case. Do not permit anyone to discuss it with you. Please keep an open mind. The case is not over until such time as the last word of evidence has been heard, and until both counsel {628|629} have addressed you and I have given my charge.

It is absolutely vital that you keep an open mind and an open approach to this whole case until it is completely before you. Have a good evening. Nine thirty tomorrow.

— The jury retires. 4:31 p.m.

— Whereupon the hearing is adjourned to January 15, 1985.

#### JANUARY 15, 1985

Upon the hearing resuming.

MR. GRIFFITHS: Your Honour, before we have the jury, there is a matter that should be discussed in the absence of the jury.

THE COURT: How long will it take, as best you can estimate?

MR. GRIFFITHS: Perhaps till eleven o'clock, Your Honour. I don't know how long Mr. Christie will be.

Your Honour, if I can advise you, it is something that Mr. Christie has mentioned he would be raising.

Dr. Hilberg is here and I propose to qualify him as an expert to give testimony as to his opinion on the document and also as to documents that he has seen and read that contradict the material that is contained in Exhibit No. 1. {629|630}

The issue in which we need Your Honor's assistance for a ruling is to

what extent Dr. Hilberg can testify about those other matters as a historian, and to what extent, or to what use, I guess, the jury can put his testimony.

THE COURT: Yes. Do you agree that eleven o'clock is within reason?

MR. CHRISTIE: Yes, Your Honour.

I think, perhaps, it would be well-used time if the jury, in the meantime, could continue reading the booklet in question in the jury room. At least, they wouldn't be wasting their time. We could discuss this matter and no one would, presumably, suffer as a result.

THE COURT: Bring in the jury, please.

— The jury enters. 10:10 a.m.

THE COURT: Members of the jury, during your absence in the last ten minutes a matter has arisen which is going to require my attention and the attention of counsel for some little time.

Counsel estimate eleven o'clock. My {630|631} intuition, acquired over some years, tells me it will be closer to eleven thirty. I don't want to keep you in that jury room for that period of time unless, of course, you wish to remain there to read or finish reading the documentation, namely, the two exhibits that I understand you have been assiduously reading this morning.

I am therefore going to excuse you until eleven thirty, or eleven forty, and in the meantime if you wish to remain in the jury room to read, continue reading the two exhibits, please do so.

You are free to leave and go about your own business until eleven forty, if that be your decision.

If you do leave the jury room, please leave the material in it and I will ask the two Sheriffs' officers to make sure that the material is left there. So you are free to go till then on that understanding. Thank you very much.

— The jury retires. 10:12 a.m.

THE COURT: Yes, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour. {631|632} Call Dr. Hilberg, please. He is in the witness room.

#### **RAUL HILBERG, sworn on voir dire**

##### **EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:**

Q. Good morning, Doctor. I understand, sir, that you have come from the University of Vermont to testify here today?

A. Yes, I have.

Q. And when I contacted you about the possibility of testifying in this trial did you prepare or send to me a curriculum vitae?

A. Yes, I did send that.

Q. And that sets out some of your qualifications and cases that you have testified on.

A. That's correct.

MR. GRIFFITHS: I'd submit that as an exhibit on the voir dire, Your Honour.

THE COURT: Did Mr. Christie see it?

MR. GRIFFITHS: I don't know that he has, Your Honour, although he was at the preliminary hearing and disclosure was made at that time to counsel at the preliminary hearing.

MR. CHRISTIE: I wonder if my friend has a copy that I might have.

MR. GRIFFITHS: Yes, I do.

THE COURT: Exhibit A on the voir dire. {632|633}

— EXHIBIT "A" (Voir Dire): Curriculum vitae of Dr. Raul Hilberg.

MR. CHRISTIE: Perhaps I can assist my friend by articulating my position in respect to Dr. Hilberg.

The whole question of expertise is in respect to matters of history, not quite the same as it is in matters of science. I don't deny any of the Professor's literary and educational background. I certainly don't take issue with what he says as to his books or publications or his having testified in other cases. To what extent and for what reason I don't know, nor does it matter for the purpose of my argument.

My argument is that this case involves questions of fact in relation to the booklet in issue, and I am quite sure my friend will concede the fact that Dr. Hilberg is not a witness to any of the alleged facts in the book-

let. He is a person who has studied deeply in the area, formed opinions, no doubt, and he has derived his opinions from what might be considered primary sources in some cases, and I am sure might be considered secondary sources in other cases.

I would be arguing the case of R. v. Abby on the area of expertise in respect of fact. That's a decision of the Supreme Court of Canada.

THE COURT: Yes, I have it here.

MR. CHRISTIE: I mention this at the outset, and I think that to save time I don't need to have the witness qualified as to what is on the curriculum vitae, and I would be quite content if he would be {633|634} excused and we could argue the legal issue of the admissibility of this type of evidence. That is what I wanted to do.

THE COURT: Let me see if I have your position. Your position is that you admit the contents of the curriculum vitae insofar as that document pertains to the field of historical expertise as acquired by this witness. Is that correct?

MR. CHRISTIE: I accept that the statements of facts in the curriculum vitae are accurate.

THE COURT: You do not admit that he is a historical expert.

MR. CHRISTIE: I submit there are no historical experts. There are historical opinions and, in fact, it is like being an expert in theology, for instance. You can have all sorts of different views, and we generally tolerate them all. Nobody has, so far, been ruled to be scientifically qualified to state facts because they are an expert in theology.

To put it on a more practical plane, the Courts have recognized experts once the facts are proven to derive from their expertise and conclusions that the ordinary layman could not draw – for instance, in breathalyzer cases or in accident cases, experts are qualified to say from proven facts, for example, the weight of an automobile or the weight of a human body and the distance the body has been thrown; the expert can calculate the speed at which the automobile travelled because of scientific exceptional abilities. But he cannot prove the facts through his expert scientific abilities. That is, I think, what R. v. Abby says. In essence, it involves {634|635} psychiatry, and it was the defence contention that a psychiatrist, through second-hand interviews, could say what the state of the accused's mind was. Now, Dr. Hilberg, with all the qualifications that he has ... well, that is a brief summary of my position. I don't think I need – unless you wish me to proceed to the whole of it, that's all I wanted to put before you, for the moment.

THE COURT: What do you say to that, Mr. Griffiths?

MR. GRIFFITHS: I would like to call some evidence from Dr. Hilberg on which I will be basing my submissions, at least in part.

THE COURT: Go ahead.

MR. GRIFFITHS: Thank you.

Q. Dr. Hilberg, we won't go through your eminent qualifications. Can you tell us when you started working, researching matters pertaining to the Holocaust?

A. At the end of 1948.

Q. And at that point had you been a graduate student?

A. Yes.

Q. Can you tell us the form that your research took through the years?

A. Primarily an examination of documents, many of them original documents, and then in the United States; and also, to the extent necessary, the explanations of these documents by people concerned with the contents described in these materials – that is to say, witnesses or people [sic] who made affidavits or similar recording, what {635|636} they knew in statements, usually statements made before Courts but not necessarily and not always. My research methodology, in other words, is based upon documentation and, secondly, also witness' recollections and testimony.

Q. I understand that you have written a book the first edition of which came out in 1960 called "The Destruction of European Jews" and you are now working on the second edition of that.

A. The second edition should be coming out in a few months. Correct.

Q. And can you tell us how extensive the first volume is? My recollection is about eight hundred double-column pages.

A. That's correct.

Q. And are there footnotes in that?

A. There are footnotes.

Q. And the second edition, how large would that be?

A. It will be in three volumes.

Q. And can you tell us if you have any particular methodology that you used before you formed an opinion as to something happening?

A. I would describe myself as an empiricist. I look at the material carefully and over very long periods of time, in some cases, to be able to interpret it. I have found, many times, that original documents are not necessarily self-explanatory, and they do require a good deal of interpretation and analysis, in the main by recourse to other documents, since documents explain each other. And I have done that over the years and I am still doing it. {636|637}

Q. What is the source of many of these documents? Or can you tell us the sources of the documents, first of all, in a general way?

A. My particular interest, of course, is in documents of German providence – that is, those materials and records that came from the bureaucracy that was engaged in the process of destruction itself.

Many of these materials are civil service documents that is to say, the ministry, the official organizations, civilian organizations – some are military – quite a few, in fact, some are S.S. or party documents, some are from industry.

In addition, I've looked at materials from Jewish sources. There are Jewish documents produced within ghettos. And I have looked at documents of satellite countries and I have, more recently, looked at materials that have come to light from the United States and other governments that collected information during the War.

Q. Can you tell us where some of these documents are kept, what depositories they are kept in? Are they of Canada?

A. Well, I don't think there are very many of them in Canada. The United States was assiduous in its collection of material, and at one point there were approximately twenty-five thousand linear feet, that is to say documents in boxes, standing up and requiring twenty-five thousand feet of shelf, in Alexandria, Virginia.

I was employed there for a while so that I had direct access to original documents. A small portion of this material was selected for trial purposes {637|638} at Nuremberg. Of those other so-called Nuremberg documents there are, to be sure, other depositories and other collections.

The originals that have been collected in the United States have been sent to Germany, and they are now in the German archives and they are microfilmed and can still be consulted in microfilm if need be.

Q. How many languages do you read for the purposes of your researches?

A. My primary language is German. When I must do so, I resort to documents in romance languages because my training tended to be in the romance language area more than anything else. So I do manage to read some materials in Italian or French or Rumanian, but with the help of dictionaries. When it comes to Slavic languages, I must have help.

Q. Is there a particular perspective that you brought to your research and your authorship of "The Destruction of European Jews"?

A. I felt that – what I wanted to know, first and foremost, is how, not why, but how the Jews of Europe were destroyed; how, in essence, one step followed another. And thus I became interested in very small details as, for example, how people were transported to death camps and how this transportation problem was handled, for example; how negotiations took place between the German Foreign Office and satellite countries for deportation purposes; how definitions of the term "Jew" were written; how confiscations down to the last belongings, clothing that people had left in death camps, were collected and distributed; how the process was financed. {638|639} What was the jurisdictional picture? What was the inter-relationship with the various elements of police, and how did they function within the framework of Nazi Germany?

That was the perspective and the approach.

Q. Do you spend any time cross-checking documents as an empiricist?

A. Yes, I always do that.

Q. With other documents?

A. I always do that, yes.

Q. Doctor, what is your doctorate in?

A. Public law and government.

MR. GRIFFITHS: Could I see the exhibit again, please, Your Honour?

Q. In your curriculum vitae there is an indication that you have testified as an expert witness in a number of cases in the United States. It looks about ten or eleven that are mentioned there, just roughly.

A. Right.

Q. And in what area was your expertise recognized, and were you permitted to give opinion?

MR. CHRISTIE: I would object to that question. I don't think the witness is competent to answer what the decision of a court was. He hasn't, so far, qualified himself as an expert, in law, to say, "Well, I know what the Courts decided my expertise was."

I think it is quite inappropriate to make that decision for the expert himself. In my respectful submission he is not qualified to say in what manner the Court qualified him as an expert.

MR. GRIFFITHS: I am not asking about {639|640} the manner in which, but whether he was qualified as an expert by those Courts.

THE COURT: Does that make a difference to your objection, Mr. Christie?

MR. CHRISTIE: Yes, it does, but it has very little – well, that is a matter of argument. I accept that question in that form.

THE COURT: Go ahead.

MR. GRIFFITHS: Thank you.

Q. Were you accepted as an expert by the U.S. Courts in those various matters?

A. Yes.

Q. And in what fields were you permitted to express an opinion in those various other cases in the United States?

A. I was presented to the Court as a specialist on the Holocaust. I was asked how to define the Holocaust, and I did that as a physical destruction and annihilation of Jews under Nazi control. And I heard the Judge accept that definition which I, myself, gave, and I was accordingly given the status of an expert witness in the cases concerned, in all of these cases, indeed.

Q. All right. Have you ever been presented as an expert and not accepted by a Court?

A. No. I have never been rejected.

Q. Have you ever given evidence as an expert witness in Canada?

A. Yes, I have.

Q. And in what case is that?

A. The Rauca case, extradition case.

Q. All right. And in what field were {640|641} you permitted to give your expert opinion in Canada in the Rauca case?

A. In the Rauca case —

MR. CHRISTIE: This does involve my previous objection.

THE COURT: Do you have an objection on this one?

MR. CHRISTIE: Yes. It is exactly the same question as I suggested before it should not be the entitlement of this witness to answer. The field of expertise for which he was allowed to testify as an expert is the opinion of the Court and is not the opinion of the witness as to what the opinion of the Court was then. It sort of begs the question. He can't say, "Well, the Court accepted me as an expert in this field", when that's a judgment of the Court, unless he is an expert in law and can say —

THE COURT: It will be interesting to know whether the Court did make a pronouncement that he was an expert in that field.

MR. CHRISTIE: That is what the Crown should say. The Crown should not say you were an expert in the Holocaust and what did the Court say you were an expert in. I think he should show the transcript.

MR. GRIFFITHS: I will be showing the judgment, Your Honour – I am content with that – in the Rauca case.

MR. CHRISTIE: Then I assume my friend will withdraw his question.

THE COURT: He can ask his question, Mr. Christie. Go ahead and ask it. {641|642}

Q. MR. GRIFFITHS: You told us you were qualified as an expert in the Rauca case. In what area were you permitted to express an opinion?

A. It was substantially the same as in all the American Courts – namely, as a specialist in the Holocaust: needless to say, with particular reference, as in all of the cases, to a particular area in contention. In the Rauca case that was Lithuania, the role of the German Gestapo there, any relationship with the Gestapo as a network of other officers in the area.

Q. As a part of your initial researches did you ever have occasion to read the International Military Tribunal transcripts from Nuremberg?

A. Yes.

Q. And to review the documents that were referred to in those transcripts?

A. Yes.

Q. That's some forty-two volumes.

A. Yes.

Q. And what about trials of the American Military Tribunal?

A. Those also.

Q. What about the trials in the nineteen fifties and sixties held in West Germany involving war criminals?

A. Those also, particularly those trials pertaining to death camps and the like held in the 1960s in West Germany, yes.

Q. And have you had occasion to examine any diaries or personal documents said to be from individuals in Germany? {642|643}

A. Yes. Some of those as well.

MR. GRIFFITHS: Thank you. I have no further questions on the motion.

THE COURT: Yes. Mr Christie.

#### THE CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. It is my understanding that you testified in the Kungys case, sir.

A. Yes.

Q. It is my understanding that the Court, on appeal, dismissed the case against Kungys and made certain comments regarding the admissibility of certain evidence on the case. Are you aware of that?

A. What I know of the Kungys case is that my testimony, as usual in these cases, was confined to a description of the administrative network of the methods used in the killing of Jews, in this in a particularly small town within Lithuania. Mr. Kungys himself was not a regular member of the police and thus, his status —

Q. Well, just —

THE COURT: Let him answer the question.

MR. CHRISTIE: The question didn't involve who Mr. Kungys was.

THE COURT: I have ruled that he can answer the question, Mr. Christie. Please let him answer the question. {643|644}

THE WITNESS: Mr. Kungys was not a regular member of the police. He was a temporary auxiliary, if that, and so the decision ultimately had to rest upon the witness' testimony, not my testimony. I could only go so far in describing the framework, but inasmuch as this was not what was called a document case as far as Mr. Kungys himself was concerned, there was no materials, no documents pertaining to him. The case rested on witness testimony. So my role was fulfilled. Whether witnesses were available in sufficient number, whether their testimony to the extent that it existed was sufficiently credible, was another matter.

MR. CHRISTIE: Could I have the question read back, please?

THE COURT REPORTER: *"It is my understanding that the Court, on appeal, dismissed the case against Kungys and made certain comments regarding the admissibility of certain evidence on the case. Are you aware of that?"*

Q. MR. CHRISTIE: Did the Court of Appeal, in the person of Mr. Justice Dickson, issue a judgment that allowed the appeal and overturned the decision of the trial judge?

A. Well, now you are asking me to testify about matters that I don't have in front of me, and I would have to review. I was told by telephone

what was going on, but as you can see from my statement, I have been involved in twelve of these cases, and this is not my full-time occupation, and I do not follow these cases through the appeal mechanism. {644|645}

Q. The answer is, then, you don't know if the appeal was allowed?

A. I do not know enough to answer this question on the spur of the moment.

Q. I thought you already told us that your evidence was not part of the evidence that was set aside on appeal, because you were only testifying on documents, because you had no eye witnesses, or documents, actually identifying Kungys as a member of the Gestapo.

A. No. I was discussing the trial court in which gave testimony, and I read the decision of the trial court, but I do not follow it through the appeal mechanism.

Q. I see. You didn't bother to find out if the appeal was allowed, or for what reason, if it was allowed.

A. No. Indeed not.

Q. You, of course, gave evidence in the Rauca case without having been in any way personally acquainted with Mr. Rauca; is that correct?

A. I am never personally acquainted with the defendants or respondents in any of these cases.

Q. Had you, personally, been Lithuania in respect of the Rauca case?

A. No, I have not.

Q. So everything that you testified about in the Rauca case was on the basis of documents, and your assessment of them and second information.

A. Well, it was certainly on the basis of documents. I don't know what you mean by secondhand information in this case. {645|646}

Q. Well, you didn't prepare the documents.

A. I didn't what?

Q. Prepare the documents.

A. No. Of course. These were German documents.

Q. And you couldn't establish from any expert knowledge the authenticity of the documents.

A. No. I would say that the authenticity of a document is a matter for an expert to deal with, and in this matter I am called upon sometimes to make a comment in the court.

Q. Yeah. But you're not an expert in the authenticity of German documents.

A. If you mean ink, paper and the mechanical properties of a particular document, there are other people that test for that sort of thing.

Q. Yes.

A. But if you mean the contents, namely, the likelihood that this is the sort of document fitting in with thousands of other documents – in other words, could this conceivably have been forged or conceivably have been something other than what it is purported to be, yes, on that score, I can give an opinion.

Q. You can give an opinion on whether a document is forged or not?

A. Well, I could certainly spot a forgery.

Q. Could you?

A. Oh, yes. I think I could. On content. {646|647}

Q. On content. So if somebody copied the content of original documents and forged a signature, that you couldn't determine.

A. Well, I could determine – as I said, I could not look at handwriting because I am not a handwriting analysis person.

Q. You are not an expert in handwriting. Right?

A. That is certainly true.

Q. You are not an expert in the analysis of composition of German paper or German ink or German documents.

A. Not that.

Q. So if it is typewritten and it is signed and you take it at its face value, you will tell us whether it fits with the rest of the documents you've seen.

A. That's correct.

Q. You are also telling us that without personal firsthand knowledge of anything, but looking at a number of sources of documents and talking to other people, you can assess the accuracy or whatnot of a docu-

ment.

A. I am pretty confident in my ability to do that, yes.

Q. Yes. And that is the basis of all your knowledge.

A. The basis of all my knowledge is thirty-six [thirty-six] years of study of documents, many of them rather original documents, I might say.

Q. Yes. Thirty-six years of study of documents, talking to people, looking at original and secondary sources. {647|648}

A. Yes.

MR. CHRISTIE: Thank you. Those are my questions.

MR. GRIFFITHS: I have nothing arising out of that, and I have no other evidence to call on this issue, Your Honour.

THE COURT: All right. Thank you, sir, you can step down.

— The witness stands down.

THE COURT: Mr. Christie, do you wish to lead any evidence?

MR. CHRISTIE: No, thank you, Your Honour. Do you wish my submission?

THE COURT: Since you are not leading any evidence, I am in your hands. You can go first, but I thought you might like to have the last word.

MR. CHRISTIE: Well, I don't think that there is very much complexity to it. I am going to say that the Abby case deals with the very issue that arises here, only it's obviously a less far-flung implication. What's going on in this case is the inquiry into historical matters of fact by people who are about to testify who were never there.

Now, this is the first time, in my submission, in Canadian jurisprudence, that a person has been {648|649} required to testify in what happened in a situation where they were not physically present and have no direct firsthand knowledge. So it becomes, I suggest, a rather important issue, especially since this case involves history, with the greatest respect, if you were there, and even then, it is a matter often of opinion where it goes beyond your own personal observations of the five senses of which we are all possessed, or most of us.

The Abby case, I think very clearly, dealt with the issue of whether an expert can say and establish a fact. To read from the headnote, that case said:

*"The trial judge erred with respect to the use which could be made of hearsay evidence introduced during the testimony of four psychiatrists".*

Now, it is my submission that every thing the learned Doctor has said as the basis of his knowledge, which may very well be credible to scholars, it may be debatable. We can carry on that debate here because we are prepared to call hearsay too, if that is the way it is going to go, but it is hearsay and it is embarking on a realm that, really, Courts should not engage in. It is {649|650} almost as if to say – to debate the issue of, say, somebody publishes that Christopher Columbus discovered America, and then somebody says that's a lie, and we get scholars from both sides who say, "I have looked at all sorts of documents and I have read the literature and I have concluded that Christopher Columbus did discover America", and somebody else says, "No. The Vikings, or the Irish Monks, or the Chinese, or somebody else discovered America." That is what we are about to embark on, really.

The learned Doctor is a well-read gentleman. I have no dispute about that. He has been allowed to testify in other Courts. I don't know whether he has been allowed to testify to prove the truth of what he said. That I don't know, and the Crown hasn't really proved that, but to quote from the Supreme Court of Canada:

*"An expert opinion based on secondhand evidence, ...", or hearsay evidence, "is admissible, if relevant."*

But in this case the relevance can only be to prove the truth, not to prove that the opinion is held. I can concede that if we were to debate whether there are people who hold Dr. Hilberg's views. I don't {650|651} dispute that there are people who hold Dr. Hilberg's views, but the test here is, are they true? Now, I submit here that the fundamental error of this proceeding is that truth itself is the basis of society not proven through historical facts in court; but the testimony as to the circumstances upon which the opinion is based is not introduced and cannot be introduced in order to establish the veracity of the

secondhand evidence. That is the essence of what I say is wrong.

THE COURT: You are reading from page 410, are you?

MR. CHRISTIE: No. I am reading from 395. It is only the headnote. I was going to expand on that. I was saying that Dr. Hilberg's opinion is his opinion and it is debatable in society; but Courts, I suggest, require a little more than hearsay evidence to be the foundation of opinion. The testimony as to the circumstances now, the only relevance to Dr. Hilberg's testimony is to prove the truth of the circumstances upon [upon] which the opinion is based, namely, six million did die in the gas chamber.

I think the Crown has to prove that, or that there were gas chambers, to prove the story alleged {651|652} by the Crown and denied by this booklet. That is the purpose of his evidence. I don't think the Crown really can deny that.

So that he is really testifying as to the circumstances upon which his opinion is based, and it should not be introduced, and cannot be introduced in order to establish the veracity of his secondhand evidence.

The danger in admitting such testimony is the possibility that has happened here that a judge or jury, without more, will accept the evidence as going to the truth of the facts stated in it.

Now, I am well aware, having read the preliminary hearing transcript, that Dr. Hilberg has developed his theory at great length, and we are prepared to deal with it, with some interest, but it is indeed secondhand. I mean, he is a very clever and intelligent scholar. He has numerous footnotes, a voluminous book, but it is all based upon such things as he refers to in his footnotes, which anyone can believe what they wish to believe, but they are not legal proof. When such testimony would be admitted into a court, it will be impossible for a jury to be advised in such a way that they would not regard it as proof of the truth. And in the case of Abby, {652|653} the Supreme Court of Canada held that the expert opinion based upon secondhand evidence, and I quote: *"Was not in any evidence of a factual basis of those events and experiences."*

In this case, Mr. Abbey tried to prove that he was non corpus mentis, and he said certain things he had experienced, and the Doctor repeated that – those experiences as recounted to him by the accused – and accepted them as fact.

In the case at bar Dr. Hilberg has heard from a number of people as to what they say occurred, and he is here to prove the truth of his views, and in the same way, he cannot prove the truth of his opinions and the facts of which he has no personal knowledge by simply saying, well, "I have read the Nuremberg Trial transcripts and I have read documents in Virginia" – well, I don't think he said he read all twenty-five thousand feet of shelf-space, but he said from that a small portion of that material was selected from Nuremberg. That would be part of the contention of the defence, in fact, that the selection process took place there, but we cannot, with respect, take it that he has firsthand factual knowledge that he can testify to. And what other purpose can his {653|654} opinion be put to?

With respect, I can see no other purpose than to try and prove the theory of the Crown, that is, that there was a process of planned, deliberate extermination, which we all believe, because the media has so often said so, and because the Nuremberg Trial said so.

And the booklet in question says the Nuremberg Trial was a judicial farce, to put it mildly, and –

THE COURT: I'm sorry could you repeat that again? I missed that.

MR. CHRISTIE: I said the booklet says the Nuremberg trial, the International Tribunal at Nuremberg, was a sort of judicial farce, to put it mildly – I summarized that because that is a brief summary of what takes four pages to analyze, and numerous references to support.

Now, whether the Nuremberg Trial was or was not a farce is a debatable proposition. It may be even a radical statement, a statement that people would be criticized for making, but it is the statement that is made in the book.

Now, to prove that is false, I would {654|655} suggest, is not the jurisdiction of a Court. It isn't the jurisdiction, either, of an expert to say, "I've read the transcript and I have concluded that it wasn't a farce. It

was a good trial. Everything was fair", or whatever you want to say about it. That's fair. Everybody is entitled to their opinion and they can defend it with their sources; but to come to a Court of Law and prove the truth of their opinion, they can't do it with hearsay.

Now, what else does the booklet say? It says that the theory of the exterminationists is that there were camps in Poland for extermination, whereas the camps in Germany were not for extermination. It says that at one time that was not known, that we thought that concentration camps like Dachau and Buchenwald and Bergen-Belsen were extermination camps, but that theory has changed and its thesis is that where that belief was unfounded, so is unfounded the belief that the extermination camps were designed as such.

As I said many times before, the booklet does not deny suffering and all that is obviously unfair and unjust about concentration camps. The booklet attacks the very essence of the exterminationists' view, which was the planned, deliberate extermination of Jews by gassing. {655|656}

Now, Dr. Hilberg has a right to his opinion, and most people can agree with him. It can be debated here, if Your Honour holds the hearsay such as he admitted is a legitimate basis for an opinion, and an opinion can be a basis for the truth, but I suggest that that embarks on a new procedure for proof of matters in a Court of law that should not be logically extended.

In fact, we have the evidence very clearly from a psychiatrist in the Abbey case, a decision of the Supreme Court of Canada, that Dr. Vallance was telling what the accused said had happened, and on the basis of what the accused said had happened was formed the opinion the accused had been insane.

At page 407, he testified in the course of his interviews that Abbey told him of various delusions, visions, hallucinations and sensations on the six months preceding his arrest. On the basis of that Dr. Vallance formed his opinion, and I gather the trial judge accepted that opinion.

The Supreme Court of Canada said, well, the proof of the facts of his having these delusions, the proof of the fact of him acting in a manner to justify the opinion must be proved other than by hearsay. {656|657}

Now, I think that's a simple, logical position that shouldn't have to be defended. I am kind of surprised in a way that the Crown sees this method of proof as a possibility. I can see why they see it as a necessity, because without people like Dr. Hilberg I can see they'd have a difficult time proving this thesis that this booklet is wrong, six million did die, etcetera.

Now, I think that it comes to the heart of the case, because otherwise we are going to get involved in hearsay to a very great degree, and opinions and counter-opinions, and although we are prepared to meet all this, and looking forward to it, I might add, I really think it is not the right place for it. It is my submission that, as I say, we are using the Courts for an academic debate which should be resolved elsewhere.

It is interesting to note that in the Abbey case, Abbey did not testify. Now, it is utterly impossible to test the credibility or accuracy or truth of opinions about history because, obviously, the people long dead are not here to testify, and maybe that's a logical, extension of the sound reasoning that we should let history remain history, and debate it with reason, and outside of the sphere of this type of adverse[a]rial situation. {657|658}

I just capsule by reading from page 412 where it was said by, I think Mr. Justice Dickson on behalf of the Court:

*"While it is not questioned that medical experts are entitled to take into consideration all possible information in forming their opinions, this in no way removes from the party tendering such evidence the obligation of establishing, through properly admissible evidence, the factual basis on which such opinions are based. Before any weight can be given to an expert's opinion, the facts upon which the opinion is based must be found to exist."*

Now, the Crown has called two survivors so far. They have some direct evidence. They have not, with respect, proven the existence of six million casualties or anything approximating. They have told very tragic, very sad stories, no question about that, but with the greatest re-

spect, I don't believe that they are really relevant to the issue, which is the thesis of the booklet. {658|659} Nothing in the booklet denies the sadness of the stories they have told, the suffering they have recounted. That is not what the booklet, "Did Six Million Really Die?" disputes at all. So if Dr. Hilberg's opinion evidence is to go beyond what these witnesses have said to prove that something in here is false, then he must be proving something contrary to it is true.

It is my submission you cannot do so from any direct evidence. He has no direct evidence. And then, it can accurately be said that his opinion has no weight. Before any weight can be given to an expert's opinion, the facts upon which the opinion is based must be found to exist.

Then I suppose my friend will say, let's take judicial notice of what Dr. Hilberg says so, therefore, we can find the facts to exist. That, I think, is another debate, and we haven't crossed that bridge yet, but if my friend wishes to pursue it, I am ready; but I am facing now an expert who has given you, clearly, the basis of his opinion, and it is all hearsay. It may be a very credible opinion. I am not disputing that Dr. Hilberg is an intelligent, outstanding, distinguished scholar, but so may others be who disagree with him, and the process {659|660} of finding truth in that sense is beyond the jurisdiction of this Court.

I don't think that I should go into the issue of taking judicial notice, which I have ample authority to debate or discuss, at the moment; but unless he is prepared to do that, or ask Your Honour to do that, there is no basis upon which Dr. Hilberg can give opinion evidence to prove the truth of his opinions, or to prove facts, to deny that which is printed in the book.

Thank you kindly, sir.

THE COURT: Thank you. Yes, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

Your Honour, the proposition that Mr. Christie puts before you, that in order to prove a historical fact all the participants involved in that historical fact must be called to the Court, is a novel one. It would indicate that, perhaps, when the last veteran of World War I is dead, we no longer know whether we had World War I because there is no living witness. {660|661}

The Abbey case, Your Honour, is clearly distinguishable, dealing as it does with the psychiatrist rather than a historian. It is a completely different situation. I found some assistance, Your Honour – should say that my suggestion to you is that Dr. Hilberg be found as an expert on the Holocaust, as defined by Dr. Hilberg, that he be permitted to express his opinions to state the basis upon which he forms those opinions, and that the jury should be entitled to judge from his testimony the weight, if any, that they will give to his evidence.

Now, I have, Your Honour, first a decision of Mr. Justice Evans of the High Court Justice, Province of Ontario, Chief Justice, Federal Republic of Germany v. Rauca, and I would refer you, Your Honour, to page 712 of that decision. And I know that Your Honour and Mr. Christie are familiar with the background of that. It was an extradition application by West Germany to have Mr. Rauca returned.

Page 712, Your Honour, under the heading, "Jurisdiction of Germany to seek extradition", I will read:

*"Raul Hilberg, a professor at the University of Vermont, and the holder {661|662} of M.A. and Ph.D. degrees, was qualified as an expert in political science. He has been engaged in the research of Holocaust since 1948. He was involved in the interrogation of German prisoners and civilians, had access to Nuremberg trial documents and is the author of 'The Destruction of European Jews', a history of the Holocaust. He has done extensive research in the organizational structure of the Reich and also had access to a limited number of Russian documents. He has testified as an expert in several American trials involving war criminals. He outlined the organizational set-up and agreed with the information contained in the depositions of Dr. Scheffler and Dr. Rosenkranz.*

*Professor Hilberg testified that in August 1941, the German Reich had set up a civil administration in Lithuania and that it continued until 1944. {662|663} He stated that there was no Lithuanian Government that did*



not take ..."

THE COURT: There was no local ... Did you say there was no Lithuanian Government, or no local —

MR. GRIFFITHS: I'm sorry.

*"He stated that there was no local Lithuanian Government that did not take orders from Germany and that German law applied. This situation prevailed until Russia invaded Lithuania in the latter part of 1944. He testified that he had examined Helmut Rauca's personnel file which indicated that he was a police officer in Germany, later associated with the S.S., that he was paid by the Gestapo and held an honorary position in the S.S. In occupied areas such as Lithuania, Rauca's group constituted a mobile unit with civil service status which was designated as a special unit to carry out particular missions and was always subject to German law."* {663|664}

Here, Your Honour, Professor Hilberg was first qualified as an expert by an Ontario Chief Justice in the very field which my friend states he should not be permitted to testify as an expert; and secondly, he was permitted to give opinion evidence, give the source of his opinion evidence, and it would appear from this that the judge weighed that and accepted some of it as historical fact.

That case, Your Honour, went to the Court of Appeal for Ontario. The citation I have is 145 D.L.R. (3d) 638. It is a five-member appeal court in which judgment was given by the court as a total body. There were no dissenting opinions. And Chief Justice for Ontario, Mr. Justice Howland, and Associate Chief Justice for Ontario MacKinnon were both on that panel. At page 645 of that decision, third paragraph:

*"Dr. Raul Hilberg, a professor of political science at the University of Vermont, was qualified as an expert witness on what is known as the Holocaust. He testified that the Reich Security Main Office or RSHA was one of the 12 main offices in the {664|665} SS and police. It was created at the beginning of the War in 1939. It combined the Security Service and the Security Police. The Security Police was subdivided into two main police forces: the criminal police and the State Police or Gestapo."*

*According to Dr. Hilberg, the RSHA maintained, in areas that were being invaded, mobile units known as Einsatzgruppen. The Einsatzgruppen were subdivided into units called Einsatzkommandos comprising roughly 150 persons. The Einsatzgruppen were civil units, not military units, and were subject to civil authority, not military authority."*

The case goes on.

*"Dr. Hilberg had examined the appellant's personnel file. According to Dr. Hilberg, the file showed that the appellant was a member of the Gestapo with an honorary position in the SS. The appellant was paid by the [sic] Gestapo, not by the SS. {665|666} Dr. Hilberg testified that a member of the Gestapo was a federal policeman and a federal public servant. This was confirmed by the deposition of Dr. Wolfgang Scheffler, an expert on National-Socialist persecution of the Jews."*

And it goes on and deals with Dr. Scheffler's evidence, also an expert, not somebody giving direct evidence of events in Lithuania at the time. Your Honour, I would suggest that implicitly, if not explicitly, the Ontario Supreme Court and the Court of Appeal were expressing, in the Rauca case, an exception to the hearsay rule in matters of history.

If Your Honour does not accept that argument — and again what I am suggesting is that the jury be permitted to hear the Doctor's evidence and the basis upon which his evidence is given, with reference to documentation, and judge for themselves the weight to which will be accorded to that evidence — if Your Honour does not accept that proposition, then I would suggest to you, sir, that Dr. Hilberg be permitted to testify as to the existence of documents and be permitted to testify as to the contents of documents that are contained within the {666|667} pamphlet, "Did Six Million Really Die?" as to whether those documents are represented correctly by that pamphlet.

I would suggest, Your Honour, that that evidence, if he is permitted to give it, form the factual basis upon which he can express an opinion as to the whole.

My apologies, Your Honour. I do not have multiple copies of the next term in support of that proposition, but I do have one copy and I am

happy to pass it around. I think my friend has a copy of MacWilliams, and I am looking at MacWilliams, and in particular that portion of MacWilliams that deals with documentary evidence, Chapter 6, and it's "Canadian Criminal Evidence (2d) 1984" by P.K. MacWilliams, in which the author points out that where the original documents — it is a discussion of the best evidence rule. Where original documents are not brought to the Court, or available to be brought to Court, they can be proven in Court by way of secondary evidence, that a proper way of introducing secondary evidence is through oral testimony where the witness has actually read the document himself. And there are rules as to when it is proper to go from the best evidence, the document itself, to secondary evidence, which would be either photo-{667|668} copies, or in this case oral testimony as to the contents of the documents. And one of the rules, Your Honour, that I will suggest, is when the document is not available to be brought to Court (a) because it is in a foreign country, or (b) because it is a document that is archival and simply cannot be brought into court.

Dr. Hilberg has testified that all of the documents that he examined are in archives in Germany and in the United States. Page 94 of MacWilliams contains that proposition, Your Honour. Dealing with secondary evidence it says secondary evidence is admissible when the person with the original is outside the jurisdiction. I will pass that up to you.

That proposition, Your Honour, is also contained within Phipson on Evidence, 13th Edition, published in 1982, and the author there indicates, under his chapter heading of "Form of Secondary Evidence", paragraph 36: "Secondary evidence of the contents of documents must be legitimate and trustworthy evidence, inferior to primary solely in respect of its derivative character, and must not consist of conjectural or illegal matters. Its chief admissible forms are Copies; Oral Testimony; Admissions; Circumstantial or presumptive Evidence; and Declarations, {668|669} made either in Public Documents, or by Deceased Persons." Then in dealing specifically with a subject heading, "Oral Testimony and Admissions", Phipson says at page 893, "In addition to testimony as to examined copies, the contents of private (but not generally of public or judicial documents) may be proved as secondary evidence by any witness who has in fact read them. A party cannot, however, be compelled by his opponent to admit the contents of documents unproduced in the witness-box, although his admissions out of court afford primary, or sometimes secondary, evidence of such contents against himself."

There are no degrees in secondary evidence, says Phipson, at page 895. "The general rule is that there are no degrees in secondary evidence; and that a party is at liberty (subject to comment if more satisfactory proof is withheld) to adduce any admissible description he may choose." In considering what may be appropriate for secondary evidence, Phipson says at page 901, paragraph 36-31[37?], under the heading, "Impossibility or inconvenience of production": "When production of the original is physically impossible or highly inconvenient, e. g., inscriptions on walls, tombstones, etcetera, unless there are circumstances of suspicion, the object itself {669|670} will not have to be produced."

I am suggesting that in this case it is impossible to produce archival documents that are being held in a foreign country.

And at page 902, contained under the section, "Impossibility or Inconvenience of Production", it states at the top of the page: "The rule applies equally where a private document is beyond the reach of a subpoena duces tecum because it is filed in a foreign Court or is in the hands of a person whose refusal to produce the document cannot be overcome because he is a resident abroad or is entitled to diplomatic immunity."

So I am suggesting, Your Honour, that first of all, on the authority of Rauca, that Dr. Hilberg is entitled to express his opinion, that he be qualified as an expert, express his opinion on matters contained within the pamphlet dealing with the Holocaust, and that if that opinion — that he can state the basis upon which that opinion is given, and that the jury can consider what weight to give to that evidence, that if Your



Honour finds that Rauca does not go that far – I suggest that it does – if Your Honour finds that it does not, then I would suggest that on the basis of the literally thousands and thousands {670|671} of documents, original documents that Dr. Hilberg has read himself, he can testify as to the contents of those documents and to their existence.

I would suggest that Phipson would indicate – and this would probably correspond with what my friend would argue – Phipson would indicate that the use to which the fact of reading those documents can be put is two-fold, and only one is a proper use: The first is for the existence of those documents, and the second is for the truth of the contents of the documents. The only use is for the proper use of the documents. There is a document that exists that says this. It can't go to the truth of what it says, but it can go into consideration of what a historian considers in forming a historical opinion, and it gives weight such that his opinion can be heard by the jury.

That would be my argument.

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: A couple of preliminary points in reply.

First of all, the Rauca case was an extradition case on which the burden of proof is similar to that of a preliminary hearing. It is also true to say {671|672} that the issue raised by the appeal from the decision of the lower court in the Rauca case does not involve the issue that I have asked Your Honour to consider. Nonetheless, the Court of Appeal did refer to the evidence of Dr. Hilberg which, at the time, apparently [apparently], was unchallenged by counsel for the respondent to the application of the Federal Republic of West Germany – namely, Mr. Rauca. In that case it's my submission that there was no obligation upon the Crown to prove truth beyond a reasonable doubt, because the only thing that Crown had to do – that is, not the Crown, probably more correctly the Federal Republic of West Germany, actually had only to prove a prima facie case. And the Canadian Government, in the Extradition Act, very clearly indicates their position that if a prima facie case is proven, then they permit the accused to stand trial in a country of origin of extradition proceedings.

My friend says my argument is novel. I have already said the whole case is novel. We are not here, he says, to determine what the world knows. That's true. He says there is a distinction between a historian and a psychiatrist. Historians cannot use hearsays – rather, a historian can use hearsay, but a psychiatrist {672|673} cannot.

I think he is stuck with the problem where the Supreme Court of Canada has made a general statement about the admissibility of evidence from expert evidence, and I think, quite clearly, that you don't prove the fact through calling an expert to say what somebody else said, and I don't think they restricted those remarks at all to psychiatrists. And the remarks of Mr. Justice Dickson, Chief Justice of Canada, seem to me a far wider application than just a psychiatrist.

My friend then contends we are kind of a half-way house where Dr. Hilberg can say, "Well, I know this document exists." Well, I respectfully suggest that the pamphlet, "Did Six Million Really Die?" doesn't dispute the existence of documents that I am aware of at all, in any case, to any great extent. It does dispute the meaning of testimony at the Nuremberg Trials. It disputes the findings of those Courts. It disputes the allegations of gas chambers. It doesn't dispute the existence of certain documents. I don't think that is what the case is all about. If so, I would like my friend to point out where he says this pamphlet says the document doesn't exist and Dr. Hilberg says it does. Then I know what I am dealing with, {673|674} but I don't hear him say that.

My friend says psychiatric evidence is admissible to prove the existence of a document if primary evidence is unavailable. I agree with that. That doesn't answer the objection to the admissibility of the primary evidence to prove the truth. The primary evidence must be admissible in order that psychiatric evidence can take its place.

I don't dispute that if the primary evidence of various and sundry documents was disputed, and the Crown wished to prove the existence of them and the truth of them, then if the primary documents were admissible to prove truth, then they could substitute secondary evidence, if they couldn't produce the primary document.

That, I don't think is the real issue at all. The right to do that I don't take issue with. I take issue with whether you can introduce these documents through a witness to prove truth when, in fact, the documents themselves would not be admissible.

We are not, I suggest, entitled to automatically – perhaps there is some rule that would admit their existence into evidence. We are not entitled, as far as I am aware, to introduce the documents of another Court {674|675} as proof of the truth of their content, especially when that other Court was not a Canadian Court. I don't think I would be well-advised to suggest that we should take some of the evidence from some trial of mine and introduce it as proof of something here. I think I would be looked upon with somewhat of a strange glance, quite rightly, and I think that is basically what my friend is contending – not only to introduce that through the primary source, but to introduce it through Dr. Hilberg.

My respectful submission is, it is not admissible at all in this Court, and I don't think that his argument about the admissibility of the secondary evidence deals with that at all. Thank you very much, sir.

THE COURT: Thank you.

MR. GRIFFITHS: Your Honour, if may, one other thing, and I mentioned it in passing, and I wanted to repeat it again so that we are clear. There are documents that are referred to in here, and specifically – and by "in here", I am talking about Exhibit 1. There is a reference to a report of a Lieutenant General Stroop on page 19, dealing with the Warsaw Ghetto. There are other documents as well that are referred to in here, {675|676} and I take the position that if Dr. Hilberg has read those documents, he can testify as to whether those documents that he's read contain the information that is in this report here.

We are not talking about proving anything about the Holocaust. We are talking about this article and its accuracy or falsehood. And I mentioned that in passing in my argument, but I hope that is understood, that I hope to introduce that evidence from Dr. Hilberg.

As well, there are allegations made about the Nuremberg hearings, which a reading of the transcripts would reveal, I suggest, are false.

That's all. Thank you.

THE COURT: Mr. Christie, do you have any reply with respect to those two matters which we just heard about?

MR. CHRISTIE: Yes, I do, Your Honour.

The reference to the Stroop Report, I think my friend is alleging that the report is misquoting, or the article misquotes part of the Stroop Report. It's my submission that in order to {676|677} give evidence to refute what is said here, one would have to be able to swear this is the actual and truthful Stroop Report, and to do that is to give evidence beyond the competence of a witness who was not a party to the report. It wouldn't be an admissible report in these proceedings unless its authorship could be established, unless it could be proven to be authentic. And this witness has not the ability with regard to that degree of authenticity unless he says he is an eye witness with respect to its creation.

I think what we involve ourselves if my friend follows the practice, is the process of accepting as proof someone's opinion on the authenticity of a document.

I respectfully submit that a person qualified as a writer of books and a general historian really hasn't developed that type of expertise.

MR. GRIFFITHS: Not a general historian, a Holocaust historian.

MR. CHRISTIE: Excuse me, a Holocaust historian. Even a Holocaust historian specializing in an area of history is not qualified to say, "I know that to be the actual and true copy, or the original Stroop Report". I would be very interested if Dr. Hilberg can produce the {677|678} Stroop report or something that far-fetched. I would find that, perhaps, direct evidence, but it would be the only admissible evidence.

Now, I think my friend also referred to the Nuremberg Trial transcript, and I didn't clearly understand what he meant. If he says that Dr. Hilberg will disagree with some of the statements here, I don't doubt that, but I don't think he is qualified to make a judgment on the accuracy of the transcript or the books that have been printed by other people about it. I have read them, too, and I have also found corroboration

from what is said here, and there are disputes about what is said here. He, indeed, will be relying on secondary sources that were supposed to take admissible primary sources.

I just think that it involves an expert expressing opinions that take us no closer to the admissible evidence that should properly be before a Court.

Thank you.

THE COURT: I hope to be ready at twelve-thirty.

— Short adjournment

— Upon resuming. {678|679}

#### REASONS FOR RULING

THE COURT: This voir dire determines the issue of whether or not the evidence of one Dr. Raul Hilberg may be received in evidence as the testimony of an expert witness. The accused is charged with two counts pursuant to s.177 of the Criminal Code. Both counts are contained within the confines of a single indictment. The issue I must decide relates essentially to count number two of the indictment, although I am not to be taken, in the course of this ruling, as having confined the issue to that count alone. It may pertain to count number one; essentially, however, count number two is the relevant count with which I deal. That count reads as follows:

*"ERNST ZÜNDEL stands further charged that he, in or about the year 1981 at the Municipality of Metropolitan Toronto in the Judicial District of York, did publish a statement or tale, namely 'Did Six Million Really Die?' that he knows is false and that is likely to cause mischief to the public interest in social and racial tolerance, contrary to the Criminal Code."*

The essential issues, as I see them, at {679|680} this particular stage of this trial, concern the accused's admitted publication of the document entitled, "Did Six Million Really Die?". Within that document, the main thread of its contents seems to me to be that the so-called Holocaust (as he phrases it) did not occur in the way that historians, the media and others have all said it occurred. Secondly, while the document points out that many thousands of Jewish people did die during the course of World War II, there was no systematic policy espoused, created and followed by the German government, the German armed forces, both political and otherwise, during the course of World War II the object to which was to systematically exterminate Jews from the face of Europe. There are, undoubtedly, other issues which I regard as somewhat more minor that surely will arise during the course of this trial as set out in Exhibit No. 1, "Did Six Million Really Die?". However, as I see it, those are the two issues I have attempted to identify that constitute the main substance of the document.

Dr. Hilberg is a proposed witness for the Crown. He has testified on this voir dire. He has sworn that he holds a Ph.D. As I recall his evidence, his subject to achieve that degree of learning was in law and {680|681} politics, or something along those lines. He swore he has become expert on the subject of the Holocaust. He began that study as a graduate student in 1948. For the last thirty to forty-five years, as I understand his evidence, he has studied in detail books, papers and documents of all descriptions and topics on the subject. He has perused with great care the documentation on the subject of the Holocaust created by the civil service of more than one country and including that in the United States of America and Germany.

His methodology is based upon the study of documentation of all kinds on the subject in question, the comparison of all documents with others to see if they agree or disagree, and the obtaining of opinions from persons which he considers expert in the field. He has created and written at the present time a substantial text on the subject containing about eight hundred pages and many footnotes.

He has studied primary documents of, as I say, a civilian civil service nature and military nature, and in Germany the S.S. political aspect of the police force, as well as the totally civilian aspect of the then existing German police force. He has studied with care transcripts of the evidence given at trial in Nuremberg subsequent to World War II. He has

had direct {681|682} access and has perused many of the documents contained in the archives in the United States on the subject in question. Those documents occupy about twenty-five thousand square feet of shelf space in the State of Virginia. His object, he swore, has been to determine how and not why the Jews, as he says, were destroyed. In that regard he has focused his attention on methods of transport negotiations between various European countries, the finance required for the scheme that he said occurs, and the inner diplomatics of Germany in relation to other sovereign states or semi-sovereign states at the time. This all involved the consuming of much time. It also involved a great deal of cross-checking of documentation. This field, in essence, is the method of destruction of Jews.

He further testified that he was accepted as an expert witness in the Supreme Court of Ontario before the Chief Justice of the High Court Mr. Justice Evans in the recent case of Rauca. That was an extradition case. He has been recognized as a specialist in the Holocaust in other courts in the United States where his evidence as an expert witness has been accepted. He has familiarized himself in the nineteen fifties and nineteen sixties with the {682|683} transcripts of trials held in West Germany when it is said that persons charged as war criminals were on trial during those two decades as a result of the Second World War. When cross-examined he acknowledged a case upon which he made comment. He was not aware of the ultimate disposition of that case. I gather from his evidence that that case was overturned in appeal and is a case similar in nature and substance to the one before this Court. The witness stated that he did not follow that case or, indeed, any other cases in which he testified as far as the appeal position was concerned. His evidence was given as an expert. His understanding was that the case was not overturned on the basis of any expert evidence he may have given in that trial.

Mr. Christie, counsel for the accused, takes the position that this Court should not qualify Dr. Hilberg as an expert witness. It is pointed out by the defence in this case that this is a matter of history, that however scholarly Dr. Hilberg may be, he is, essentially, being asked to give an expert opinion based upon what he has gleaned from many sources all of which, in the submission of Mr. Christie, constitute hearsay evidence. In the result, the witness will be giving his opinion, if he is {683|684} permitted to do so, based on inadmissible hearsay. Therefore, in matters of history, this witness should not be permitted to testify. His opinion on the subject of the Holocaust may be debatable but not in a court of law. That is so for reasons I have just given, according to the submission of counsel for the accused.

It is submitted that this witness cannot prove a fact based on opinion drawn from selected documents that he, himself, has selected and read. That is so because it does not constitute firsthand knowledge. Mr. Christie takes the position that the Crown, although he used the word "we", was employing the courts in order to conduct an academic debate. That cannot be done in a court of law because persons long dead are not here to testify. Counsel for Mr. Zündel submits that his position is supported by the decision of the Supreme Court of Canada in The Queen v. Abbey, 68 C.C.C. (2d) 394. After making reference to a number of portions, if not all, of the headnote of that case, Mr. Christie has specifically referred me to page 412 of that decision, part of which reads as follows:

*"While it is not questioned that medical experts are entitled to take into consideration all possible information {684|685} in forming their opinions, this in no way removes from the party tendering such evidence the obligation of establishing, through properly admissible evidence, the factual basis on which such opinions are based. Before any weight can be given to an expert's opinion, the facts upon which the opinion is based must be found to exist."*

Mr. Griffiths, counsel for the Crown, takes the position that the evidence of Dr. Hilberg has been admitted and qualified as expert evidence by the Chief Justice of the High Court of Ontario, as confirmed by the Ontario Court of Appeal in the case of Re Federal Republic of Germany v. Rauca, 145 D.L.R. (3d) 368; 28 O.R. (2d) 705.

Mr. Griffiths submits that the same witness testified on essentially the

same subject in the Rauca case. To hold that his evidence is not now admissible in this case would be erroneous in law. Mr. Griffiths points out that, contrary to the position taken by Mr. Christie, if the last survivor of the Second World War, generally speaking, in this country died, then the fact that the Second World War occurred, if Mr. Christie's position is {685|686} taken, could not be proven. That is so because there would not be anybody alive to say that it happened under oath in a court of law. In the alternative the Crown takes the position that if he is in error with respect to the case law on Rauca that he has presented and the reasons that he has given in the form of submissions, then Dr. Hilberg should be permitted to testify as to the existence of documents which might refute specific allegations made within the confines of Exhibit No. 1 concerning, for example, the accused's version of the Nuremberg trials and other specific references that I do not intend to name here. I am reminded by the Crown that Phipson on Evidence, Article 363 (1) is favourable to the Crown's position. That would be favourable in view of the fact that Dr. Hilberg will be testifying with respect to documents held in archives in foreign countries which would not be available in the ordinary course to this trial in this case.

In reply Mr. Christie submits that the case of Rauca can be distinguished from the case at bar on the ground that the burden of proof requiring the sending of Mr. Rauca back to Germany for trial was proof on the balance of probabilities. I presume that Mr. Christie had in mind the decision of the Supreme Court of Canada {686|687} and the United States of America v. Sheppard as the test. In this case at bar Mr. Christie takes the position that proof must be made beyond a reasonable doubt, which is a much higher burden of proof.

McCormick on Evidence (2d) 29, Article 13, has the following to say on the subject of expert testimony:

*"An observer is qualified to testify because he has firsthand knowledge of the situation or transaction at issue. The expert has something different to contribute. That is a power to draw inferences from the facts which a jury would not be competent to draw. To warrant the use of expert testimony, then, two elements are required. First, the subject of the inference must be so distinctively related to some science, profession, business or occupation as to be beyond the ken of the average layman. Some courts emphasize that the judge has discretion in administering this aspect {687|688} of the rule, and other courts will admit expert opinion concerning matters about which the jurors may have general knowledge if the expert opinion would still aid their understanding of the fact issue. This latter approach emphasizes the true function of expert testimony. Second, the witness must have sufficient skill, knowledge, or experience in that field or calling as to make it appear that his opinion or inference will probably aid the trier in his search for truth. The knowledge may in some field be derived from reading alone, in some from practice alone, or as is more commonly the case, from both. While the court may rule that a certain subject of inquiry requires that a member of a given profession, as a doctor, an engineer or a chemist, be called, usually a specialist in a particular branch within the profession will not be required. The practice, however, in respect to {688|689} experts' qualification has not for the most part crystallized in specific rules, but is recognized as a matter for the trial judge's discretion reviewable only for abuse. Reversals for abuse are rare.*

*Finally, opinion evidence is not admissible if the court believes that the state of the pertinent art or scientific knowledge does not permit a reasonable opinion to be asserted even by an expert. Nor will expert opinion be admitted if the court believes that an opinion based upon the facts in evidence cannot be reasonably grounded upon those facts."*

I am of the view, having heard the evidence of this witness, that Dr. Hilberg has become a person who has acquired specific expertise within the confines of the field that he, himself, elected to study. That field, generally speaking, concerns his acquired knowledge concerning the systematic, if I can use that phraseology, destruction of Jews. That subject is, essentially, at least {689|690} one of the main issues that this jury, not possessing this special expertise, must decide. There is a distinct difference between the admissibility of evidence and the weight, if any, that a trier of fact, in this case the jury, will give to the

evidence.

My function here is to decide, on the basis of the principles as set out by McCormick on Evidence, whether or not this witness falls within those principles. I find that he does. The wording in Abbey that I specifically read, which was referred to me by Mr. Christie, is far from simple to totally understand, at least by me. I am assisted by Mr. Justice Dickson, as he then was, in the same case where he pointed out at page 410 the following words:

*"Thus an expert opinion based on second-hand evidence is admissible, if relevant."*

At page 411 he went on to say:

*"The problem, however, as pointed out by Fauteux J. in Wilband resides not in the admissibility of the testimony but rather the weight to be accorded to the opinion."*

When those passages and others similar are related to the final words on page 412, which I have set, out, in my respectful view those final words can only mean {690|691} that the Crown must prove the source, and the trier of fact must know what the source is. That is so because the trier of fact, in this case the jury, will be obliged, as part of its duty, to believe all, part or none of what the expert witness says. If the jury does not know specifically the documents upon which the expert has relied in order to form his opinion, if the jury is not told about that, then the jury will have no basis upon which to base any weight, if it wishes to place weight, some weight, no weight, or total weight. Surely that is what the learned Justice of the Supreme Court of Canada meant when he used the words, "This in no way removes from the party tendering such evidence the obligation of establishing, through properly admissible evidence, the factual basis upon which such opinions are based before any weight can be given to an expert's opinion, the facts upon which the opinion is based must be found to exist."

It would seem to me that, reading the decision in Abbey, the Courts of law in this country do permit the evidence of experts to be given provided it is properly qualified and stated to the trier of fact based upon secondhand evidence, and not necessarily hearsay evidence, although I must confess that the dividing line between the two is not, {691|692} in all cases, entirely clear.

For those reasons, in my view, the evidence of Dr. Hilberg may be given as the evidence of an expert. He may give opinions based upon the secondhand evidence that has been referred to in the case of Abbey. He cannot give his opinions with respect to the whole of World War II. His evidence as an expert will be confined to the issues that this jury must try. Those issues are contained within the confines of Exhibit No. 1, and if there are any issues contained within the writing, "The West, War, and Islam" – and I have not, at the moment, seen any – then he may testify in that regard also.

I part with this ruling by saying that experts in the field of science, medicine and the practical mechanics of the day-to-day living of people in this world surely should not be the only experts who are permitted to testify in courts of law. Expertise in the field of history is just as much a field of expertise as that of pure science. One can never be entirely satisfied that the evidence of a psychiatrist, who is also a qualified medical person, is, in total or in the main, scientifically based.

The motion is allowed to the extent and within the parameters that I have set out.

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THE COURT: Are there any questions from the Crown?

MR. GRIFFITHS: No, sir.

THE COURT: From the defence?

MR. CHRISTIE: No, sir.

THE COURT: Thank you. Two-fifteen.

— Luncheon adjournment.

— Upon resuming.

MR. GRIFFITHS: Just before the jury comes in, there is something I would like to address you on.

Several days ago some material was being left on seats within the courtroom here. I don't know who left the material there. There were seats that were being reserved for two people, one of whom was

Sabina Citron. As I said, I don't know who left it there. It was left in the courtroom, not outside. The second is a piece that was handed to Mrs. Citron this morning in the courtroom by a Mr. Felderer. His name is indicated on that material. Now, he has been ejected from the courtroom.

I want it on the record that this kind of thing is going in, not outside, but in the courtroom.

THE COURT: Yes. It's on the record. {693|694}

I would consider this type of action as, possibly, an attempt to influence the course of the trial. If I thought it was, I would start an immediate investigation. I am suspicious only.

The recurrence of any of this will result in direct and fast action in a very disagreeable way to the perpetrator.

That will cease. That will be an exhibit for identification, the next one.

MR. GRIFFITHS: Thank you, Your Honour.

MR. CHRISTIE: In this trial? I beg your pardon, do you mean it to be an exhibit in the trial?

THE COURT: For identification.

THE REGISTRAR: Exhibit "D".

— EXHIBIT "D" (For Identification) Two documents distributed in courtroom.

THE COURT: Yes. Go ahead.

MR. GRIFFITHS: That is the only matter I have, Your Honour. Thank you.

— The jury enters. 2:20 p.m.

(Volume IV follows) {694|680\*}

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\* The court reporter evidently started Volume IV with the wrong page number – 680 rather than 695.

## VOLUME IV

### **RAUL HILBERG, sworn**

#### **EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:**

Q. I understand, sir, that you were born in Vienna, Austria, in 1926.

A. That's correct.

Q. And that at some point you left Europe and came over to the United States.

A. That's correct.

Q. When would that have been?

A. 1939.

Q. And did you come alone, or with your family?

A. I came alone.

Q. Did you ever serve in the United States armed forces?

A. Yes, I did.

Q. And when did you start your service with the armed forces?

A. 1944.

Q. And can you tell us what segment of the armed forces?

A. I was an infantryman for a while, {680|681} engaged in intelligence work.

Q. After the war you returned to your schooling?

A. Yes, I did.

Q. And can you tell us what degrees you have and what universities you obtained the degrees from?

A. I have a B.A. degree in political science from Brooklyn College, M.A. and Ph.D. degrees from Columbia University in public law and government.

Q. And when did you receive your Ph.D. from Columbia?

A. In 1955.

Q. So it will be Dr. Hilberg. Right?

A. Yes.

Q. And Dr. Hilberg, I understand that you took up subsequently a teaching post at the University of Vermont.

A. That is correct.

Q. And you still hold that post today?

A. Yes, I do.

Q. And you are a full professor at the University of Vermont?

A. Yes, I am. {681|682}

Q. Can you tell us what courses you teach?

A. I teach international relations, American foreign policy, and of course, on the Holocaust.

Q. Before you were attached to the University, did you engage in some form of research?

A. Yes, did.

Q. Can you tell us about that?

A. I was employed in the Federal Records Centre at Alexandria, Virginia, in a project for the United States Government, exploring captured German documents.

Q. And how long were you there for?

A. Approximately one year. 1951 to 1952.

Q. Well, so you teach a course on the Holocaust. Have you ever done any other work in that field?

A. My main work is writing, sometimes consulting with publishers that send me books, or manuscripts, to be reviewed, and things of this sort.

Q. When did you commence studying the Holocaust?

A. I did not call it the Holocaust at the time, but commenced a study of the subject at the end of 1948. {682|683}

Q. And when did you stop your researches in that field?

A. I have not stopped.

Q. You say that you are a writer. Can you tell us if you have written a major work on this subject?

A. I've written a book called, "The Destruction of the European Jews", which was first published in 1961, and has been re-printed a number of times. An enlarged edition came out in Germany two years ago, and a somewhat larger one that will come out in three months in three volumes in the United States. That will be a revised, expanded edition, but in between I have published other works, both articles and books.

Q. And do any of those other works have to do with the destruction of European Jews?

A. Almost everything does, that I have written, yes.

Q. Have you ever written any articles for encyclopedias?

A. Yes. I have some in the Americana, and one in Funk and Wagnalls.

Q. And what subject would those articles be on? {683|684}

A. On the Americana, on concentration camps, as well as the entry in Dachau and Buchenwald, and in Funk and Wagnalls on the Holocaust as such.

Q. Do you belong to any organizations?

A. Well, I belong to the United States Holocaust Memorial Council, which is a United States government body, and I am a member of it by appointment of the President.

Q. President of what?

A. Of the United States. I have been a member of the American Society of International Law. I am a member of the Jewish Studies Association. These are the only organizations that come to mind, aside from being a sinecure on some editorial boards.

Q. Are you familiar with the President's Commission on the Holocaust?

A. That was the organization established prior to the Holocaust Council, and I was a member of it.

Q. And how did you become a member of that organization?

A. By appointment of President Carter.

Q. Can you tell us how you've carried out your researches in this area? {684|685}

A. My main research strategy is to look at documents, to rely primarily on documents, and secondarily on the statements of witnesses, all kinds of witnesses who have knowledge of or direct observation of any part of the subject matter that I am interested in.

Q. Can you tell us what the source of these – first of all, can you tell us where these documents are, where you go to find them, that you have been looking at?

A. When I speak of documents, I mean primarily public documents. That, is to say, records of the German Nazi regime, kept primarily dur-

ing, the years 1933 to 1945. The United States government in particular captured a large part of these records during the war and kept them physically in Alexandria, Virginia. I looked at some of them while they were located in that area. In addition, of course, I looked at the so-called Nuremberg documents which are, essentially, taken from this pile, for purposes of introducing evidence in the war crimes trials in Nuremberg – namely, 1946, 7, 8, 9. In addition to that, I have been to archives in foreign countries where smaller collections are available and looked at those, quite a few in the original.

Q. And a Xerox machine is a fairly recent {685|686} invention, Dr. What would you do when you were studying these documents in the age before the Xerox machine?

A. In the pre-Xerox age, one had to copy the documents by hand, and that is what I did for years.

Q. And can you give us any idea how many documents you would have copied out in longhand?

A. A few thousand.

Q. You've used the term "Holocaust" a couple of times. How do you define the Holocaust?

A. I would generally define it as the annihilation by physical means of the Jews of Europe during the Nazi regime between the years 1933 and 1945.

Q. Can we do it once again? Annihilation by physical means ...

A. Annihilation by physical means of the Jews of Europe during the Nazi regime between the years 1933 and 1945.

Q. Thank you, sir. In your book, "The Destruction of European Jews", can you tell us how large a book that is, how many pages it would be?

A. It has eight hundred double columns, footnoted pages.

Q. Any idea how many footnotes would {686|687} be attached to that first edition?

A. A little over three thousand.

Q. You said that your latest edition that you are compiling now is some three volumes?

A. Yes.

Q. And is that larger or smaller than —

A. It will be larger. Some condensation of material, but much that's been added. It's hard to transfer percentages, because the format is a little different. It's not double columned any more, but it is thirty, forty per cent longer than the first, even though it comes out in three volumes.

Q. Can you indicate to us what your methodology is as a historian of this period and this phenomena?

A. I would describe myself as an empiricist, looking at the materials, particularly the small details, and trying to come to conclusions from these details about the larger processes and the larger issues.

Q. Can you give us an example?

A. Well, I would, for example, look at railway transports from specific areas to death camps with a view to establishing the pattern of deportations and {687|688} killings in Europe, or I would look at the manner in which clothing, or the lost belongings of the gassed would be collected and distributed to find out some, in some way, as to how thorough the process was, what the mentality behind it was, and how, indeed, it was financed.

Q. Can you tell us what perspective you were looking at this whole issue of destruction of European Jews? What perspective, if any, were you taking, and do you take, in your work?

A. I was mainly curious from the beginning, and I am still curious now about the details, about how this process was implemented from stage one to the last. I did not view it as a simple, massive, amorphous, undertaking. I wanted to see it in its step-by-step procedure. Trained as a political scientist, I was interested in who made these decisions and in what order they were made. And on the whole, that is a perspective of a political scientist approaching a historical probe.

Q. Have you had an opportunity to see the — I believe it is Exhibit 1 — "Did Six Million Really Die?" pamphlet?

A. Yes, I have seen that.

Q. Is there an extra copy available here {688|689} for the doctor to look

at?

THE COURT: Take a look at that and show it to Mr. Christie first, would you, please?

MR. CHRISTIE: I am satisfied it is the same.

THE COURT: It may not be. Please look at it. I have done some underlining. If it is not satisfactory, then it will not be used. While Mr. Christie is doing that, members of the jury, I think I should say this to you now. This witness is testifying as an expert witness. It is my responsibility to decide whether or not this witness may do that. I have decided that he may do so. Merely because he comes before you as an expert witness does not make him any different than any other witness who testifies from this witness stand under oath. You will be told many times between now and the end of this trial, and especially towards the end of the trial, that you, as jurors — and I mean each one of you — can accept all, part or none of what any witness has to say under oath during the course of this trial from the beginning of the trial until the end of the trial. That will apply to this witness as it will apply in the same way to any other witness. Merely because he has been qualified as an expert witness in no way endows {689|690} this gentleman with any more credibility to be attached to his evidence than that of any other witness who testifies during the course of the trial in your view. Each one of you is a supreme judge of the facts. I am not, neither counsel is a judge of the facts. You are. You can accept all, part or none of what any witness has to say.

Yes, Mr. Christie.

MR. CHRISTIE: I can only find one small part underlined. I have no objection to that.

THE COURT: Thank you.

MR. GRIFFITHS: Thank you, Mr. Christie.

Q. I am showing to you, sir, a pamphlet, red pamphlet, entitled, "Did Six Million Really Die? Truth At Last Exposed." Have you seen that pamphlet before?

A. Yes, I have.

Q. And have you had an opportunity to read that pamphlet over?

A. Yes, I've read it.

Q. I am going to ask you, first of all, doctor, considering the pamphlet as a whole, if you have any comment to make on the methodology, the historical study or methodology that was used in this pamphlet.

A. It's a bit hard to use the word {690|691} "methodology" in connection with such a pamphlet. Methodology presupposes some honest look at material and conclusions drawn honestly from it. What I find here is concoction, contradiction, untruth mixed with half-truths as some ordinary statements which anyone can accept in order that it's hard for me to comprehend. It seems, at first glance, and also upon re-reading, to be a highly biased statement.

Q. Thank you, sir. If I could direct you to page 7 of the pamphlet, and a heading, Chapter 3, "Population And Emigration". Do you see that?

A. Yes.

Q. The second paragraph —

THE COURT: Is that "emigration"?

MR. GRIFFITHS: "Emigration", yes, sir.

"Population And Emigration". It states:

"In the first place, this claim cannot remotely be upheld on examination of the European Jewish population figures. According to 'Chambers Encyclopaedia' the total number of Jews living in pre-war Europe was 6,500,000. Quite clearly, this would mean that almost the entire number were exterminated." {691|692}

First of all have you, in the course of your studies, tried to determine a total number of Jews in pre-war Europe?

A. Yes, I have.

Q. And what Sources have you gone to to try and arrive at that figure?

A. In the first instance I would consult census statistics. In some countries there is a breakdown

in the census by religion, and those areas, one must look at the date of the census and, obviously, one must, in certain instances, account for the difference of years, if it is a 1930 census to 1939 or to 1940, given

the birth rates in the population as estimated. In those countries in which there was no census figure, and there are some like that, the data are a little bit more nebulous. They are based upon estimates made on the whole Jewish communities, but there are estimates made as well by the Gestapo and by German statisticians, and one can look at all of these, and I have done that. Not but one which I would describe as highly precise, but one which, nevertheless, gives me a ballpark figure.

Q. What's your ballpark figure?

A. About nine and a half million pre-war.

Q. And do you know what the percentage {692|693} of error is in that figure?

A. There is quite a percentage of error in that figure because, however one wishes to define Europe, I look at the Jewish population of Poland for which there is a census figure for 1930, and a Polish estimate for 1935, and the figure is three million, three hundred and fifty thousand just for one country, Polish. One looks at the census of the Soviet Union and sees in 1939, January 1939 census, a figure of three million and twenty thousand. So here are two countries with six million and, roughly, four hundred thousand people. And that does not encompass Germany, France, Britain, and also other European countries, Hungary and Rumania, which may be added.

Q. Do you have any difficulty with defining what a Jew is in pre-war Europe?

A. Basically, the census statistics take the definition to be religion. Anyone belonging to the Jewish religion at the time was considered to be Jewish. Needless to say, Nazi Germany wrote its own definitions of the term "Jew", so did satellite states such as Hungary, where the term "Jew" was defined in terms of grandparentage – in short, an individual with four Jewish grandparents, even though born into the Christian religion, was considered {693|694} Jewish, under the Nazi definition. Thus, there is a difference, depending upon the country involved, of several percentage points, based upon which definition is adopted.

Q. Doctor, there will be some testimony later with respect to two pages, photostatic, that I am showing to you now, and particularly the second column on page 99.

THE COURT: That is exhibit ...

MR. GRIFFITHS: I'm sorry, Your Honour?

THE COURT: Is it an exhibit?

MR. GRIFFITHS: I will be submitting it subject to further identification, Your Honour. I believe it is from a 1973 edition, and there will be evidence of Chambers Encyclopaedia.

MR. CHRISTIE: Is this from Chambers Encyclopaedia?

MR. GRIFFITHS: Yes. And I will be calling evidence to that effect, to identify it.

Q. Have you had an opportunity to look at column 2 there on page 99?

A. Yes.

Q. Can you tell us, if any, where in that column you can find the figure six and a half million? {694|695}

A. Yes, I do see it.

*"On the continent of Europe apart from Russia, whose western provinces also suffered terribly, only a handful of numerically unimportant communities in neutral countries escaped and of the 6,500,000 Jews who lived in the Nazi dominated lands in 1939, barely 1,500,000 remained alive when the war ended six years later."*

This is a statement about Europe outside of Russia, which had three million —

MR. CHRISTIE: Your Honour, I object to the witness telling us what Chambers Encyclopaedia meant. I think the words speak for themselves. He shouldn't extrapolate on his view of what they mean.

THE COURT: I agree.

Q. MR. GRIFFITHS: Can you tell us, doctor, when you compare that sentence, six and a half million Jews including Russia, in 1939 – where is it again?

A. In Chambers it excludes Russia. It refers to six and a half million Jews in Nazi-dominated lands in 1939. {695|696}

Q. Would that figure have changed, in your opinion, in 1940 or 1941?

A. Well, of course, because, leaving aside the accuracy of this figure about which I wouldn't comment, the fact is that Nazi-dominated Europe widened as German armies marched into France, Belgium, Holland, and above all, the Eastern regions of Poland and the Soviet Union. Now, this would have happened in 1940 and 1941, so this is ...

Q. Thank you.

MR. GRIFFITHS: I would submit that, Your Honour, subject to further identification.

THE COURT: Yes. That will be marked for further identification.

— EXHIBIT "E" (For Identification): Excerpt from Chambers Encyclopaedia, pages 99 and 100.

Q. MR. GRIFFITHS: On page 10 of the document, Dr. Hilberg, there is a section headed, "Absence Of Evidence", and it is under the title, "The Six Million: Documentary Evidence". "Absence Of Evidence", column one, the first sentence:

*"It should be emphasised straight away {696|697} that there is not a single document in existence which proves that the Germans intended to, or carried out the deliberate murder of Jews."*

Could you comment on that, doctor?

A. Leaving aside what the authors meant by the term "document", my interpretation of German records is that there are, indeed, many hundreds of documents dealing with death-dealing operations directly, and reporting upon them, and giving figures and details.

Q. Can you describe some of those documents for us, doctor?

A. Well, for example, when the German armies crossed the border into the Soviet Union on June 22nd, 1941, they were accompanied by battalion-size units of security police and security service. These units called Einsatzgruppen reported back on a daily basis all their operations, above all, of course, the killings of people, and that is ninety, ninety-five per cent Jews, according to those reports, in various localities of the vast regions of the U.S.S.R. from the Baltic to the Black Sea. That is just one example of direct rapportage in the German documents.

Q. And these documents exist today? {697|698}

A. Oh, yes.

Q. Have you seen them?

A. Yes.

Q. Where would they be found?

A. These documents were Nuremberg documents. They come from the pile of records that the United States captured, or they are photostatic copies, microfilm copies available from the National Archives of the United States. I would not describe them as rare.

Q. While we are discussing Einsatzgruppen, you could turn to page 13, column one. It says, "The Case Of the Einsatzgruppen".

A. Mm-hmmm.

Q. Do you see that?

A. Yes.

Q. *"The Wisliceny statement deals at some length with the activities of the Einsatzgruppen or Action Groups used in the Russian campaign. These must merit a detailed consideration in a survey of Nuremberg because the picture presented of them at the Trials represents a kind of 'Six Million' in miniature, {698|699} i.e., has been proved since to be the most enormous exaggeration and falsification."*

Would you agree with that?

A. Of course not.

Q. Have you seen any terms in the documentation that you have gone through that would prove the evidence presented at Nuremberg dealing with the Einsatzgruppen was the most enormous exaggeration and falsification?

A. Not at all. I have seen repeated documentation, some of it in the original documents that I have seen in Alexandria, Virginia, which do indicate much larger figures for these mobile operations which involve shootings on a mass scale. They were not at all limited to the so-called commissars attached to the Red Army. There were extremely few of those. Indeed, there were not thirty-four thousand, as stated here.

Q. I will read the next part:

*"The Einsatzgruppen were four special units drawn from the Gestapo*

and the S.D. (S.S. Security Service) whose task was to wipe out partisans and Communist commissars in the wake of the advancing German armies in Russia. {699|700} As early as 1939, there had been 34,000 of these political commissars attached to the Red Army."

Is that the figure you are commenting on, the thirty-four thousand?

A. I think it is a careless figure. I am not a specialist of the Red Army, but I do know how few were reported to be the shootings of the so-called commissars, even the low-ranking politroops (ph) which were essentially political officers. And you must keep in mind that a commissar would have had to be attached to a battalion [sic]. There is an implication here of thirty-four thousand battalions [sic].

A battalion [sic] would have a thousand men in it, so here you are. The Germans themselves repeatedly stated in their testimony – and these were Generals, and these were S.S. Officers – that the number of commissars were relatively few, at least those captured, apprehended, identified, and shootings were rather few.

Q. All right. Let's carry on then, with that paragraph dealing with the Einsatzgruppen:

*"The activities of the Einsatzgruppen were the particular concern of the Soviet Prosecutor Rudenko at the {700|701} Nuremberg Trials. The 1947 indictment of the four groups alleged that in the course of their operations they had killed not less than one million Jews in Russia merely because they were Jews. These allegations have since been elaborated; it is now claimed that the murder of Soviet Jews by the Einsatzgruppen constituted Phase One in the plan to exterminate the Jews, Phase Two being the transportation of European Jews to Poland. Reitlinger admits that the original term 'final solution' referred to emigration and had nothing to do with the liquidation of Jews, but he then claims that an extermination policy began at the time of the invasion of Russia in 1941."*

Can you comment on that?

A. What is correct in the statement is that there were four Einsatzgruppen composed, as stated here. It is also correct that I, myself, have stated that the killings of the Jews in the path of the Einsatzgruppen was {701|702} Phase One, and that the deportations was Phase Two. I, myself, have stated this in my own work. Also it is true, not only Reitlinger has stated that, that the usage of the term "final solution" is an old usage, and it did mean emigration or some other disappearance of Jewry from the scene in the early days, and it did not mean killing until 1941. The phrase was not altered. The meaning given to the phrase was, however, entirely different once it was used in connection with either Einsatzgruppen operations or deportations to Poland.

Q. It carries on, and again, this seems to be considering the work of a man by the name of Reitlinger. Are you familiar with his works?

A. Reitlinger wrote a work called, "The Final Solution". It appeared in the early fifties. It is one of the first studies made on the basis of what I would consider not an overwhelming number of evidentiary materials, but nevertheless, enough to sketch the large picture. It is actually a rather conservative work. It's written by an Englishman, Reitlinger, who tended to be skeptical, and especially with regard to numbers, tended to downgrade them rather than move them up.

Q. "He considers" – "he" referring to {702|703} Reitlinger:

*"He considers Hitler's order of July 1941 for the liquidation of the Communist commissars, and he concludes that this was accompanied by a verbal order from Hitler for the Einsatzgruppen to liquidate all Soviet Jews (Die Endlösung, p.91). If this assumption is based on anything at all, it is probably the worthless Wisliceny statement, which alleges that the Einsatzgruppen were soon receiving orders to extend their task of crushing Communists and partisans to a 'general massacre' of Russian Jews."*

I am not going to ask you what Reitlinger based his assumptions on, but is there anything other than a statement by a man by the name of Wisliceny that you base your opinion on?

A. Oh, yes. There are statements made by various commanders, not only of, but in these Einsatzgruppen, some of them testifying at Nuremberg. Their affidavits are on record. There are statements made by members of the armed {703|704} forces. There are records, including

one which mentions the Chief of Operational Staff – if I give you the word it will be very long – in the high command of the armed forces. Now, these are short, very concise, almost cryptic statements, but they do refer to a Hitler order. As far as the written material is concerned, it only refers to commissars and Jewish Bolshevik Chieftains, as Hitler referred to them, but so far as the comments and statements of the commanders of Einsatzgruppen who, after all, were in the field and who carried out these operations, were concerned, yes, there was a Hitler order. Surely they didn't want the impression to be created that they were doing all this on their own without the Hitler order.

Q. All right. Go back, then, to the beginning of this section that we have been looking at on page 13. It starts on page 11, Chapter 5. The reference in the second paragraph, under Chapter 5, is again made to various statistics, one used at Nuremberg and one used at the Eichmann trial: 9,600,000 Jews living in German occupied Europe, and 9,800,000 at the Eichmann trial. There is a statement there that it is an inflated figure. You have already commented on that.

A. Yes. {704|705}

Q. Okay.

MR. CHRISTIE: I don't understand whether that was a question or a statement by my learned friend.

MR. GRIFFITHS: Oh, all right. I will assist you, Mr. Christie. Have you formed any opinion as to whether those figures that were used in Nuremberg and at the Eichmann trial by the prosecution, as indicated here, are accurate, roughly?

A. As I previously indicated, in my own calculations it was nine and a half million, but I also

indicated that if one introduces different criteria of the definition of Jew as those belonging to the Christian religion, the numbers are slightly higher. So these are ballpark figures.

Q. All right. We can turn to page 12, the first column there. Do I understand from your evidence that you have read the twenty odd volumes of the Nuremberg transcripts?

A. Oh, yes. Oh, yes. That's only the first Nuremberg trial.

Q. Yes, sir. There is the International Military Tribunal here. Can you explain to us what the {705|706} difference is?

A. There was a trial of the so-called major war criminals headed by Goering. This was a trial under a Charter, actually a treaty, but it is called a Charter of the International Military Tribunal, to which some twenty odd countries were a party. The judges at the trial were American, U.S., British, French and Soviet. The prosecution also was drawn from these four powers, and the defendants were the top leadership apprehended after the war, with some exceptions – a few lower ranking individuals as well. This record produced twenty volumes of testimony and additional volumes of documentation. There were so-called subsequent trials which were conducted as U.S. Military Tribunal proceedings, but these proceedings were, although called Military, and although deemed international because under a control council which was passed by all four occupying council, these particular trials were headed by American judges drawn from the highest State Courts and consequently proceeded along lines customary and usual in these courts. There were twelve subsequent trials involving Field Marshals, top corporation executives, top ministerial bureaucracy representatives, and the like, also the high S.S. people. And these twelve subsequent trials produced {706|707} yet another much larger record of documentation and to testimony.

THE COURT: Were each of those trials conducted with a single accused, or were they conducted with a mix of multiple accused?

THE WITNESS: Only one trial had a single accused, Milch. The others had several accused, up to more than a dozen.

THE COURT: Thank you.

Q. MR. GRIFFITHS: Now, all those trials, were they collectively Nuremberg trials, or do they go further afield?

A. One does call them collectively the Nuremberg Trials, however, if one says the Nuremberg Trial, single, that is the first one.

Q. The International Military Tribunal.



A. Yes. Yes.

Q. Can you tell us, doctor, whether in your examination of the transcripts of those matters – and perhaps I could refer you first to the top of the page and ask you to comment in that way. This is page 12, column one, and in context, this starts on page 11:

*“The Rules of Evidence, developed by {707|708} British jurisprudence over the centuries in order to arrive at the truth of a charge with as much certainty as possible, were entirely disregarded at Nuremberg. It was decreed that ‘the Tribunal should’ not be bound by technical rules of ‘evidence’ but could admit ‘any evidence’ which it deemed to have probative ‘value,’ that is, would support a conviction. In practise, this meant the admittance of hearsay evidence and documents, which in a normal judicial trial are always rejected as untrustworthy. That such evidence was allowed is of profound significance, because it was, one of the principal methods by which the extermination legend was fabricated through fraudulent ‘written affidavits’. Although only 240 witnesses were called in the course of the Trials, no less than 300,000 of these ‘written affidavits’ were accepted by the Court as supporting the charges, without this {708|709} evidence being heard under oath.”*

Do you have any comment as to, first of all, those numbers – two hundred and forty witnesses called –

THE COURT: I have it, Mr. Christie. Let's hear the question.

MR. CHRISTIE: I wasn't going to interrupt until –

THE COURT: I know.

Q. MR. GRIFFITHS: — that no less than three hundred thousand of these written affidavits were accepted by the Court as supporting the charges, without this evidence being heard under oath?

THE COURT: Just before you answer, doctor. Yes, Mr. Christie.

MR. CHRISTIE: I don't want to interrupt the proceedings unnecessarily, but —

THE COURT: You are not.

MR. CHRISTIE: If Your Honour could direct me as to whether your ruling intended to go as far as to allow the questions of a legal nature, I will then be guided more clearly in my reaction to this type of question.

THE COURT: I did not hear the question as a legal one. I thought it more concerned itself with {709|710} numbers. Why is it legal? We are talking about the three hundred thousand affidavits type of thing.

MR. CHRISTIE: Yes. Maybe I misunderstood the question. If that is all it directed itself to, then I will withdraw my objection.

MR. GRIFFITHS: That is all it is meant to.

MR. CHRISTIE: I thought it involved more than that.

MR. GRIFFITHS: I am not going to ask him about the principles of English justice. He is not a lawyer.

THE COURT: You are asking him about the alleged volumes of affidavits that you said were tendered at the Nuremberg trials, things of that nature.

MR. GRIFFITHS: Yes, sir.

THE COURT: Does that clear matters up, Mr. Christie?

MR. CHRISTIE: That was within the scope of Your Honour's ruling, so I have nothing further to say.

MR. GRIFFITHS: Thank you, Your Honour.

Q. Do you have the question, Dr. Hilberg, {710|711} or would you like me to repeat it?

A. No. I have the question. The system of keeping records at Nuremberg was to give each document an accession number – that is, regardless of content, as a document is received, it would receive a consecutive number within a so-called document series. So we have a pretty good figure of the number of documents that there were. These documents were given numbers regardless of whether they were German correspondence or affidavits. It made no difference. They would just get a number. And if the previous number was 599, then the next number was 600. From this I could tell you that the prosecution documents at the first Nuremberg Trial were approximately forty-five hundred, five thousand, including affidavits, that the prosecution documents in all the subsequent trials which I have mentioned aggregated roughly forty thousand documents, including affidavits, but in addition, there were many defence documents.

Q. Oh, you mean the defence could give affidavits as well?

A. Oh, yes. In fact, I would, without being able to give you exact figures, say that I have seen enormous quantities of defence affidavits which were received. {711|712}

Indeed, I used some of them, and they are in the footnotes of my work. But in no case can we speak of three hundred thousand affidavits. That would be, even if you include all of the defence affidavits, which are more than the prosecution affidavits, that would be excessive.

Q. So did you see any reference there to defence affidavits?

A. No. I would say that the implication of the sentence, as I read it, if I read it correctly, is that these particular affidavits, these particular witnesses, were called as prosecution witnesses, and there is no mention of defence witnesses there at all.

Q. All right. The article goes on:

*“Under these circumstances, any Jewish deportee or camp inmate could make any revengeful allegation that he pleased.”* Can you comment on that sentence?

A. Well, I would say that in almost – again, I don't speak as a lawyer, but in any proceeding, and particularly at Nuremberg where I said in the subsequent trials there were State Judges quite used to the rules of evidence and the usual business of what is and is not a {712|713} legitimate question verbatim, one could not make a statement in any way at all in whatever way one pleased. There had to be some relevance. That is not to say that the statement was necessarily correct or that it was given any great weight, any more than my testimony is to be given quite a lot of weight, but it was a statement, and it had to have some relevance.

Q. It goes on:

*“Most incredible of all, perhaps, was the fact that defence lawyers at Nuremberg were not permitted to cross examine prosecution witnesses.”*

A. That is strictly falsehood. I have gone through the trial testimony of these twelve subsequent trials and I can only state that defence lawyers used a lot of opportunities given to them, and they had these opportunities to cross-examine prosecution witnesses. They may, at some time, have elected not to do so because the testimony was too damaging and they just didn't want to cross-examine.

Q. But they did have an opportunity to cross-examine.

A. Oh, yes. I've seen such testimony. {713|714} I've read it. I've used it.

Q. There is a reference to a Judge Wenersturm and some comments attributed to him, and if you go down to the bottom of page 12, still in the first column, at the bottom, there is a little footnote there, “(ibid. p. 68)”, and I am going to start reading after that:

*“It is obvious from these facts that the fundamental legal principle: that no man can sit in judgement on his own case, was abandoned altogether. Moreover the majority [majority] of witnesses were also Jews.”* Were the majority of witnesses identified as Jews?

A. No, not at all. Not at all. I can't give you numbers, but there was a fair percentage of Jewish witnesses, but there was a very large number of non-Jewish witnesses. Some were victims, and a very large number of witnesses from the defence side. People were testifying about their superiors on trial, or their friend on trial. And moreover, there were prosecution witnesses drawn from the German bureaucracy as well. Some of these were called turncoats, but nevertheless there were people {714|715} testifying for the prosecution, even though they, themselves, may have been in the S.S. or some other capacity involved in acts of destruction. So as far as that goes, as far as the statement about witnesses is concerned, yes, there were Jewish witnesses. Of course there were Jewish witnesses. But in no sense do they stand out in my mind as being a majority. Not at all.

Q. The next long section is entitled, “‘Confessions’ Under Torture”. Some statements are attributed in the first paragraph to the American Senator Joseph McCarthy. Have you ever heard of an American named Senator Joseph McCarthy?

A. Senator from Wisconsin. That was —

Q. Was he a historian?

A. No.



Q. And —

A. I think the reference here was to a trial, so-called Malmedy trial. This, by the way, was not a Holocaust trial, but concerned a trial of S.S. people charged with shooting American prisoners of war. Joachim — it is misspelled in the paper.

MR. CHRISTIE: What is that?

A. Joachim Paiper, it is misspelled here. {715|716} In any case, it is not a Holocaust, but a prisoner of war trial — during the Battle of the Bulge by S.S. troops. It concerns prisoners of war, wanton shooting of American prisoners of war. That is what this is all about.

Q. And two-thirds of the way down that first paragraph, halfway down: *"As in the notorious Malmedy Trials of private soldiers, the prisoners were hoisted in the air and beaten until they signed the confessions demanded of them. On the basis of such 'confessions' extorted from S.S. Generals Sepp Dietrich and Joachim Paiper, the Leibstandarte was convicted as a 'guilty organisation'."*

A. Yeah. Paiper [Peiper] is misspelled here.

Q. And the Malmedy trial doesn't have anything to do with the Holocaust?

A. It is not a Holocaust matter at all. And in any case, the facts alleged here are so mixed up and so — it is hard to comment on it.

MR. CHRISTIE: Well, Your Honour, this witness is supposed to qualify himself and has been recognized {716|717} as a Holocaust expert, but if he wants to go in this matter, I think he is going beyond his expertise. I am quite prepared to deal with it if it arises, but I wasn't aware he was qualified to comment on the Malmedy Trial as well.

THE COURT: Do you intend to pursue that?

MR. GRIFFITHS: No, Your Honour.

THE COURT: Proceed.

MR. GRIFFITHS: Thank you, sir.

Q. Now, Dr. Hilberg, we will now turn to page 13, and there is reference there to the Ohlendorf trial as the most revealing trial in the Einsatzgruppen case. Have you had an opportunity to look over that section? And you have commented already on the Einsatzgruppen. Is there anything else you want to add?

A. No. I don't suppose there is anything much to add. The allegations made here, as it is in the preceding passage, about torture of Ohlendorf, I know nothing about such torture and really find it a bit incredible.

Q. Have you seen any documentation indicating torture of Ohlendorf?

A. It is, to me, a little bit inconceivable {717|718} that by 1947 or 8 prisoners in a war crimes trial under American custody, American Military Police, would have been tortured in a physical sense. I am not talking about whether they conceived the questioning as torture, but whether they would be tortured in a physical sense — I speak here as an ordinary person, not an expert — it is a matter of being an American and having lived amongst Americans and looking at what is and isn't plausible, and I have never seen any document connected with this trial in which the defence alleged that there was torture.

Q. Page 14, the Oswald Pohl trial. Can you tell us from your examination of the documents what position Oswald Pohl held?

A. He was a high-ranking S.S. Officer in charge of the so-called economic administrative main office of the S.S. and police mechanism. In his jurisdiction, among other things, was the management of concentration camps — not all camps, but those labelled as concentration camps. He also managed so-called S.S. enterprises, utilizing prisoners for labour. He also dealt with purely financial matters pertaining to the organization known as the S.S. and security police. That, was his job.

Q. Midway, or halfway through that first {718|719} paragraph, "The Oswald Pohl Trial", it says:

*"A peak point of hypocrisy was reached at the trial when the prosecution said to Pohl that 'had Germany rested content with the exclusion of Jews from her own territory, with denying them German citizenship, with excluding them from public office, or any like domestic regulation, no other nation could have been heard to complain.' The truth is that Germany was bombarded with insults and economic sanctions for doing precisely these things, and her internal measures against the Jews were certainly a major cause of the declaration of war against Germany*

*by the democracies."*

I don't want to take you outside your field of expertise, and if I am say so, please. Are you, able to comment on that last phrase, "internal measures against the Jews were certainly a major cause of the declaration of war against Germany by the democracies"?

A. I think it is common knowledge that {719|720} Germany attacked Poland on September 1st, 1939, and that two days later Great Britain and France declared war on Germany.

Q. Thank you. Next sentence:

*"Oswald Pohl was an extremely sensitive and intellectual individual who was reduced to a broken man in the course of his trial."*

Can you tell us any more about what Pohl's responsibilities or duties would be, according to the documents you've seen, in the administration of the concentration camps?

A. The correspondence that I have seen conducted by Pohl, and I now speak of documents with his signature, his handwritten signature, deals with such matters as the construction budgets for concentration camps — where to finance the money, be it for barracks or other installations, where to finance the ammunition for the guards. He dealt with the death rates in the concentration camps. He dealt with Auschwitz to a very considerable extent, because that was one camp under his jurisdiction — not all of them were, but Auschwitz was. So his duties, if we may call them that, encompassed the management of the concentration camp {720|721} system, roughly twenty full-fledged concentration camps and the numerous satellite camps around them which contained hundreds of thousands of people at anyone time, in which death at Auschwitz and in other localities reached seven digits. And that was the man, Pohl. Now, by background he was an accountant. He might have been mild-mannered, although his correspondence is not mild-mannered.

MR. CHRISTIE: Is this witness now going to give us his opinion on the quality of correspondence, judging its intellectual and emotional content, as well? I am —

THE COURT: I don't know that he's gone that far. He might, perhaps, not be asked to go any further than he has.

MR. GRIFFITHS: Thank you, Your Honour.

Q. The next sentence, continuing on where I left off, says:

*"As Senator McCarthy pointed out, Pohl had signed some incriminating statements after being subjected to severe torture, including a bogus admission that he had seen a gas chamber at Auschwitz in the summer of 1944."* {721|722}

Can you comment at all, from your examination of the documents, as to whether there is anything indicating that Oswald Pohl was tortured?

A. No. I must make a comment here about Pohl that I made earlier about Ohlendorf or anybody else. I haven't seen any allegations of torture by the defence. The defence had every opportunity to raise such a statement, make such questions. I haven't seen any in the record. I have been through all the record. I am not even sure just what Senator McCarthy, even considering what he was and who he was, made a footnote in any of this material.

THE COURT: I think, Mr. Griffiths — I have just been informed that the coffee for the jury is now here and we don't want that to get cold, if possible. We will adjourn for twenty minutes.

— The jury retires. 3:25 p.m.

— Short adjournment.

— Upon resuming.

— The jury returns. 3:50 p.m.

THE COURT: Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour. {722|723}

Q. Just before we leave Chapter 5 and the discussion at Nuremberg, I'd like to refer back again to page 11. One phrase there I want to draw your attention to, and it's under the heading, "Legal principles Ignored": *"Should anyone be misled into believing that the extermination of the Jews was 'proved' at Nuremberg by 'evidence', he should consider the nature of the Trials themselves, based as they were on a total disregard of sound legal principles of any kind. The accusers acted as prosecutors, judges and executioners; 'guilt' was assumed from the outset."*

I will not ask you, doctor, about legal principles, but the phrase that interests me is, "guilt was assumed from the outset". Were all the people that were tried in the various Nuremberg Trials convicted?

A. Oh, no. Not all. Some were exonerated. Some were convicted on some count, but not other counts.

Q. And was there a uniform penalty for all those who were convicted?

A. No, there was no uniformity. There {723|724} were short prison sentences, some long ones, some life, a few death sentences. I could spot no uniformity. There was, perhaps, a tendency to impose more severe penalties on the members of the S.S. engaged in shootings, and lesser penalties on diplomats or white-collar people generally. That was the only distinction I could find in the sentencing procedure.

Q. All right, sir. If we can turn to the next chapter, then, which begins on page 16, Chapter 6, "Auschwitz and Polish Jewry". It is a chapter that deals more specifically with Auschwitz. Under the subheading, "More And More Millions", the second paragraph which is written in dark ink:

*"However, no living, authentic eyewitness of these 'gassings' has ever been produced and validated."*

In the various transcripts, sir, of trials that you have read, has anybody ever come forward to indicate that they were an eye witness of these gassings?

A. Well, there is certainly such witnesses, and some who retrieved the bodies – they would be Jewish workers, inmates – from the gas chambers. Here and there an S.S. person who said that he would look through the {724|725} peephole in the door and witnessed gassings in that fashion. In Russia, where there were gas vans, occupied Russia, where gas vans were used, there were many witnesses because it was an outdoor undertaking, as the bodies, particularly, were being unloaded. So I would say that there were a fair number of witnesses. Not a huge number, a fair number.

Q. And have those witnesses testified in the past about the trial of the proceedings?

A. Yes. Most recently I suppose, in the West German trials conducted in the course of 1960 against death camps located in Poland, not Auschwitz, but other camps.

Q. And you read the transcripts and the statements that were taken?

A. Yes, I have. Yes.

Q. Have you ever heard of a man by the name of Phillip [Filip] Mueller?

A. Yes. Phillip Mueller wrote a book under the title, "Eye Witness Auschwitz", in America. He was a person deported from Slovakia in 1942 and remained in Auschwitz through 1944. He was detailed to — MR. CHRISTIE: Are we going to hear from this witness what Phillip Mueller wrote in a book as {725|726} some sort of evidence?

MR. GRIFFITHS: It is a fair objection, Your Honour, and I will phrase it in another fashion, if I may.

Q. Do you know whether Mr. Mueller has ever testified in a courtroom in proceedings that you have read of?

A. I have not looked at any of his testimony. I have, however, read his book. So my comment is about the book.

Q. All right. I won't ask any more about Mr. Mueller. On page 17 of the booklet, the bottom half of the page contains a map. The source of the map isn't indicated, but it says in the heading underneath, "By a curious coincidence, alleged 'death camps' were all in territory now controlled by the Communists."

First of all, do you have any comment on the distinction made in that map between concentration camp and extermination camp?

A. I would characterize a death camp as one which was set up for the specific purpose of killing people, one in which there was an ongoing operation designed to kill as many people as possible upon arrival. Under my {726|727} definition, such camps were in Auschwitz. Not the whole of the Auschwitz camp, but in Auschwitz. Chelmo is indicated here. Treblinka is indicated here. Sobibor is indicated here. Belzec is indicated here. And to a limited extent, Maidanek, which the Germans simply referred to as Lublin. I would not include Stutthof, although it is on this map, also as a death camp. There were shootings going on, but one must remember that the definition of "death camp" versus "concentration camp" is sometimes semantic. In Stutthof, too, there were systematic shootings. I would look for systematic killings in the numbers of tens of thousands, or hundreds of thousands or more before I would personally characterize the facility as a death camp.

Q. Then follows the long paragraph entitled, "Auschwitz: An Eye-Witness Account", and we will deal with that on another day with another witness. On page 18 it says, under the heading, "The Warsaw Ghetto":

*"In terms of numbers, Polish Jewry is supposed to have suffered most of all from extermination, not only at Auschwitz, but at an endless list of newly-discovered 'death camps' such as Treblinka, Sobibor, Belzec, Maidanek, {727|728} Chelmo and at many more obscure places which seem suddenly to have gained prominence. At the centre of the alleged extermination of the Polish Jews is the dramatic uprising in April 1943 of the Warsaw Ghetto. This is often represented as a revolt against being deported to gas ovens; presumably the alleged subject of Hitler and Himmler's 'secret discussions' had leaked out and gained wide publicity in Warsaw. The case of the Warsaw Ghetto is an instructive insight into the creation of the extermination legend itself. Indeed, its evacuation by the Germans in 1943 is often referred to as the 'extermination of the Polish Jews' although it was nothing of the kind, and layers of mythology have tended to surround it after the publication of sensational novels like John Hersey's 'The Wall' and Leon Uris' 'Exodus'."* {728|729}

First of all, can you comment on the phraseology here, "an endless list of newly-discovered 'death camps' such as Treblinka, Sobibor, Belzec, Maidanek, Chelmo ..."?

A. Well, I would simply state that it is not an endless list, and it is not a case of newly-discovered death camps. Some of these camps were mentioned in the war. They were discovered to have existed by Polish underground personnel. One can find them mentioned in the New York Times during the war. So they are not as mysterious as is indicated here. That is not to say that much knowledge existed about these camps, because of the jurisdictional nature – that is to say, the reporting system from them. Not as many records have survived and, indeed, there have not been many people who survived these camps and, hence, also the testimony is less, and was not systematically gathered before the 1960s when the West German authorities conducted trials. Now, to the extent that the discoveries are "new", yes, they were made in pursuance of several trials conducted by the West Germans against personnel of Treblinka, Sobibor, Belzec, Chelmo and, most recently, Maidanek.

Q. Are any of those trials referred to in this pamphlet that you have seen? {729|730}

A. No, they are not. None of them.

Q. All right. The paragraph starting at the bottom of the page: *"It has been established already that the 1931 Jewish population census for Poland placed the number of Jews at 2,732,600, and that after emigration and flight to the Soviet Union, no more than 100,000 were under German control. These incontrovertible facts, however, do not prevent Manvell and Frankl asserting that 'there had been over three million Jews in Poland when Germany began the invasion' and that in 1942 'some two million still awaited death' (ibid, p.140). In reality, of the million of [or] so Jews in Poland, almost half, about 400,000 were eventually concentrated in the ghetto of Warsaw, an area of about two and a half square miles around the old mediaeval ghetto. The remainder had already been moved to the Polish Government-General by September {730|731} 1940. In the summer of 1942, Himmler ordered the resettlement of all Polish Jews in detention camps in order to obtain their labour, part of the system of general concentration for labour assignment in the Government-General. Thus between July and October 1942, over three quarters of the Warsaw Ghetto's inhabitants were peacefully evacuated and transported, supervised by the Jewish police themselves. As we have seen, transportation to camps is alleged to have ended in 'extermination', but there is absolutely no doubt from the evidence available that it involved only the effective procurement of labour and the prevention of unrest. In the first place, Himmler discovered on a surprise visit to Warsaw in January 1943 that 24,000 Jews*

registered as armaments workers were in fact working illegally as tailors and furriers (Manvell & Frankl, *ibid*, p.140); the {731|732} Ghetto was also being used as a base for subversive forays into the main area of Warsaw."

Now, let's go back over that and look at some of the different parts of that if I may.

A. Now, of course, this paragraph perhaps stands out for containing more errors, misstatements

and some outright preposterous nonsensical matter. You know, it's hard to comment, but I'll try. The census of 1931 is incorrectly reproduced here. It was not 2,732,600. It was over three million. The error here is in attributing 2,732,600 to 1931 instead of to an earlier census in the 1920s. So we start out with an error that may have been an honest error, but it is incorrect. There is a statement that, "after the emigration and flight to the Soviet Union, no more than 1,100,000 were under German control." I have no idea where that number, 1,100,000, came from in this passage. All I could tell you is that there is a report that indicates, to a considerable degree of accuracy, how many Jews were located under German control at various times. We know that this number was approximately two million after Poland was divided that is to say, in the western portion of Poland in 1939, and we know that, except for a {732|733} quarter of a million that succeeded either in escaping to the Soviet Union or in being in the Red Army or in having been deported by Soviet authorities, except for that, roughly a quarter of a million, almost the entire Jewish population of Poland aggregating over three million, was caught between 1939 and 1941 under German control. So in short, not 1,100,000, but somewhat over three million.

Q. All right. If I can stop you for just a moment, and we can go over this carefully. I want to understand, if I may, what the sources are for the conclusions that you've reached.

A. Yes.

Q. It would appear that the pamphlet attributes emigration and flight to the Soviet Union of approximately 600,000 people.

A. Yes.

Q. And you said that that's about two hundred and fifty thousand people. That's a big difference in number.

A. Yes.

Q. How do you arrive at your numbers?

A. There is a report, and this is just one of several, by a statistician employed by the S.S. whose {733|734} name was Korherr. This report was made with all the statistics gathered to the end of 1942, and a supplement for three more months to the period March 31st, 1943. In this report are detailed the figures of Jews under German control by region. And we know, therefore, how many of these people were under German control at given periods of time. But in addition there are detailed figures where specific districts, and where specific cities, some of them actually published in print by German authorities, others contained in German documents, that enable us to pretty accurately determine how many Jews were, indeed, under German control. And these are the figures that I just gave you.

Now, how do we know how many people did escape to the Soviet Union? We do not know this directly. We have no figures from the U.S.S.R. We have only the data gathered after the war of those of the Jews who were able to escape who made it back. Since all these Jews were Polish citizens, they were given the opportunity to go back. They did not, of course, stay in Poland, but became displaced persons, and they were roughly 180,000 of them. I said perhaps a quarter of a million succeeded in escaping. I am attributing deaths to some of them. After all, they were {734|735} fighting in the Red Army to some extent, or they perished while escaping, but the figures are within limits roughly a quarter of a million escapees. We know that, after the war, the number of Jews under German control in Poland, those that have been in Poland, was extremely few.

THE COURT: Extremely ...

THE WITNESS: Extremely few. The Korherr report, fewer than 300,000 Jews remaining in the so-called Government-General, plus eighty thousand that remained in the Ghetto of Lodz, plus a certain number,

not very many, sometimes thousands, in Bialstok, plus a handful in the Eastern Districts of Molhania. By March 1943 a census was made by the Germans, and only two hundred two thousand Jews were left in the General Government, indicating a further decline. Subsequent detailed reports indicate that this decline continued. Why three hundred thousand, then two hundred thousand, then fewer? Because the Germans were trying to retain Jewish labour, skilled labour, for as long as possible, with the proviso that also Jewish skilled labour had to disappear one day. Thus, as soon as there were Polish or Ukrainian or other replacements for this labour, Jewish labour was killed and replaced by non-Jewish labour. Thus we see a controlled process of reduction by {735|736} shooting and by gassing in Poland with the result that of the pre-war population of roughly 3,350,000 as of September 1939, the death toll attributable to the Holocaust is close to three million, Poland alone, pre-war boundaries.

Q. I will go a little further along that paragraph. Can you tell us what the Polish Government-General – I won't try to say it in French ...

A. Well, the Germans used the French phrase, but the Government-General consisted of five districts – the district of Warsaw, the district of Radom, the district of Lublin, the district of Krakow, and the district of Galicia. It didn't include territories of Poland included into the German Reich, and it didn't include certain other eastern territories inhabited by population attached to the Ukraine or, in the case of Russian population attached to the so-called Ostland. But the so-called Government-General did contain roughly two-thirds of the Polish Jews. Indeed, it contained perhaps two-thirds, or close to two-thirds of the population of pre-war Poland. In the case of the Warsaw Ghetto, one would never know this, reading this passage, which is altogether confused, but —

Q. We will come to that. All right. And in the paragraph there is a reference to Jewish labour {736|737} being used:

*"As we have seen, transportation to camps is alleged to have ended in 'extermination', but there is absolutely no doubt from the evidence available that it involved only the effective procurement of labour and the prevention of unrest."*

Can you tell us if those death camps of Treblinka, Sobibor, Belzec, Chelmno, whether there was any documentation indicating factories, or someplace where Jewish labour could be used in those concentration camps?

A. Belzec was a pure killing facility without any production of any kind whatsoever. Treblinka was a pure killing facility. There was a neighbouring camp by the same name which was much smaller which did have a very small S.S. operated granite works. Sobibor was a pure death camp which did establish, late in 1943, a facility for making ammunition, or-rehabilitating ammunition, very small. Chelmno had absolutely no facilities for production of any kind. These were extremely small camps in diameter. They were used exclusively for killing.

Q. Carrying on, then, with the heavily-{737|738}outlined section of that Warsaw Ghetto, page 19, column one, last paragraph:

*"After six months of peaceful evacuation, when only about 60,000 Jews remained in the residential ghetto, the Germans met with an armed rebellion on 18th January, 1943."*

Are there any documents that you have seen, and if so, what, that would indicate where Jews were taken during that peaceful evacuation that is referred to?

A. Yes. There is a report by the highest S.S. and police officer in the area whose name was Stroop. He was in charge in 1943. He made a long report indicating clearly, in writing, where the Jews went in 1942. He said three hundred and ten thousand were transported to Treblinka, which is a death camp. Now, of the population in this ghetto in 1942, sixty or seventy thousand were left over after that deportation, half of them registered, the other half more or less in hiding. The registered inmates were used in production. So in January yet another six or seven thousand were deported, and following that deportation yet another action began to liquidate the ghetto in its entirety, but that was the liquidation of a remnant. {738|739}

Q. All right. We can go on with that paragraph:

*"Manvell and Frankl admit that 'The Jews involved in planned re-*

sistance had for a long time been engaged in smuggling arms from the outside world, and combat groups fired on and killed S.S. men and militia in charge of a column of deportees.' The terrorists in the Ghetto uprising were also assisted by the Polish Home Army and the PPR – Polska Partia Robotnicza, the Communist Polish Workers Party. It was under these circumstances of a revolt aided by partisans and communists that the occupying forces, as any army would in a similar situation, moved in to suppress the terrorists, if necessary by destroying the residential area itself. It should be remembered that the whole process of evacuation would have continued peacefully had not extremists among the inhabitants planned an armed rebellion {739|740} which in the end was bound to fail. When S.S. Lieutenant-General Stroop ... – the same one you've talked to us about ...

THE COURT: Just a moment. Was that the answer, sir?

THE WITNESS: Yes.

Q. MR. GRIFFITHS: " ... entered the Ghetto with armoured cars on 19th April, he immediately came under fire and lost twelve men; German and Polish casualties in the battle, which lasted four weeks, totalled 101 men killed and wounded. Stubborn resistance by the Jewish Combat Organization in the face of impossible odds led to an estimated 12,000 Jewish casualties, the majority by remaining in burning buildings and dug-outs. A total, however, of 56,065 inhabitants were captured and peacefully resettled in the area of the Government-General. Many Jews within the Ghetto had resented the terror imposed on them by the Combat Organization, {740|741} and had attempted to inform on their headquarters to the German authorities."

Now, you have seen, you say, the report referred to here of S.S. Lieutenant-General Stroop.

A. Yes.

Q. Do you recollect him giving a figure of 56,065 in that report?

A. Yes, he does. That's his figure of Jewish dead.

Q. So when they talk about peacefully re-settling that number from the Government-General, what are they talking about?

A. Well, of course, this whole passage is a complete falsehood in that it converts figures of dead into figures of presumably living people. And the only correct statement in the entire passage is that the assault began on the 19th of April, and Stroop did report one hundred and one casualties, sixteen killed and eighty-five wounded. Everything else here is pretty wrong.

Q. Have you ever had an opportunity to try – you said at the beginning that you were empiricist [empiricist] and checked documents against documents. Have you ever had an opportunity to try to check any other documents about {741|742} where people from the Warsaw Ghetto were taken?

A. Oh, yes. Oh, yes. In Germany, as I mentioned, in West of Germany there was a trial of Treblinka personnel – that is to say, people who served in the German guard forces and its commanders – and there is, of course, a good deal of testimony in the trial record as to the arrival of the Jews of the Warsaw Ghetto in Treblinka. The fact is that the first killings in Treblinka took place as the first transports —

MR. CHRISTIE: Excuse me. It is not clear from the witness' evidence, but he appears to be

giving evidence from another trial that he is telling us about, and I don't know that Your Honour has given him authority to tell us what another trial decided.

THE COURT: That is an interesting point. Mr. Griffiths?

MR. GRIFFITHS: Well, the question isn't what the other trial decided. There has been no reference, Your Honour, to the verdict of the other trial, but that —

MR. CHRISTIE: Evidence from another trial is what I was referring to.

THE COURT: Yes. You might qualify that {743|743} before you draw the answer.

MR. GRIFFITHS: All right. Thank you, Your Honour.

Q. Have you ever had occasion, Dr. Hilberg, to look at railroad schedules in wartime Germany?

A. Yes.

Q. And can you tell us whether that's been a particular interest of

yours?

A. Yes, it has been.

Q. And can you tell us what role, if any, those railroad schedules have played in your study of this matter?

A. It was a very important role, because although there aren't very many of these railroad schedules, they indicate a great deal about the strategy of the German deporting agencies – for example, why the camps were located, where they were located in Poland. The answer is that the Germans – that is, the Gestapo, as the shipping agents, the security police which is the larger element of Gestapo and police, had to pay the German railways for each transport of Jews, the one-way fare per person, third class, per track kilometer. The longer the trip, the heavier the bill. It was thus in the financial interests of the deporting {743|744} agencies to make those trips as short as possible and to locate the death camps where Jewish population was most heavily, most densely found. The trip, for example, in kilometers from Warsaw to Treblinka is relatively short. That is to say, the bill could be met. It was met, as reported by an S.S. Officer, by selling old clothes, belongings, the currency of those of the gassed, and thus the bill was paid with the belongings of the dead Jews. This is clearly stated in a final report. We thus know, from these railway —

Q. I'm sorry, what final report?

A. This was a final report by a man in charge of collecting and distributing the final belongings of the dead, the personal belongings that were collected in the death camps. Everything was salvaged. Everything was routed to some final purpose and final route, and insofar as any money was to be gotten from it, the expenses of the death operations, including transport costs and the cost of the camps, were defrayed. The rest of the money became part of the Reich budget. It was an income to the Reich. That is the way it was done. Now, these railway schedules make clear that the transportees, the deportees, had to be counted for the simple reason that payment had to be made for {744|745} each one. The counting was necessary for financial purposes. This tells me a great deal about everything that transpired here. We see lots of trains going to a few small places like Treblinka and Sobibor which, on the map, are villages, which on the map are found to be places with a few hundred inhabitants nearby, and all of a sudden you find hundreds of thousands of people going to these places on one-way trips, and the trains returning empty.

Q. And that is what the documents indicate?

A. That is what the documents indicate.

Q. I am going to go all the way over to page 28, other evidence on other matters here. Chapter 10, "The Truth At Last: The Work of Paul Rassinier":

*"Without doubt the most important contribution to a truthful study of the extermination question has been the work of the French historian, Professor Paul Rassinier. The pre-eminent value of this work lies firstly in the fact that Rassinier actually experienced life in the German concentration camps, and also that, as a Socialist intellectual {745|746} and anti-Nazi, nobody could be less inclined to defend Hitler and National Socialism. Yet, for the sake of justice and historical truth, Rassinier spent the remainder of his post-war years until his death in 1966 pursuing research which utterly refuted the Myth of the Six Million and the legend of Nazi diabolism."*

Have you seen that?

A. Yes, I have the German translation of this book.

Q. You have the German translation of —

A. Of the original French version of Mr. Rassinier's work. It is not quite identical with the French version. There are British, German and French editions of this work.

Q. All right. Have you ever met Mr. Rassinier or corresponded with him?

A. No.

Q. And have you any comments on the methodology used by Mr. Rassinier in his book?

A. I would characterize it in one word, {746|747} as fabrication.

Q. All right. And why is that?

A. Simply because Mr. Rassinier will say thus and thus must have happened, and attach figures to his opinion which come out of thin air. Thus and thus, notwithstanding any evidence, did not happen, and thereby attach figures to justify what he says.

Q. Page 29, second column in the heavy type, above the section, "Emigration: The Final Solution" – the paragraph headed, "With the help of one hundred pages". Have you got that? It says:

*"With the help of one hundred pages of cross-checked statistics, Professor Rassinier concludes in 'Le Drame des Juifs europeen' that the number of Jewish casualties during the Second World War could not have exceeded 1,200,000, and he notes that this has finally been accepted as valid by the World Centre of Contemporary Jewish Documentation at Paris. However, he regards such a figure as a maximum limit, and refers to the lower estimate of {747|748} 896,892 casualties in a study of the same problem by the Jewish statistician Raul Hilberg. Rassinier points out that the State of Israel nevertheless continues to claim compensation for six million dead, each one representing an indemnity of 5,000 marks."*

Your name is Raul Hilberg.

A. That's correct. That's the only correct statement in the paragraph.

Q. Are you a statistician?

A. Actually not.

Q. Do you give an estimate of 896, 892 in your book?

A. I have never given —

Q. In any of your work?

A. Not in my book, not in any of my published work, not in any of my unpublished statements that I ever made, not of any kind.

Q. Do you know how that figure arrives? You read the book. Where does it come from?

A. It comes from a calculation, if we may call it a calculation, made by him in which he took two {748|749} columns. Before and after columns, Jewish population in 1939, Jewish population in 1945, adjusted for anything such as migrations or war casualties. He did not subtract the last column from the first. He subtracted one column from the other, which gave him a number such as 5,400,000.

MR. CHRISTIE: Who is the "he"?

THE WITNESS: He is Rassinier.

MR. CHRISTIE: Thank you.

THE WITNESS: And then he decided that he would have to proceed in this number in order to render it into something proper, so he deducted from it various figments of his imagination, numbers that he concocted, and came up with a bottom line, his, not my bottom line, of 896,892. Here the figure is attributed to me.

Q. Can I ask you what figure you have arrived at? What figure have you arrived at?

A. My calculations of the Jewish death toll in the Holocaust are over five million.

Q. Can you break that down at all, or is it possible of breaking down?

A. I have broken it down, particularly in the second edition. I can break it down by cause. I can break it down by locality, and now I could even break it {749|750} down by time, by year.

Q. Can you tell us by cause how you have broken it down?

A. I would say that of this five million one hundred thousand rounded figure in which the term "Jew" is taken as the one adopted by the Germans, roughly up to three million were deaths in camps. The vast majority of them, of course, were gassed, but several hundred thousands in these camps were shot or dying of privation, starvation, disease [disease] and so forth; that a million three hundred, or a million four hundred thousand were shot in systematic operations, and that the remainder —

Q. Sorry. The 1.4 million shot —

A. Shot in systematic operations such as those of the Einsatzgruppen, but not limited to Einsatzgruppen operations, shot in primarily the occupied U.S.S.R., Galicia, but also Serbia and other localities, and that the remainder, deaths from conditions in the ghettos, which can also be calculated because the Korherr reports has numbers about such deaths, and because individual ghettos, Jewish councils in these ghet-

tos sent reports to German agencies. We have these reports indicating the monthly death tolls in such places as Warsaw, which was the {750|751} largest ghetto, and Loge (ph), which was the second largest ghetto. We also have data about Lebov (ph), which was the third largest ghetto. Thus we do have a pretty good idea of the death rate in the ghettos which, at the peak, in 1941, was one per cent of the population per month.

THE COURT: I see that it is four thirty. Do you think this is a good time, or will you be much longer?

MR. GRIFFITHS: I don't think I will be much longer, but it may be a good time, Your Honour.

THE COURT: All right. Then it will be a good time.

Members of the jury, let me please caution you again, at the risk of being repetitive, that what you read in the newspaper, if you do read it, and I hope you do not, what you read, what you see on television does not constitute anything to do with this trial whatsoever. It is solely and only what you hear from that witness stand.

In another trial of recent memory of mine I acquired the habit of remind the jury not to become intoxicated on printer's ink. I will certainly give you that same admonition. Please treat it with great care. {751|752} Please do something else other than read about this or see it. There are much more interesting things for you to do than that.

Have a good evening. Ten o'clock tomorrow morning.

— The jury retires. 4:35 p.m.

— The witness stands down.

— Whereupon the hearing is adjourned to January 16, 1985.

## JANUARY 16, 1985

— Upon the hearing resuming.

THE COURT: Yes. Is there anything before we start, gentlemen?

MR. CHRISTIE: I just want to put on record, in the absence of the jury, the fact that there have been threats made on my life which I reported to the police.

I am well aware Your Honour has no particular concern in the matter, but I want to put it on record. {752|753}

THE COURT: I have a very deep concern in the matter from a personal point of view. That should not happen to anyone.

MR. CHRISTIE: But I wanted to be clear on the record.

THE COURT: The jury, please. Is Dr. Hilberg available?

MR. GRIFFITHS: Yes, Your Honour.

— The witness returns to the stand.

— {753|754}

## RAUL HILBERG, previously sworn

### CONTINUED EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:

THE COURT: Are you all finished, Mr. Griffiths?

MR. GRIFFITHS: No, Your Honour. I have a few more questions to ask. I won't be long.

— The jury enters. 10:10 a.m.

Q. MR. GRIFFITHS: I think we are up to page 30, Dr. Hilberg. I will get you a copy so that you know what we are referring to.

A. Okay.

Q. Under the heading, "Conclusion", on page 30, column one, it says:

*"Contrary to the figure of over 9 million Jews in German-occupied territory put forward at the Nuremberg and Eichmann trials, it has already been established that after extensive emigration approximately 3 million were living in Europe, excluding the Soviet Union. Even when the Jews of German-occupied Russia are included (the majority of Russian Jews {754|755} were evacuated beyond German control), the overall number probably does not exceed four million. Himmler's statistician, Dr. Richard Korherr and the World Centre of Contemporary Jewish Documentation put the number respectively at 5,550,000 and 5,294,000 when German-occupied territory was at its [at its] widest, both these figures include the two million Jews of the Baltic and western Russia without paying any attention to the large number of these who were evacuated."*

I will just stop there for a moment. Dr. Richard Kohrerr [rect: Korherr] – I don't know if I am pronouncing that right – you mentioned the man yesterday by the name of Kohrerr, a statistician.

A. Same person. Chief statistician of the S.S. and police.

Q. So these are not the only statistics that he kept that are referred to here.

A. Oh, no. The report of Kohrerr runs for something like ten, twelve pages, plus appendixes. It's {755|756} a report packed with figures.

Q. You told us about many of those yesterday.

A. Yes.

Q. And do you know whether he, in the World Centre of Contemporary Jewish Documentation, used the figures that are set out here, or do you have any knowledge of that?

A. Well, the figures as quoted here bear no resemblance to what is in the Kohrerr report. Obviously they are totally out of context and inaccurate.

Q. Top of the next column:

*"It is very significant, therefore, that the World Centre of Contemporary Jewish Documentation in Paris now states that only 1,485,292 Jews died from all causes during the Second World War, and although this figure is certainly too high, at least it bears no resemblance at all to the legendary Six Million."*

Are you familiar with an organization of World Centre of Contemporary Jewish Documentation in Paris?

A. I am not familiar, but any organization [repeated line]{756|757}

A. I am not familiar with any organization by that name, and I doubt that it exists, but possibly

reference is made to a Centre in Paris which has a similar name, but that centre has not published, to my knowledge, any figure resembling 1,485,292 as the total number of Jews that died from all causes during the Second World War.

Q. What is the centre in Paris?

A. It is Centre de documentation Juivre Contemporaine. It is the Centre for Documentation of

Contemporary Jewry, contemporary documentation. It is located in Paris. It's not a world centre in any sense of the word. It's a small research organization, and from my knowledge of its publications, it's never published any figure in the vicinity of 1,485,000 as the Jewish toll.

Q. Next paragraph, in heavier ink:

*"Doubtless, several thousand Jewish persons did die in the course of the Second World War, but this must be seen in the context of a war that cost many millions of innocent victims on all sides. To put the matter in perspective, for example, we may point out that 700,000 Russian civilians died during the siege {757|758} of Leningrad, and a total of 2,050,000 German civilians [\*repeated line] died during the siege of Leningrad, and a total of 2,050,000 German civilians [\*] were killed in Allied air raids and forced repatriation after the war. In 1955, another neutral Swiss source, "Die Tat" of Zurich (January 19th, 1955), in a survey of all Second World War casualties based on figures of the International Red Cross, put the 'Loss of victims of persecution because of politics, race or religion who died in prisons and concentration camps between 1939 and 1945' at 300,000, not all of whom were Jews, and this figure seems the most accurate assessment."*

Can you tell us whether, in your researches, looked into statistics gathered by the Red Cross?

A. I am not familiar with any such statistics by the International Red Cross or, for that matter, any other organization, and I could not give you the source of it. I don't know whether it's an invented datum here {758|759} or taken from some publication which I have never heard of.

Q. Okay. May I ask you, aside from yours, whether there are any other researchers and writers working in this area?

A. Yes.

Q. And how extensive would be the academic body examining the Holocaust?

A. There are, no doubt, several documents recognized, highly trained researchers still alive or, in fact, young, working in this area within the

United States, here in Canada, in Western Germany, in Israel, in other countries. It's not a very large group, but there are several dozen.

Q. Can you give us some name of some of those people?

A. I can give you some names without trying to say that these are the top researchers. I will give you some names. In Western Germany there is probably, by now, the largest single group researching the Holocaust. A young person, Ada Uwe, an older person, Halmut Krausnick [Helmut Krausnick], who, incidentally, [incidentally] was in the German Foreign Office during World War II, but a very capable and objective historian of the Holocaust. He wrote, as co-author, a book numbering many {759|760} hundreds of pages about the Einsatzgruppen and the Holocaust in print. In France the leading researcher is Leon Poliakov. In the United States, on the west coast, Christopher Browning. In Canada, at the University of Toronto, Professor Marrus, in the Department of History. On the west coast in British Columbia, Professor Conway, in the Department of History. In Israel, naturally, there are several historians – a Professor Bauer, Professor Gutman. I am not giving you all of the names. I am trying to pick names from several countries.

Q. Are all these various men published that you told us of?

A. Yes. They are all published, and this publication goes on, and one can pick up the newspapers and see reviews of books coming out concurrently. The most recent review is of that of an English researcher, Gerald Fleming.

Q. In your review of these authorities, which I take it you are familiar with ...

A. Yes.

Q. ... leaving aside the details, are there any of those authorities that you've mentioned that deny that millions and millions – five to six million – Jews were annihilated as a result of Nazi Germany policy during {760|761} World War II?

A. No. There is no such denial.

MR. CHRISTIE: Are we here to hear his opinion of what other authors say, Your Honour? That is another kind of hearsay.

MR. GRIFFITHS: He is qualified as an expert. He can refer to literature, Your Honour, in my opinion, is what an expert is allowed to do.

THE COURT: Yes, I will allow it.

MR. GRIFFITHS: Thank you, sir.

Q. Moving from this field of experts, have you ever had occasion to look at encyclopaedias on the issue of the Holocaust?

A. Well, I have, myself, written for encyclopaedias, and I have had a look at encyclopaedias, yes.

Q. And do any of these sources available to all of us indicate that anything other than what you told us here?

THE COURT: I think if you want to ask the question, Mr. Griffiths, you might want to ask the witness to be more specific about what specific encyclopaedias he is talking about.

Q. MR. GRIFFITHS: You wrote an article? {761|762}

A. Yes. I made entries in the Encyclopaedia Americana, and in the Funk and Wagnalls Encyclopaedia.

Q. Those two encyclopaedias you have written in?

A. Yes.

Q. And I understand that they would not be as lengthy as your larger work. Is the thesis the same, or is it different?

A. It is by and large the same.

Q. Were there many people working in this field in 1948 when you began your researches?

A. No. In fact, I believe myself to be alone. As it happened, Professor Poliakov was working in Paris, and Mr. Reitlinger was working in England, but I wasn't aware of the fact, and I did not know them.

Q. So as one of the original members researching and documenting the Jews' annihilation, are you a member of any conspiracy or hoax or fraud to falsify the scope and tragic proportions of the annihilation as described –

THE COURT: Just a moment.

MR. CHRISTIE: That is the question that {762|763} is one of the issues in the case, and he is not entitled to usurp the jury's function. I suggest

it is a matter of some dispute here, and if he is entitled to say what his view of the case is, he really does go beyond the area of expertise. Eminent qualifications as a historian in the Holocaust do not qualify him to decide the legal question at issue.

THE COURT: What do you say to that?

MR. GRIFFITHS: I disagree entirely, Your Honour. One of the things contained in this article, Exhibit 1 is that there was a conspiracy. There was a hoax to fool the world into thinking that six million people were dead. If there were, this man may well be a part of that conspiracy. [conspiracy] He is entitled to be asked that question, as direct evidence, and give his answer to the jury.

MR. CHRISTIE: I think it's a form of cross-examination on the point, Your Honour.

THE COURT: You can ask the question.

This is a question put to a witness – I presume both counsel will agree – not necessarily in his capacity as an expert. He is not being asked for his opinion. He is being asked whether or not he is a member of a certain conspiracy or agreement. You can ask the question. {763|764}

MR. GRIFFITHS: Thank you, Your Honour.

Q. Do you have the question, or would you like me to repeat it?

A. No. I understand the question. I am not a member of a conspiracy or agreement, nor any of the combination of persons dedicated to finding conclusions in advance of research, and certainly no hoaxes.

Q. Thank you, Dr. Hilberg. I have no further questions.

THE COURT: Yes, Mr. Christie.

#### CROSS-EXAMINATION BY MR. CHRISTIE:

Q. Doctor, you have criti[c]ized the booklet for not having footnotes. Correct?

A. Well, of course, I do not mean to say that every single publication must have footnotes, but when there is an allegation of purported facts such as appear in this pamphlet, which are so much at variance with the accepted knowledge, one is entitled to ask for a source in the form of a footnote. so that one may, as a reader, check the information.

Q. I simply put it to you that you have {764|765} criti[c]ized the booklet for not having footnotes, sir. Correct or incorrect?

A. Subject to my answer just before, you are correct in assessing my answer.

Q. Yes. And isn't it true that in your entire evidence, today and yesterday, in your broad, sweeping statements of fact, you have not, yourself, produced one single document to support anything you have said? Isn't that true?

A. I have made verbal, oral references to documents. The matter of introducing documents in the form of pieces of papers I need hardly tell you, as an attorney, is a matter for the government to decide. I am not the person introducing documents at any time in any court whatsoever. I am simply a witness trying to explain what I know.

Q. Well, I think, then, you would agree, the simple answer is no, and the reason you say that is because the Crown or the State hasn't introduced them through you. Is that your evidence?

A. Well, as you just restated the matter, I could accept it broadly, but I wish to remain with my words.

Q. Yeah. Well, I want to understand your {765|766} words. Very simply and, I put it to you very clearly, that you have yourself, whether it's through the Crown's decision or yours, I don't know or care, that you have not yourself, today or yesterday, produced one single document to support what you have said. Isn't that true?

A. I have not presented pieces of paper, nor do I deem it my function to do so, but I have orally referred to pieces of paper.

Q. Yes. You have mentioned the existence of hundreds of orders and hundreds of train railway schedules and special trains. You have mentioned all that, but you have not produced one single example, sir. Have you?

A. I have given you oral examples, with leaving out only the document numbers. And if you wish, you can check them in a book I have written. Quite a few are in there.

Q. Well, get your book.

A. They are not secrets.

Q. No. I just wanted to clarify, though, that you haven't produced a single document.

A. Well, if you wish to state the obvious fact, I will confirm it.

Q. Thank you. You say that you have done {766|767} research, and I think at the beginning you described your methodology to be that of trying to be an empiricist. [empiricist] Right?

A. That's correct.

Q. And you said that you tried to find out how, but not why, the six million were killed.

A. Yes.

Q. Okay. That was your methodology and you described it as such.

A. Yes.

Q. You did not say, and I put to you that at no time did you ever enquire, if six million died. True or false?

A. If one asks oneself the question —

Q. I didn't ask myself the question —

A. I am referring to myself.

MR. GRIFFITHS: He is answering the question, Your Honour.

THE WITNESS: I am trying to answer it the best way I can.

THE COURT: You can let him answer the question.

MR. CHRISTIE: I hope not with a question. That is what I objected to. {767|768}

THE COURT: I didn't think it was that., but I didn't hear enough of the answer to decide what it was. Perhaps you can give the answer, witness, and we can decide if you are answering the question with a question. Do you want the question again?

THE WITNESS: No. I understand it. The empirical method is one in which one must make certain initial determinations of what happened. In my case, these initial determinations were based upon a cursory examination of documentation pertaining to this event. By "cursory", I don't mean one or two documents, but I mean a study, after some months, of the then available documentation. Without saying a word in the public or without printing anything, without writing anything, I then said to myself, "Let us take this initial source pile and ask, what exactly happened here." Now, the what and the how are the same, and it is in this method, and by these means, that I proceeded to construct the picture, step by step, detail by detail. That is not to say that my initial thoughts or findings were in all respects one hundred per cent correct, but the fact of the Holocaust was certainly confirmed over and over.

Q. I want to understand – a simple answer to my question – so that I, as a simple person, can {768|769} understand it, Professor. I asked you if your method was to find out how it happened, not why it happened. Do you agree?

A. That's correct.

Q. I asked you if you ever made an effort to determine if six million really died, and your answer to that was, you made an initial determination of what happened on the basis of a cursory examination of the available data. Right?

A. That, in order to decide for myself, and myself only, whether to invest my time, and as it turns out my life, in this project.

Q. Mm-hmmm.

A. Who would want to spend a lifetime in the study of something that did not happen?

Q. Well, sir, I am not here to answer your questions.

A. Well, it is a rhetorical —

Q. You, unfortunately or fortunately, are here to answer mine. So if you will tell me whether it is true that you made an initial determination that six million died, did you do so?

A. I made an initial determination of this fact. {769|770}

Q. Yes. That would be called a presumption, wouldn't it?

A. It would be called a presumption. That is rather rebuttable. It could be destroyed. It could be abandoned upon the finding of contrary evidence.

Q. Good. Now, you have given us your opinion on a wide range of subjects. Correct?



- A. Mm-hmmm.
- Q. It involves the subject of concentration camps, I assume. Is that right?
- A. In part.
- Q. And what's called extermination camps. Right?
- A. If you wish to label death camps that way, yes.
- Q. Well, you call them death camps.
- A. Yes.
- Q. And you now tell us that you have formed opinions on all those places. Correct?
- A. I have formed opinions. Correct.
- Q. In regard to Bergen-Belsen, have you ever visited the camp? So the answer to that is no?
- A. No. {770|771}
- Q. In regard to Buchenwald, have you visited that camp?
- A. No.
- Q. In regard to Dachau, have you visited that —
- A. No, I have not visited — I can tell you, to save your questions, I have visited only two camps.
- Q. What were they?
- A. Auschwitz and Treblinka.
- Q. Now, Auschwitz is compiled of two and perhaps three camps. Is that right?
- A. Yes. There are three parts to it.
- Q. One is called Birkenau?
- A. That's correct.
- Q. One is called Monowitz?
- A. That is correct.
- Q. And one is called Auschwitz?
- A. That is correct. They also called it Auschwitz 1, 2 and 3.
- Q. Yes, I realize that. So you have to been to Auschwitz 1, 2 and 3?
- A. 1 and 2, not three. {771|772}
- Q. So you have been to Auschwitz and Birkenau?
- A. That's correct.
- Q. One time.
- A. Once. And you also went to Treblinka.
- A. That's correct.
- Q. And how many times there?
- A. Once.
- Q. And when did you go there?
- A. 1979.
- Q. After you wrote your first book.
- A. Yes.
- Q. So you wrote a book about a place before you went there.
- A. I wrote a book on the basis of the documents.
- Q. Yes. Well, I just want to put it very simply.
- A. Yes, you are putting it very simply.
- Q. You went and wrote a book about a place — {772|773}
- A. I did not write a book about the place. I wrote a book about an event in which a place is mentioned, albeit repeatedly.
- Q. I will phrase it another way. You wrote a book about what happened in a place before you went there.
- A. Oh, yes.
- Q. Yes. Because of what you heard and read and seen in other sources.
- A. You say "other sources". I say documents. I am being specific.
- Q. Call them what you will, there were other sources than being there.
- A. Oh, yes.
- Q. So we agree that you wrote the book before you ever went to the place you were writing about.
- A. That's correct.
- MR. CHRISTIE: Do you have an objection?
- MR. GRIFFITHS: That's fine.
- MR. CHRISTIE: All right. When you went to Auschwitz once in 1979, how long did you stay there?
- A. One day. {773|774}
- Q. One day. And to Birkenau?
- A. That was the same day.
- Q. Same day. And to Treblinka?
- A. That was another day.
- Q. One day?
- A. That's correct.
- Q. One day in Treblinka, and perhaps half a day in Auschwitz, half a day in Birkenau?
- A. Something like that.
- Q. Mm-hmmm. How many homicidal gas chambers did you find in Auschwitz?
- A. Now, in the locality known as Auschwitz I?
- Q. Yes. I will call it Auschwitz, because the next camp is called Birkenau, or Auschwitz 2.
- A. In Auschwitz 1.
- Q. You found one homicidal gas chamber?
- MR. GRIFFITHS: No.
- THE COURT: He didn't say that.
- Q. MR. CHRISTIE: You said Auschwitz 1, and you mean the camp?
- A. Right. As it happens, it is one gas chamber, in good condition, but partially reconstructed, in {774|775} Auschwitz 1.
- Q. So there is one homicidal — you call it homicidal for killing people. Is that correct?
- A. That's correct.
- Q. And there is one in Auschwitz that you say is partially reconstructed.
- A. Yes.
- Q. Okay. Now, did you see any others at all — than the one that is partially reconstructed?
- A. In Birkenau there are —
- Q. In Auschwitz 1.
- A. No. In Auschwitz 1 there is only one gas chamber. There was never more than one, to my knowledge, in Auschwitz 1.
- Q. So that is a decision you make when seeing it in 1979, and —
- A. No. You are trying to put words in my mouth. I have studied the documents.
- Q. That's right. Read them.
- A. Including those pertaining to construction and, thus, was aware, many years before I ever set foot in Auschwitz, that there was a gas chamber in Auschwitz in the first old part of the camp which was in use {775|776} prior to the establishment of additional gas chambers in Auschwitz 2, known as Birkenau.
- Q. We will deal with that in the next question, so you don't have to answer all the questions at once. We will go one at a time.
- A. All right.
- Q. Birkenau, how many homicidal gas chambers there? Four, right?
- A. Now, just a moment. It's not that simple. In 1942, and I now speak on the basis of documents, not observation, two gas chambers were established.
- Q. That's called —
- A. In Birkenau.
- Q. That's Crematorium 2 and 3?
- A. No, no. Not crematorium. Two so called huts, bunkers, were established in Birkenau. They were temporary structures. There were no crematoria in these buildings. The bodies were first buried, subsequently disinterred, and burned.
- Q. Mm-hmmm.
- A. Not until 1943, after extensive building lasting many months, were four massive structures created in Birkenau. Those are labelled 1, 2, 3, 4 in a new {776|777} enumeration.
- Q. Yeah. So you have now four crematorium in Birkenau. Correct?
- A. Yes.
- Q. Yes. And those crematoria are what you also referred to as the gas chambers.
- A. The structures contained gas chambers and crematoria.
- Q. So did you see them on the day you were there?
- A. What I saw were the ruins.
- Q. What you saw were the ruins. Right. Now, I am going to show you a map and ask you if that's a map of Auschwitz I, the first camp, the old



camp.

A. Well, it does bear the resemblance to what I recall as Auschwitz 1. Nothing seems to be labelled here.

Q. No, nothing is labelled there.

A. That's right.

Q. Is there anything there that you can see that is in any way different from what you saw?

A. Well, you are showing me a building plan and what's around in a place when one does not walk with {777|778} a building plan, but there is no discernable difference from what I recall seeing there today and what's on this building plan, or this outline.

Q. All right. Have you ever seen a building plan of Auschwitz 1 before?

A. Oh, yes.

Q. Does it look different than that?

A. No. It bears a resemblance. It may be exactly the same as what I have seen before, but I would have to have the two documents in front of me to be utterly precise. I mean, there are documents and there are documents. If you are going to show me building plans, photographs, diagrams, I do not have the same competence as I would with documents expressed in words.

Q. Well, I want to get an understanding of – will you accept that as being an accurate description and layout of the camp?

A. I will accept it within the limits that I have just stated, that is to say, I cannot be quite as confident as I would be with a document in words. It does, certainly, reveal the features that I recall having seen before.

MR. CHRISTIE: Could that be an exhibit {778|779} for identification?

THE COURT: Yes.

— EXHIBIT "F" (For Identification) Plan of Auschwitz 1.

Q. Mr. Christie: You recall yesterday saying these words, in regard to the Stroop report:

*"Q. Now, you have seen, you say, the report referred to here of S.S. Lieutenant-General Stroop?"*

A. Yes.

Q. Do you recollect him giving a figure of 56,065 in that report?

A. Yes. He does. That's his figure of Jewish dead."

A. Yes.

Q. Do you wish to change that evidence in any way, or do you maintain that is his figure for Jewish dead?

A. That is a figure of Jewish dead.

Q. Okay. I put to you the Stroop report as reported in the transcript to the International Military Tribunal, Document 1061 PS, and you notice the part {779|780} highlighted. Is that right?

A. Mm-hmmm.

THE COURT: Sorry, I missed that. I am writing it down. What is it again?

MR. CHRISTIE: It is a document from the International Military Tribunal at Nuremberg entitled, "The Stroop Report". It is 1061 PS.

Q. Could you just read the portion highlighted, beginning with the sentence at the top of the page?

MR. GRIFFITHS: Excuse me, is this an English translation, or German?

THE WITNESS: He is showing me the German.

MR. CHRISTIE: The reporter might have some trouble with this. I suppose the solution to that problem would be to put to the witness what I suggest it says in English. I propose to do so. You are familiar with both the English and German language, sir?

A. Yes.

Q. And you have told us that 56065 refers to Jewish dead. Right?

A. Mm-hmmm.

Q. I put it to you, sir, that those words, {780|781} in the German language, do not say dead, killed, at all.

A. They say annihilated, vernichten.

Q. They say annihilated. They do not say vernichten?

A. They do say vernichten. It is your document.

Q. I put it to you in 1946, in the judgment – are you familiar with the judgment of the International Military Tribunal?

A. Pardon me, sir, but before we leave the passage that you just gave

me and you asked me a question about and you asked me whether I wished to change my testimony

Q. Yes.

A. ... and you asked me to interpret the sentence containing the number 56065, and in that very sentence is the word vernichten, which means "annihilate".

Q. It means "annihilate" — to you, does it?

A. I dare say it means "annihilate" to anyone familiar with the German language, and it is so written in any dictionary.

Q. The judgment of the Military Tribunal, I put it to you, on 30th September, 1945, did not say what you {781|782} said it was, "annihilated".

MR. GRIFFITHS: Well, excuse me, Your Honour. I have no objection to my friend referring to the judgment. I can put in the whole judgment. I will be happy to do that.

MR. CHRISTIE: There is one word in issue in the whole transcript.

THE COURT: Mr. Christie, one at a time. I have become accustomed to listening to one at a time. Go ahead.

MR. GRIFFITHS: On a number of occasions, Your Honour, yesterday, I referred to trials, and I was told to be very careful not to refer to my specifics in the trials in West Germany, and people testified in those trials and they have not testified as to the outcome or the specifics of the trials. I don't know why Mr. Christie would do any differently today.

THE COURT: Well, he is doing it differently because it is cross-examination and he has a wider scope than, perhaps, you had in examination-in-chief.

MR. GRIFFITHS: Thank you, Your Honour.

THE COURT: Go ahead, Mr. Christie.

MR. CHRISTIE: Thank you. {782|783}

Q. I am going to refer to this report and ask you if you consider this as true or false. I will have to prove it to be the report later. You may dispute it if you wish. I suggest that it indicates – I will let you read it with me – page 494, the second paragraph from the bottom, it says, "Stroop recorded that his actions at Warsaw eliminated approved total of 56,065. To that we have to add the number of those killed through blasting, fire, etcetera, which cannot be counted."

Have I read that correctly, sir?

A. You have read it correctly.

Q. And I suggest to you, if you are familiar with the judgment of the International Military Tribunal – is this their judgment?

A. I have no doubt it is their judgment.

Q. You maintain that the text indicates "annihilated"?

A. That is correct.

Q. They use the word "eliminated".

A. I'm sorry, but if you wish to resort to a dictionary ...

Q. Well, we may do that, sir, but I am asking you for your opinion. That's all. {783|784}

THE COURT: Mr. Christie, what else – did you have any further answer you wanted to give?

THE WITNESS: My only answer is that in the judgment, the term "eliminated" may have been used as a synonym for "annihilated", because the German word "vernichten" leaves no doubt. It is not an ambiguous word. It means "annihilate".

Q. Are you familiar with the historian Hugh Trevor Roper?

A. Yes. I don't know him personally, but I know his name, of course.

Q. He has published many books on this subject?

A. Yes.

Q. You don't consider him a lunatic or anything? He is a respected historian?

A. He is a British historian, yes.

Q. I suggest to you that he wrote the foreword for, "A Pictorial History of the S.S. 1923-1945" by Andrew Mollo. Are you familiar with that publication?

A. No, I am not familiar with the picture book.

Q. You are not familiar with the picture {784|785} book.

A. No.

Q. I will put it to you, I will ask you to comment on these words in that publication with its introduction [introduction] by Hugh Trevor Roper.

MR. GRIFFITHS: Are these Hugh Trevor Ropes words, or whose words are these?

MR. CHRISTIE: The book was written by Andrew Mollo. The introduction was by Roper.

MR. GRIFFITHS: Are we reading Mr. Ropes words was my question.

Q. MR. CHRISTIE: I will put it more clearly again. These are the words attributed to Andrew Mollo. The foreword to the book was written by Hugh Trevor Roper. It is called, "A Pictorial History of the S.S. 1923-1945".

THE COURT: Yes. Go ahead, Mr. Christie.

Q. I will put to you these words and have you tell me whether they are true or false: "Jewish losses amounted to many thousands buried in the rubble, fifty-seven thousand taken prisoner, twenty-two thousand were sent to various concentration camps, and between five thousand and six thousand escaped. German losses were sixteen dead and eighty-five wounded." {785|786}

Do you disagree with that?

A. That is not the account or the summary that I would give. It leaves ambiguities and holes. The figures don't quite add up, and I am somewhat hesitant to endorse this description, since we do have the original document and we can do better than that.

Q. Yes. And we do have the judgment of the International Tribunals.

A. Which is a little bit more accurate although shorter.

Q. So they use the word "eliminated", and it is more accurate than —

A. Not more accurate than mine, but more accurate than what you are reading there. People were taken and shot upon being taken prisoner, and this means annihilation, or they were — wait a minute — or they were, as pointed out, sent to Treblinka, where they were gassed, which means "annihilation".

Q. Well, the way I understood your evidence — you want to go on?

A. Well, just to finish my answer. Or they were sent to Lublin to be annihilated.

Q. You have now interpreted the words {786|787} as being annihilated not at this time, but somewhere else now. Is that right?

A. Partially at this time, and partially in subsequent killings.

Q. Your evidence yesterday was that the 56,065 was the figure of Jewish dead.

A. Yes.

Q. Aha. It seems to me you were indicating that that occurred in that report at that time, but now you interpret that to mean some of them were killed later at Treblinka, some at other places. Is that your evidence today?

A. No.

Q. No?

A. It wasn't my evidence today or yesterday. In the pamphlet — and this was what the question was about — the number was cited as people who were alive then, later, and presumably after the war.

Q. Where does it say, then, later and presumably after the war?

A. I said that is my interpretation of the pamphlet, and that is the nature and the thrust of what was said there.

Q. Well, let's go back to the pamphlet and {787|788} make sure we don't misunderstand it.

Q. I think we have been told that the pamphlet says that Stropp [Stroop] entered the ghetto with armoured cars on the 19th of April.

A. Well, I can read to you the sentence to assist you.

Q. Well, let me read to you the sentences I want to ask you about, and I won't need your assistance so much then. Okay?

THE COURT: What page?

MR. CHRISTIE: I am quoting from the transcript, to identify the page.

A. Page 19, a simple sentence.

Q. Well, maybe we should deal with it in the order of my questions, rather than your definition.

A. Your question.

Q. Okay. You have the part where it says, "When S.S. Lieutenant-General Stroop entered the Ghetto with armoured cars on 19th April,

A. Mm-hmmm.

Q. Now, that is true, isn't it?

A. Yes.

Q. Stroop entered the ghetto on the 19th {788|789} of April with armoured cars.

A. Yes. He entered them that date. Correct.

Q. "... he immediately came under fire and lost twelve men ..." Do you deny that?

A. No. He lost some men in this very first encounter. That's correct.

Q. It's a fact, then, that the people in the ghetto opened fire on the armed forces under General Stroop. Right?

A. That's correct.

Q. Okay. Are you familiar with the British and American Rules of Land Warfare?

A. I'm familiar with the International Law respecting land warfare. If you are going to be specific about British and American, I am not sure how familiar you wish me to be.

Q. I asked you a specific question. Are you or aren't you familiar with them?

A. I can say that I am somewhat familiar. I can't say that I am totally familiar, or totally unfamiliar. You are asking me questions that can't be answered yes or no.

Q. And you are giving me lots of long {789|790} answers.

A. It is in the nature of your questions. When you ask me if I am familiar, if I say I am familiar it is not to be interpreted of knowing everything about these things by heart.

Q. Are you familiar with the principle of dealing with partisan warfare by retribution?

A. Are you referring to reprisals specifically?

Q. Yeah. Retribution, reprisals.

A. Yes, I am familiar with reprisals.

Q. You are familiar with the British and American Rules of Land Warfare justifying reprisals against partisans, or those in occupied territory that open fire on armed soldiers?

A. If you are referring to World-War II regulations, these were to my knowledge.

Q. So the answer is yes.

A. Yes.

Q. Is it not also true that after the capitulation of Germany, the same process of taking reprisals was used by the British and Americans? Is that not true?

A. I have no knowledge of any such {790|791} event as you describe.

Q. You are unaware of threats to shoot fifty Germans for every American soldier shot?

A. Pardon me, but that is the first time I heard of it.

Q. So it is true, then, "he immediately came under fire and lost twelve men"? You don't know whether that is correct?

A. No, that number is approximately correct. It may be precise since Stroop reported his casualties day by day.

Q. Now, "German and Polish casualties in the battle, which lasted four weeks, totalled 101 men killed and wounded". Do you take issue with that?

A. He reported exactly that number.

Q. So he reported exactly that number.

A. Yes.

Q. By "Polish casualties" he probably meant Poles fighting on the German side. Right?

A. Well, in actual fact, as I recall, there was only one Polish casualty. There were, however, Ukrainian casualties.

Q. "Stubborn resistance by the Jewish {791|792} Combat Organisation in the face of impossible odds led to an estimated 12,000 Jewish casualties". Now, did Stroop estimate 12,000 Jewish casualties, or did he not?

A. That seems to be an interpretation of what he said.

Q. Well, that's an interpretation with which you disagree, I suppose.

A. No. What I am saying

Q. Yes or no?

A. The term "casualties" here is a bit ambiguous. In other words, take the simple matter at face value of one hundred and one dead and

wounded on the German side, and then, whether you wish to say twelve thousand, fifty-six thousand or seventy thousand, what kind of ratio is that?

Q. I wasn't asking you about —

A. No. Wait a minute. "Casualty" implies being wounded or killed in combat.

Q. You don't think there was combat going on in the Warsaw Ghetto at that time?

A. What I believe is that in no sense, whether twelve thousand or fifteen thousand or fifty thousand combatants on the Jewish side.

Q. Were you there? {792|793}

A. I am well aware of the sources, and I have, indeed, spoken to members of those that survived in this battle in hiding and so on, and the estimates, my estimate was fifteen hundred combatants on the Jewish side, which was a high estimate, a very high estimate. I have since seen, in Gutmann's book, an estimate of seven hundred and fifty. He is a very well informed researcher who happened to have been there.

Q. So you are trying to explain why there aren't twelve thousand casualties. Is that right?

A. I am saying that it is mislabelling to say that someone gunned down an old woman, a child, without arms in his hands, as a casualty, because "casualty" presumes in this context combat, that the person has been fired on because he fired.

Q. Well, in guerilla warfare isn't it the case that people shoot from buildings without announcing their presence, or are you familiar with that?

A. Yes, I am familiar with that. I was a soldier.

Q. If fifteen hundred armed partisans are in a massive building structure, can you decide who is a guerilla and who is not? How do you figure that one out? {793|794}

A. It is not a simple matter to decide, but I would say to you, that the entire enterprise of so-called "clearing the ghetto" had been decided by German authorities prior to the commencement, with a view to liquidating this ghetto in its entirety.

Q. Now, how are you going to tell us that you have insight into the mind of those who were involved in the operation?

A. Because they reported what was on their mind on paper.

Q. Where is the paper?

A. That is partially in the Stroop report. It is partially in other documents prior to —

Q. I put it to you that nowhere in the Stroop report does it say anything about liquidating the entire population of this ghetto.

A. Well, I can only read the report in its entirety.

Q. You tell me any part of it that says that its intention was to liquidate the members of this ghetto.

A. The simple matter is that when —

Q. The report is in front of you, isn't {794|795} it?

A. Oh, yes. It is a long report.

Q. That's right. And I have read it. Now you say there is a part in there that talks about

liquidating the members of this ghetto, and I am asking you to find it.

THE COURT: Is it in —

MR. CHRISTIE: Yes, Your Honour. The witness is familiar with the language.

THE WITNESS: On page 635, just around the break, where the original report breaks between page three and page four. There is mention made of a major action which was to last three days to forcibly, as they say, relocate the enterprises that were then in the ghetto, and then it goes on to describe how this gross action, this major action, began on the morning of the 19th. The intention was, in short, to liquidate the ghetto.

Q. So "relocate" to you means liquidate.

A. Absolutely. By "liquidate" I mean the physical removal of everything in this ghetto. Not just

people, but the enterprises, the machinery of these enterprises. Everything.

Q. So relocating everything is what you mean by "liquidating the ghetto". {795|796}

A. Now, now, relocating. Machines were to be saved. Skilled labourers, to some extent, were initially to be saved. Everybody else was to be annihilated.

Q. Annihilated.

A. Yes.

Q. The words you read from the report were "relocated" — right?

A. That's correct. Yes, that is the correct.

Q. Now, that doesn't say, it doesn't indicate an intention to annihilate, to me. Does it to you?

A. Yes. That is the difference between us, you see, because I have read thousands of German documents and you haven't.

Q. Sure. And you have the view that to relocate, in the German language, is to annihilate.

A. No. No.

Q. No?

A. It means to relocate in certain contexts.

Q. And you alone know the context?

A. I am not alone in knowing the context. I have mentioned colleagues and fellow workers who know the {796|797} context also.

Q. Those who share your view of "annihilate" do as you do and interpret "relocate" to mean "liquidate". Right?

A. I used the term liquidation.

Q. You did. Now, let me understand your term, liquidation.

A. To encompass both people and goods and machinery.

Q. Well, you don't liquidate machinery, do you?

A. That's correct. That is precisely the distinction I am trying to make.

Q. Well, are you saying that the intention to relocate the people meant that they were going to kill all the people?

A. I said that they would — initially there was the view and the attempt and the purpose of saving some skilled labourers. This plan was not to come to fruition.

Q. Well, we are not talking about what you interpret the plan to be. I am interested in what the Stroop report says about the plan. And so far we have very clearly that it says to relocate the ghetto. Right? {797|798}

A. Well, actually the relocation refers specifically to the enterprises.

Q. Mm-hmmm.

A. "Die Verlagerung der Betriebe" means "relocation of the enterprises".

Q. So we understand those words to mean, "relocation of the enterprises". The Germans go into the ghetto and they are fired upon.

A. Yes.

Q. So then there develops a battle in which there are fifteen hundred, you say, partisans in various buildings inside the ghetto.

A. At most fifteen hundred.

Q. Well, you told us before fifteen hundred was a low figure.

A. No. I said it was my high figure.

Q. Your high figure, eh?

A. Yes.

Q. That's [That's] on the basis of what you've read.

A. Yes.

Q. So fifteen hundred people firing from inside the building, and did they have guns? {798|799}

A. To the best of my knowledge, judging from what the Stroop report itself states, they may have had three automatic weapons, one light machine gun, and possibly two other grease guns.

Q. You are relying on what the Stroop report says?

A. Primarily, but not exclusively. Stroop mentioned something like fifty-nine rifles captured. There were not many more. The armament consisted of pistols, home-made explosive devices, things of that sort. Anyone with any military experience knows that the total armament of the ghetto did not total then what was in the infantry company.

Q. But it would be hard for a person in the street to know what was inside a building, wouldn't it?

A. Well, they had some idea. I would have to say that their intelligence wasn't very great in those days.

Q. Well, you agree, then, that they were involved in a battle of sorts, although you consider it a very uneven battle.

A. Yes.

Q. So you say there weren't casualties in {799|800} the number of twelve thousand but, in fact, they were just victims of slaughter.

A. If I may use a simple word, murder.

Q. Well, of course, we've agreed that if, in the time of war, people shoot on soldiers from civilian hiding places, that is looked upon as a breach of the rules of war, and it means that they don't have the rights of prisoners of war, doesn't it?

A. It is my understanding.

Q. Okay.

A. Given as a soldier, going all the way back, that one uses necessary force. Now, necessary force is limited.

Q. Yeah. That's right. Necessary force is limited. These people were inside buildings and they were shooting from buildings and, in fact, as a result, buildings collapsed when they were fired upon, and people were buried in the buildings. Right?

A. People also surrendered and were shot upon surrender, in large numbers.

Q. Is that right? Again you have something in the Stroop report to indicate that?

A. Oh, I think the figures and the {800|801} numbers and, may I add, the photographs, since they are abundant....

Q. Oh?

A. ... indicate what happened. They show people surrendering.

Q. Well, the report we are looking at, the document Exhibit 1, says twelve thousand casualties.

A. Mm-hmmm.

Q. Right? Do you dispute that now, or is it your evidence that more than twelve thousand were killed?

A. You are now mixing up several things. The figure twelve thousand comes from your sources, and not the document. It comes from the one I am not familiar with.

Q. Yes, I understand. Now, do you dispute that there were twelve thousand casualties?

A. I would suggest to you, sir, that as I said before, the term "casualty" has certain connotations.

Q. Well, dead people ...

A. ... are not always casualties.

Q. Oh, my goodness. Well, what do you call casualties, if they are not dead people?

A. To me in the context of battle a casualty is a person who falls in battle. {801|802}

Q. And you think this was not a battle. It was a slaughter because it was so uneven.

A. I think that there was a battle, but I think that there was a much greater slaughter.

Q. You feel that more force than was necessary was used.

A. Excuse me, sir. You are trying again to put words into my mouth.

Q. I am trying to understand you. Don't tell me what I am trying to do. I am trying to ask you questions.

A. Let me answer with the following qualifications, which is very, very serious ...

Q. They are serious.

A. Yes, they are very, very serious, because the term as you used it suggests a mode to this whole problem whereby the liquidation of the Ghetto of Warsaw was "necessary" as something I would accept as necessary, that the impartial observer would accept as necessary. And I would have to reject that, the notion, the idea, without going into the motivations whatsoever, that the Holocaust or any part of it was "necessary".

Q. I am not talking about the part "Holocaust". {802|803} I am talking about the Warsaw Ghetto and asking you what you mean when you say there weren't casualties in the number of twelve thousand. And I think; if I understand you correctly, you mean that it was a totally unfair battle in which more people were killed than was necessary.

A. Well, I would say that it was certainly unfair. I cannot disagree with that.

Q. Well, you don't disagree, then, with the figure that there were twelve thousand casualties.

A. Well, here you go again. You are citing a number from a source I have never seen. We have documents, if we wish to rely upon those.

Q. We will get to documents, Dr. Hilberg. I am just trying to understand your answer. Do you say that that's a false statement, or is it a true statement?

A. I would not accept the figure twelve thousand out of context, nor do I accept the terminology "casualty" for the occurrences in the Ghetto of Warsaw during the spring of 1943 insofar as they appear to be attached to such large numbers.

Q. Well, with the greatest respect, I don't understand your answer, so I will go on to another question and hope we get to understand each other better. It {803|804} says in the booklet, "Did Six Million Really Die?" that a total of 56,065 inhabitants were captured and peacefully resettled.

A. That's correct.

Q. You say that is false. Right?

A. Absolutely.

Q. I've shown you the book that says that fifty-seven thousand were captured. Haven't I shown you that?

A. Yes, you have.

Q. Yes. Now, fifty-seven thousand is fairly close to fifty-six thousand, isn't it?

A. Well, I accept the rounding.

Q. Well, isn't it the case that other sources besides yourself seem to suggest that fifty-six or fifty-seven thousand were, indeed, captured?

A. What other sources?

Q. Well, the one I just mentioned to you. I will get it again. I am not asking you to agree with these other sources, but I am asking you to agree that they do exist, and I have referred to the "Pictorial History of the S.S. 1923-1945" by Andrew Mollo with the introduction by Hugh Trevor Roper, who you acknowledged is regarded as a {804|805} reasonably accepted historian to you – that is, Trevor Roper. Do you know Andrew Mollo?

A. Never heard of him.

Q. Never heard of him. Apparently Trevor Roper has heard of him. Do you agree?

A. Well, that would be a supposition of no value on my part.

Q. Well, you are an author. Do people you don't know write forewords to your books?

A. People do not write forewords to my books generally, but, yes, one Swedish historian did write a foreword to a book of mine.

Q. Without ever reading it?

A. He's read it, but he did not know me. We never met.

Q. Right. Okay. But this book seems to indicate the Jewish losses amounted to many thousands buried in the rubble, fifty-seven thousand taken prisoner, twenty-two thousand sent to various concentration camps. You agree with me, at least, that source seems to indicate fifty-seven thousand prisoners taken.

A. That's what it says on this paper.

Q. Okay. And the judgment at Nuremberg {805|806} indicated that this Stroop recorded that his action at Warsaw eliminated an approved total of 56,065 people. That was in the judgment at Nuremberg, wasn't it?

A. Yes, but please, as you read it, I think you should make clear that the word "eliminated" is not in quotes.

Q. No. The words are, "approved total" – let me read the quote – don't interrupt me. I am asking the questions.

THE COURT: One at a time, gentlemen.

Q. MR. CHRISTIE: Quoting from the Stroop report, "Approved total of 56,065. To that we have to add the number of those killed through blasting, fire, etcetera, which cannot be counted." That is the end of the quote, is it not?

A. Yes.

Q. Now, that is quoting from the Stroop Report, is it not?

A. Not entirely, because the word "eliminated" is not in quotes.

Q. I agree with you that the quotes come after the word "eliminated",

but have I not read, "Approved total of 56,065 people. To that we have to add the number {806|807} of those killed through blasting, fire etcetera, which cannot be counted". Have I not read you accurately and completely the complete quote in the International Military Tribunal judgment on 30th September, 1946, sir?

A. Yes, sir.

Q. Thank you. The word "eliminated" was the Tribunal's description of the word you called "annihilated". Right?

A. Well, it is the description of the Tribunal. They do have the original text to go by.

Q. They do have the original text to go by, and you have some secondary source, I guess?

A. No, I do not. I'm sorry.

Q. Why are you sorry?

A. Because you are once again trying to put words into my mouth.

Q. Well, let me be very careful to avoid that, sir.

A. Yes, try.

Q. To understand you clearly, the Tribunal used the word "eliminated".

A. Yes.

Q. And that was in their judgment, the {807|808} meaning of the Stroop report, I suggest to you.

A. Yes. The word "eliminated", in the ordinary sense, does have ambiguity. One can eliminate people by killing them, or one can eliminate them by other means.

Q. One can eliminate those in guerilla actions by capturing them.

A. One can eliminate by various means.

Q. I put it to you, sir, that the judgment, the Stroop report, dissolves ambiguity, and I suggest to you, sir, that it is not an uncommon translation.

A. Translation is not a hundred per cent accurate, and I would have preferred a more accurate translation, but we get what we get.

Q. Yes. And your translation, then, is in your opinion, more accurate than —

A. Well —

Q. Let me finish the question, please — than the words attributed to the Stroop report by the International Military [Military] Tribunal in their formal judgment. Is that your opinion?

A. Yes, that is my opinion.

Q. Thank you. Do you agree with me that the German language is a very complex language? Is it not? {808|809}

A. Well, I don't doubt whether it is more complex than other languages.

Q. Would you agree that it uses words in such a way that they often do have somewhat ambiguous meaning?

A. They may have multiple meanings.

Q. Multiple ambiguous meanings.

A. I would not say ambiguous. There is a difference.

Q. You, therefore, chose to define the word "relocate" as "liquidate" in your evidence here today.

A. No, no. Not the word. The entire description.

Q. The meaning of the word, we will say, in the context.

A. No, because the word "relocate" in the report is attached to the enterprises, and I was referring to the entire liquidation of the entire Ghetto.

Q. Does that mean the killing of all the people in it?

A. It means the killing of the largest number of people in it, yes.

Q. Oh. {809|810}

A. It does not mean every last one. We do know of several thousand survivors.

Q. It would mean the killing of everyone who resisted, didn't it?

A. And a lot of people who didn't.

Q. But I think you will agree with me that at the time with people shooting from buildings and things blowing up, it might be hard to tell who is resisting and who isn't?

A. It is not hard to tell once a person has surrendered, once he has come with his hands up, of which there are many photographs, that that person is not resisting.

Q. That's right. There are photographs of people with their hands up.

Right?

A. Yes.

Q. And you are saying they were shot?

A. Yes. Quite a few were shot.

Q. And how many were shot, from you, who was never there?

A. I said I was not there.

Q. Well, you can answer.

A. The Stroop report mentions in some detail the final figures, and they are here in this report in {810|811} front of me, and if you prefer, I will read them to you.

Q. No. I asked you a specific question, and if you want to address your mind to the answer in the report, that's fine, but the specific question is, did the Stroop report say how many people were shot after they held their hands up?

A. The Stroop report did indicate how many people were shot. It did not make the distinction you are trying to make — those that had their hands up and those that didn't have their hands up.

Q. It wasn't the distinction I was trying to make. You were making the distinction because you said people were shot, people who had their hands up, you who were never there, and the Stroop report doesn't make reference to people being shot who had their hands up.

A. At the beginning of this section, answering your questions, I made reference to the disparity of 101 casualties included dead and wounded on the German side, and the five digit figures of Jewish dead on the other side.

Q. Yeah. You said very clearly that 56,065 were all dead, didn't you?

A. I was saying to you, sir, in answer, to the original peaceful evacuation as is mentioned in the {811|812} pamphlet, that it was the contrary matter, that these people were all dead. Perhaps not all last single-one of them, but many thousands were shot immediately, several thousand were sent to Treblinka, several thousand were sent to Lublin. By 1943, by the end of the year all but a handful were all dead.

Q. Oh, so now you say that the figure 56,065 means Jewish dead, you mean that within a year they were Jewish dead. Is that right?

A. Well, you have to remember that the Stroop report makes reference to precisely this phenomenon. In other words Stroop, when he says people were transported to Treblinka, is well aware that at Treblinka people are gassed.

Q. Well, now, just address yourself to my question.

A. Yes.

Q. Yesterday you said that 56,065, that is his, meaning Stroop's, figure of Jewish dead.

A. That's right.

Q. Well, it's not Stroop's figure of Jewish dead today. I suggest to you today, in your evidence, it's Stroop's figure of those captured who were then sent to Treblinka, and you say became dead. Is that right?

A. I would say to you, sir, that when {812|813} Stroop made his report in which he used "capture" and "annihilation", he used the word "vernichten", annihilation, with respect to this fifty-six thousand, that his meaning was opposite of the one in the pamphlet, and that is the only thing I was trying to point out yesterday.

Q. Well, you did say that was his figure of Jewish dead. You didn't say that that's a figure of people who were captured and then sent to Treblinka that he knew were going to die, did you?

A. Well, had additional questions been asked, I would have made these additional answers.

Q. But I suggest to you your simple answer, given at the time, very clearly indicated that that was Stroop's figure of Jewish dead and not a year later, but at the time.

A. We are not talking about a year later. We are talking about 1943.

Q. Let's address our mind to the question, sir. In your answer yesterday you didn't put this qualification on it, that the 56,065 were later killed. You said that that's Stroop's figure of Jewish dead. Right?

A. I did not break down the figure of fifty-six thousand. {813|814}

Q. I realize you didn't, but I suggest to you you left a very clear impression with me, with the jury, with reasonable people, that that figure was dead.

A. That figure meant that these people were either shot on the spot or sent to gas chambers or to death camps, to the two of them, Treblinka and Lublin. So that way we are discussing where they were shot —

Q. No, we are not discussing where they were shot. We are discussing what you said yesterday, and the simple meaning of what you said yesterday.

A. What we were talking about —

Q. Now, may I ask you a question about that? You've now told us that the sum figure you've referred to as Jewish dead means those shot at the time, means those shipped to camps and killed. Right?

A. Yes.

Q. Okay. How many of the fifty-six thousand do you say were shot at the time?

A. Well, I would say that the number was somewhat over twelve thousand.

Q. Somewhat over twelve thousand.

A. Oh, yes.

Q. Why do you use the figure twelve {814|815} thousand?

A. I don't. You used it.

Q. Oh, I see. Okay. I used it, did I?

A. Well, you quoted from the Pictorial History that I was not familiar with.

Q. Well, as a matter of fact the booklet says the twelve thousand were the casualties, didn't it?

A. Well, at any rate, it's not my figure.

Q. Mm-hmmm

A. But I think at this point we are talking a few thousand this way or that way.

Q. Are we?

A. Yes, we are.

Q. So what we mean now by Jewish dead are those captured and you say later killed.

A. Well, what I say is there were the following —

Q. Please answer the question.

A. I am trying to answer it the best way I can. A certain number of people were killed by the fire, including the artillery fire of German, S.S. and army forces in action in the Warsaw Ghetto. A much larger number of people were killed after, in particular districts or {815|816} particular houses. Resistance ceased, people came out with their hands up. Very many of them were shot on the spot as Stroop himself states.

Q. Where — with their hands up shot on the spot? Just find a spot in the Stroop report which you say exists.

A. All right. You will have to give me a little bit of time here. This is a long report.

Q. How many pages, twenty pages? You quoted from it. You seem familiar with it.

A. Yeah, but this is not the whole report you've got here.

Q. Oh?

THE COURT: Would this be a convenient time to break, Mr. Christie, so that he can find the spot?

MR. CHRISTIE: Yes, I think so.

— The jury retires. 11:25 a.m.

— Short adjournment.

— Upon resuming.

— The jury returns. 11:52 a.m.

THE COURT: Yes, go ahead, Mr. Christie.

Q. MR. CHRISTIE: I think, to be fair, {816|817} witness, and to get back to where we were, I believe my last question was whether there was any reference in the Stroop report to the number of people shot with their hands up.

A. There are references to people shot, and unfortunately, in the document you gave me, the parts in which these references are made are not included. You have given me a fragment.

Q. Oh, let me understand you clearly. You mean to say that in other parts of the Stroop report you recall that it says there were figures for people shot with their hands up?

A. There were figures for people that were shot.

Q. I see. But not with their hands up.

A. Well, the clear meaning is that they were shot upon capture.

Q. I see.

A. Since there was no counting, as he himself states, the people who were buried in the rubble of the buildings.

Q. In the part that you quoted, though, where you say that it was vernichten — is that right?

A. Yeah. {817|818}

Q. You say that means killed.

A. Annihilate.

Q. Annihilated. It also seems to refer to those as different from those who were killed in the burning buildings, etcetera.

A. The figure is given as in number, nachvirlich, that could be counted, but there were others that could not be counted because they were inside buildings that had been demolished because of fire, etcetera — in other words, during the course of fire, essentially, burning.

Q. Very good. Now, I am going to move from the Stroop report and move to the questions referring to your visit in Birkenau.

THE COURT: Just before that happens —

MR. CHRISTIE: I marked that, but if Your Honour wishes, I am happy that it be marked.

THE COURT: Mark it as an exhibit for identification.

— EXHIBIT "G" (For Identification) Stroop report

Q. MR. CHRISTIE: I am now going to show what I suggest is a plan of the Auschwitz 2 complex known as Birkenau. Do you agree or disagree, sir? {818|819}

A. Yes, that does seem to be the 1944 depiction of the Birkenau camp.

Q. Yes. On it it says, "K2" and "K3". Correct?

A. Yes.

Q. That means Crematorium 2 and Crematorium 3.

A. Yes.

Q. And then it was Crematorium 4 and Crematorium 5. Correct?

A. Yes.

Q. The area immediately left of K3, 4 and 5 is the area known as "Kanada". Is that right?

A. I don't quite recall. It could be correct.

Q. "F" is the bathhouse; is that correct?

A. I could not give you any recollection of what "F" means. This plan is not equipped with any legends.

Q. No diagram or legend on it, but I understood that you had been there?

A. I had been there, but not with a plan in my hands. That was not the purpose.

Q. So you are not familiar with the plan {819|820} of Birkenau?

A. I am familiar with it, but you are not asking me to describe the buildings in it other than the crematoria, which are clear, and the railway tracks, which are clear.

Q. I thought perhaps you might, from your expertise, be familiar with the layout of the camp.

A. I am sufficiently familiar with the layout for the purposes, and if I need the use of any plans, I have them in front of me, but they are not reproduced in any of my works, in my books, and so if I do make reference to these particular building plans, I have them with the German legends.

Q. Without the legend you don't seem to be able to identify the area?

A. Well, I do seem to be able to identify substantial and necessary portions of it. You are asking me about an adjacent building, and I don't wish, under oath, to state for sure what is possible. It may not be.

Q. All right. I'll ask you other specific areas and I'll ask you to identify them. The area to the left of the railroad tracks, that is the women's camp, is it not, as you look from the bottom to the top? Is the area to the left {820|821} of the railroad tracks the women's camp? Right or wrong?

A. Now you're giving me a quiz about the individual blocks of this particular camp.

Q. No. All the area to the left of the railroad tracks.

A. I believe so, but I cannot be entirely certain of that from sheer

memory.

Q. Okay. I suggest to you that the "A" block is a quarantine block. Do you agree?

A. There was a quarantine block, yes.

Q. Do you know where it was?

A. No. That again, I can tell you that there was a block for women. There was a quarantine block. There was a so-called gypsy camp here. I know the designations, but I must also say to you that when it comes to north, east, south, west and building plans, that is not my field. When I use these things, I use them very carefully with legends and clear-cut —

Q. Right. Somebody else's legend, not your own?

A. Obviously not my own.

Q. Okay. I suggest to you that the circular objects to the right of "K3" is a filtration plant {821|822} for water. Do you agree or disagree?

A. I cannot testify to that.

Q. Okay. As far as the plan is concerned you are prepared to identify it as being the plan of Auschwitz Birkenau in 1944. Is that right?

A. It is Auschwitz 2, known as Birkenau.

Q. Thank you. May that be an exhibit, please, for identification?

— EXHIBIT "H" (For Identification) Plan of Auschwitz 2 (Birkenau)

Q. MR. CHRISTIE: Now, as far as visiting Auschwitz in 1979 is concerned, I have been informed that you were actually doing that in relation to the trip made by the President's Commission on the Holocaust. Is that right?

A. That's correct.

Q. So you went there with and on behalf of the American Government, sort of a recognition of your appointment.

A. Well, I was a member of a group consisting of not all but some of the members of the Commission, certainly.

Q. Yeah. The Holocaust, or the President's Commission on the Holocaust, to which Mr. Eli Wiesel is a {822|823} member.

A. Is the Chairman.

Q. And you are a member?

A. Yes.

Q. And who else is a member?

A. Oh, there are quite a few members.

Q. Any names you remember?

A. Yes, I know some of the names. Do you want current members, or do you want the members at the time?

Q. Just give me three names of members at the time.

A. Members at the time. All right. Mr. Lautenberg now is the United States Senator from New Jersey.

Q. Yes.

A. He was a member at the time and was also a participant in the trip.

Q. Yes.

A. Of course, Mr. Wiesel who was the Chairman. Mr. Bookbinder, from Washington, D.C., was a member of this group.

Q. You were guests of the Polish Government, I understand. Is that correct? {823|824}

A. We were not guests, if you mean by that any, payment by the Polish Government.

Q. No. I mean guests in the sense that they led you around and explained to you what the areas were all about.

A. I need not be led around by the hand —

Q. Did you know the area without the plans?

A. How is that?

Q. Did you know the area without the plan?

A. No. I asked, as did other members of the group, to be shown certain parts of Auschwitz, in particular the gas chambers.

Q. In Auschwitz 1?

A. We saw, not ruined, but a partly reconstructed gas chamber in Auschwitz and we saw the facilities in this plan —

Q. Which is a ruin at the present time.

A. Which are demolished, that's correct. They are ruins. They are untouched ruins, I should say. They are left as the Germans left them. {824|825}

Q. Well, as somebody told you the Germans left them. Right?

A. Well, it's not just somebody. We do have some evidence of what happened in January 1945.

Q. Yeah. That's something that somebody else told you, though. It is not something you know as a fact?

A. I was not present when these buildings were blown.

Q. Did you ever look at the plans of Crematoriums 2, 3, 4 and 5 in Auschwitz 2, Birkenau? [Birkenau]

A. I have looked at those plans.

Q. They are available in the Auschwitz Museum, aren't they?

A. Yes.

Q. And copies of those are available by photographing them, aren't they?

A. One can obtain copies, and there are copies published in various books.

Q. Right. Now, it is also true that there is a monument at Birkenau, [Birkenau] that is Auschwitz 2. Correct?

A. That's correct.

Q. You saw the monument? {825|826}

A. Yes.

Q. And on it it says, "Four million Jews".

Right?

A. Yeah, it says something like, "Four million victims". It does not —

Q. Are you sure it doesn't say "Jews"?

A. I cannot recollect what is said on that particular gravestone there.

Q. How many do you say died at Auschwitz?

A. My own figures are, Jewish, a shade over one million. Non-Jewish dead, perhaps three hundred thousand, plus.

Q. So the monument seems to be about twice, or a little more than what you say —

A. I did not, frankly look at the monument closely enough to notice what it said, but any figure in multiple millions is off the mark.

Q. Yeah. This type of information would be available from the Polish Government. Right?

A. Yes.

Q. Isn't it true that you are familiar with the fact that the Warsaw Ghetto survivors frequently meet as a group at times to celebrate their reunion? Are you {826|827} familiar with that?

A. Well, I really don't know what they do to celebrate their reunions.

Q. I asked you whether you know that they celebrate their reunions.

A. I have no information on what they do.

Q. Do you have any information about a conference on the 20th of May, 1984, in Stuttgart, West Germany?

A. May 19 — yes.

Q. You were there.

A. Yes.

Q. You were there to discuss some things. Right?

A. Yes.

Q. With a number of other people who believe that the extermination of six million Jews is a fact. Correct?

A. There were Holocaust researchers there.

Q. Yes. You regard those who believe that there were six million Jews, or five million Jews, or 4.9 million Jews as Holocaust researchers. Correct? {827|828}

A. No, no, no, no. Just because somebody gives a figure doesn't make him a researcher. I am talking about people, all of whom present, to my knowledge, had done extensive research over a period of years and have published work.

Q. In your opinion is there an order, or was there an order of Adolph Hitler for the extermination of the Jews?

A. That is my opinion, my conclusion.

Q. Well, yesterday I think you told us you were very sure there was an order.

A. Yes.

Q. Okay. Is that an important order?

A. I would say so.

Q. Is it a specific order?

A. Well, that was, of course, another matter. How specific it was, and in what form it was given, to how many people it was relayed was, in fact, a considerable subject of discussion at Stuttgart.

Q. Yes. Well, in your book at page 177 you say, and I quote – I now produce and show to you a book called, “The Destruction of the European Jews” by Raul Hilberg. You wrote it. That’s your book. Right? {828|829}

A. Yes.

Q. Page 177, please. Last paragraph on the bottom of this first column, and I am reading and you correct me if I am wrong, it says:

*“How was the killing phase brought about? Basically, we are dealing with two of Hitler’s decisions. One order was given in the spring of 1941, ...”*

Am I reading correctly?

A. Yes.

Q. Is there a footnote to indicate where that order is?

A. No. This is an introductory passage to a chapter.

Q. On page 177?

A. Yes. This is an introductory passage to an eighty-page chapter.

Q. I didn’t ask you what it was. I asked you if there is a footnote.

A. No, there is no footnote here.

Q. What order were you referring to?

A. In this particular case I have elaborated, in my second edition, since there is so much {829|830} discussion and controversy over the nature of this order. So I could tell you not solely on the basis of what was published here in 1961, if you wish to hear it, but on the basis of all my knowledge to this date, to what I am referring to.

Q. What was the order?

A. Within the high command of the armed forces a plan was made for “treatment of populations” inside the territories that were to be occupied following the invasion of the U.S.S.R. That order was submitted through channels to Adolph Hitler for his approval. He indicated that he wanted certain editions and changes made in this directive. We have, and I have quoted here, the directive dated March 1941. Excuse me, I am speaking of a directive not a Hitler order.

Q. I am interested in what it says here, one order was given by Hitler —

A. If you allow me, I will explain the changes in the directive.

Q. I want you to understand what I am interested in.

A. I know what you are interested in, but you are raising a question, a question complicated enough {830|831} to have caused a distinguished historian in Germany to invite people from all over the world to pool their knowledge in order to figure out what happened.

THE COURT: Yes. Let’s get on with the answer. What is the answer to counsel’s question?

THE WITNESS: The question was about the Hitler order. There was a draft directive. Hitler wanted changes made in it. The changes were subsequently made in April and were then resubmitted to Adolph Hitler’s approval.

Q. MR. CHRISTIE: Okay. So there is a Hitler order, you say, that was approved by Adolph Hitler in 1941 in April.

A. By April, yes.

Q. By April, or in April?

A. Now you want the exact date.

Q. No, I don’t. I want to know whether it was in April.

A. We are talking about several weeks. at the end of March when these discussions took place.

Q. All right. What were the words in the order?

A. According to General Jodl, who wrote this document I am now citing, the words were — {831|832}

Q. Now, you said it was a Hitler order written by General who?

A. No. If you will allow me to finish the sentence ...

Q. Oh, okay.

A. You previously critici[ci]zed me for not giving sources. I am trying orally to give my sources.

Q. Yes, I understand you are.

A. Adolph Hitler said that he wanted the Jewish Bolshevik Commissars to be liquidated.

Q. That’s the order you refer to.

A. Well, that was the first part of it.

Q. I’m sorry I interrupted you. Go ahead.

A. He said that for this task he wanted organs of the S.S. and police to be directly involved and responsible. He then pointed out that for this purpose the military should discuss with the S.S. and police the details. Now, that was the content of the order as described by General Jodl.

Q. So we don’t have the order?

A. The order was oral, and all we have are the reflections of Adolph Hitler’s words as described by {832|833} Jodl. We have, however, the words also of other people who were talking to Adolph Hitler which were more direct and more specific, but those words occurred in different contexts, such as Henry [Heinrich] Himmler’s words, and words spoken by other people. In any case, the order was oral.

Q. The order was oral, and you don’t know what the exact words were, I suppose.

A. You are quite correct. No one knows the exact wording.

Q. No. So you say there is an order to exterminate the Jews from Adolph Hitler that was oral, the content of which you don’t know, and apparently nobody knows, and it was in the spring, in fact the month of April, 1941.

A. When I say that we do not know the words, I do not mean the general content. I meant the specific words.

Q. Now, you said it referred to Commissars. Right?

A. Jewish dash Bolshevik Commissars.

Q. Jewish-Bolshevik Commissars. There is a dash in it?

A. Yes, because there was a document {833|834} and I am quoting Jodl.

Q. Yes. You quoted Jodl. Now, where is the document with the dash in it that reported the verbal order?

A. In the German, West German National Archives.

Q. Now, you wrote a book called, “Documents of Destruction”?

A. There is a document which appeared in 1971.

Q. It does not have such a —

A. No. It is a small book and it contains a variety of documents, but not this one.

Q. It would appear that this is rather the documents that you thought were important for the “Documents of Destruction”.

A. No. As I explained in my preface, it is a mixture of some important and some, shall we say, descriptive items of what went on locally.

Q. Can you think of a more important order to prove the existence of than one from Adolph Hitler for the extermination of the Jews?

A. You see, sir, in preparing a very {834|835} small book such as this one, which is a collection of documents aggregating a couple of hundred pages, one must make some choices. And even if the topic is very important, if it requires, since no document is really self-explanatory, a group of documents with additional explanations, I might have had to use a rather substantial portion of space for this one point.

Q. Oh, is this a long order for the killing of Jewish — what did you say, Jewish-Bolshevik Commissars?

A. It is not that the words are that long, but that the explanation, the history, the —

Q. Oh, I can believe the explanation will be long from you, sir.

A. The nature of the directive, the explanation of who originally drafted the directive, what the channels were — this is not a simple matter.

Q. Mm-hmmm. So really we don’t have an order in existence in any written form. We have from you an interpretation of what Mr. Jodl is supposed to have said Adolph Hitler was supposed to have said, which you say was in the Archives of West Germany, and which you say has a dash between Jewish and Bolshevik. {835|836}

A. That is my best recollection.

Q. Your best recollection.

A. Yes.

Q. So there is a dash in —

A. Well, it’s a hyphen.

Q. So it, wasn’t just Jewish-Bolshevik Commissars that had to be killed. It was Jewish people, was it?



A. Well, this particular problem is the one that caused a lot of discussion. There is no precise, clear answer as to what the exact wording was. We could only deduce from subsequent explanations by lower ranking individuals who passed on this particular command, particularly to the Einsatzgruppen, what it was that was being ordered.

Q. Oh, this was the Commissars' order to the Einsatzgruppen, was it?

A. Ultimately it was the order not only to the Einsatzgruppen, it was to the armed forces as well.

Q. So I want to understand clearly. This order says "Annihilate Jewish-Bolshevik Commissars". Right?

A. Mm-hmmm.

Q. And you interpret that to mean, {836|837} Annihilate Jewish people and Bolshevik Commissars. Right?

A. Correct.

Q. But there is a hyphen in there that you think exists. Right?

A. Yes.

Q. But it doesn't say Jewish people and Bolshevik Commissars.

A. No, it does not. And obviously, one would not call a conference and one would not discuss in great detail, and one would not have extensive articles if the matter were clear-cut. There is such a thing as a gap in knowledge of history, and we are dealing here with one of the more complex problems of what the Germans called decision-making in this case.

Q. Right. It doesn't appear, from your very brief and unfootnoted statement at the very bottom of page 177, that this is a very complex subject, that the order, as such, does not exist but we have an account of it from somebody else. None of that seems indicated in the very simple words:

*"Basically, we are dealing with two of Hitler's decisions. One order was given in the spring of 1941, during {837|838} the planning of the invasion of the USSR; it provided that small units of the SS and Police be dispatched to Soviet territory, where they were to move from town to town to kill all Jewish inhabitants on the spot."*

Right?

A. Yes, these are introductory words to a chapter.

Q. Yes.

A. And in the subsequent pages you will find in the footnotes that you are looking for reference to

particular sources, including the directive that I mentioned by General Warlimont and other commanders, including above all the commanders of Einsatzgruppen who, to the extent that they were around in Nuremberg, made statements about what it is they were told to do.

Q. Yes, what it is they were told to you, even according to you now, is not to kill all Jewish inhabitants on the spot, but it was to kill Jewish-Bolshevik Commissars. Correct?

A. What I am saying is that the original wording justifying the establishment of special units called {838|839} organs in this particular language of the S.S. and Police was the killing of Jewish-Bolshevik Commissars. This was the justification. The units to be established for this purpose belonged to the S.S. and Police, which was deemed to be the type of organization to carry out such a political task, rather than the armed forces. This, of course, does not exhaust the problem. One would not set up four units aggregating three thousand men to kill a small handful of people, Bolshevik Commissars, who were extremely few, and who were not often captured since they tried to avoid capture, naturally, and there would be little point in establishing, with high-ranking personnel, three thousand men, such, you know, for such a single small purpose, relatively small purpose.

Q. So getting back to the point, there is really no order that you know of, verbal or otherwise, that says to the Einsatzgruppen or anybody else, from Adolph Hitler, to kill all Jewish inhabitants on the spot. Right?

A. Now, I would say that the order, as for example Himmler pointed out, was given to him. He was invested with the responsibility to solve this problem. So in other words, one must put —

Q. What problem?

A. The Jewish problem, as they called it. {839|840}

Q. I thought we were referring to the Jewish-Bolshevik Commissars order. That is not the Jewish problem, is it?

A. This is the problem of teaching complex history in such a small setting, but what I am telling you is that the initial problem was administrative. One had to establish battalions of S.S. and Police that had to move with the armies that exercised military jurisdiction, military territorial jurisdiction within their sphere of operations. A justification had to be given for the establishment of such units. Adolph Hitler said this was a war unlike any other war. This was a war in which there would be a showdown, and the Jewish-Bolshevik Commissars, as the bearers —

Q. Showdown of who?

A. Two world views — Nazism and Communism.

Q. So there was a war between Communism and Nazism, according to Adolph Hitler?

A. Yes. And Commissars, as the carrier of this system, would have to be shot. This was not a task for the army. For this reason they were going to establish this Einsatzgruppen. So — {840|841}

Q. Can I just get back to the question? Okay? To put it very simply, then, you interpret this Commissar order to mean that it resulted in the shooting of Jewish inhabitants on the spot, but we don't have anything in writing to that effect and, in fact, that is not what it is reported to have said, but it is your interpretation of what it means. Correct?

A. Well, I am saying a little bit more than that. I am saying, and I will say that this is a matter which one can dispute honestly, that it was the intention from the beginning, that is to say, the months prior to June 22nd, 1941, to annihilate the Jews in the territories that were about to be overrun. The difference of opinion, the difference of view that was expressed in Stuttgart was whether that particular decision was made in March, in April or at the latest in August.

Q. Did you say, in Avery Fisher Hall's article, that there was no order, no plan, no budget?

A. Did I say, no order ...

Q. Yes. No order, no plan, no budget. Did you say that?

A. Well, I don't know out of what context you are reading these words. {841|842}

Q. In the context we are talking about, whether Adolph Hitler issued an order for the annihilation of Jews.

A. Do you have a tape recording?

Q. No. I am asking you if you said that, sir.

A. Well, it doesn't seem like how I would put it. I am very careful in my words, even when speak extemporaneously.

Q. Yes, I agree. Now, is it the case that you said he is an eminent authority?

A. I think he is an authority. He is certainly one of the first researchers. He was working with limited source material, limited in today's term. I would regard that what he says is generally reliable.

Q. I now produce and show to you a book entitled ... (Reporter's note: French title)

In English it's called, "Harvest of Hate". Is that right?

A. That's correct.

Q. Could you turn to page 512?

A. There is no page 512.

Q. No page 512? 1974 edition. Page 171, {842|843} first paragraph to the bottom of the page.

A. Well, I've read the paragraph.

Q. Now, I just want to ask you a question about it. I want to ask you if this is what it says in

English in the last two sentences of that paragraph.

A. I must say that I am not a qualified translator from the French into English.

Q. Well, let me ask you a general question, then, as to what it means, because you do understand French, don't you?

A. I understand it sufficiently, but as I testified before, I prefer to have a dictionary, especially

for a need to know exactly what the particular phraseology or meaning of a word is. This is not my language.

Q. I see. So you wouldn't be able to answer me whether or not it says

these general things, that there was no document left behind, perhaps none ever existed, such is the secret with which the masters of the Third Reich, however boastful and cynical they may have been on other occasions, have surrounded their major crime. Is that the general meaning of the last sentence?

A. Well, here again, you see, you are taking an introductory paragraph to a chapter. {843|844}

Q. I just want to know if this is what the last sentence says. I will read the whole book, but I just want to know about that last sentence.

A. It does seem to me to be an adequate translation, but it is hardly up to me to comment on the elegance of the translation from the French into English.

Q. I am not asking about the elegance.

A. But you are. You are essentially. You are putting me as a specialist of language from French into English.

Q. I just want to know whether you know the language enough to indicate whether that is the meaning of that sentence.

A. The general meaning.

Q. Certain details will be forever, however, unknown as far as total extermination is concerned. The three or four principle actors committed suicide in 1945. Then it says, no document was left behind, as perhaps none ever existed. Such is the secret with which the masters of the Third Reich, however boastful and cynical on other occasions, surrounded their major crime. Is that the meaning of the last three sentences?

A. Well, within the confines of what I {844|845} said before, it is acceptable to me, yes.

Q. That's your confrere and associate, Leon Poliakov.

A. He is not a confrere, and he is not an associate.

Q. Well, he is one of the people who you regard as an expert in the field.

A. He is one of the people who I regard as a competent researcher and an expert, and he is one of the very first.

Q. He seems to think that there is no plan in any way visible. Correct?

MR. GRIFFITHS: The word, Your Honour, was "no document". I didn't hear any "plan" in the translation mentioned.

Q. MR. CHRISTIE: I will say no document, then.

A. I think that he meant – now you are asking me what I think he meant, but I think that he meant that there was no written document signed by Adolph Hitler, that in short, we do not have a written order. And he said that if we wanted to ask questions after the war of men like Himmler, we can't, because Himmler committed suicide {845|846} immediately after capture, and because Heydrich was assassinated in 1942, and so that means that some of the principle figures could not be questioned.

Q. Now, you earlier were asked about an article by Avery Fisher Hall called, "The Holocaust in Perspective", and I now produce and show it to you. It says, "Panelist, Raul Hilberg, a Professor, ponders the question of the Holocaust."

A. It is a question asked by the audience. I was listening.

Q. I am talking about you and reading this, aren't I? You are the man in the article?

A. But please read what it says there.

Q. I will just ask you if this is accurate as to what you said. Maybe I should read it right in your presence so we don't make any mistakes. I have highlighted the part that I want to read to you and ask you if you said this, and if it is true. Right there:

*"If one looks at origins one may go back through the centuries into antiquity to discover the building blocks of destruction of the European Jews."* Correct? {846|847}

A. Yes.

Q. *"Hilberg said, but what began in 1941 was a process of destruction not planned to advance."*

Correct?

A. Correct.

Q. *"Not organized centrally by any agency."*

Correct?

A. Correct.

Q. *"There was no blueprint."*

Correct?

A. Correct.

Q. *"There was no budget for destructive measures."* Correct?

A. Correct.

Q. *"They were taken step by step, one step at a time."* Correct?

A. Correct.

Q. *"Thus came about not so much ..."*

and then it goes over to the next page,

*"... not so much a plan being carried {847|848} out, but an incredible meeting of minds, a consensus, mind reading by a far flung bureaucracy."*

Correct?

A. Yes.

Q. You said that, didn't you?

A. I said that. I said nothing about any order not existing.

Q. No, nothing there about any order. Right.

A. Well, you had previously said that I had, at that meeting, in conjunction with these other phrases, also indicated that there was no order, and I said I recall no such word and, indeed, what you showed me does not indicate that I said anything about an order.

Q. No. I agree you didn't say anything about an order. In fact, you said it was an incredible meeting of minds.

A. Yes.

Q. Does that imply the existence of an order?

A. It does not exclude the existence of an order. {848|849}

Q. A consensus, mind reading by a far-flung bureaucracy. Does that imply the existence of an order to you?

A. Well, you see, if an order is given orally —

Q. If an order. You said there was an order.

MR. GRIFFITHS: Perhaps he can finish his answer.

THE COURT: Mr. Christie, it will be helpful to the jury if you will just resist the temptation to cut in when an answer is coming. Go ahead.

THE WITNESS: If an order is given orally and passed on, and especially if wording is couched in such a way that the order giver relies on the understanding of the subordinate, then it does become important for those subordinates to understand, indeed, and to have the same understanding of what was expected. And this is what I said.

Q. Was there an order, or wasn't there?

A. I believe that there was a Hitler order.

Q. Okay.

A. Professor Krowslich (ph) believes this. {849|850} Others believe that there was not.

Q. So it's an article of faith based upon your opinion?

A. No, it is not an article of faith at all. It is a conclusion. One can come down one way on it, or the other.

Q. Because there is no evidence to prove one side or the other. Right?

A. There may be evidence, but there is a question in this case of what is sufficient evidence.

Q. One order was given in the spring of 1941 is what you said in your book.

A. That is one man's opinion — mine.

Q. It doesn't say it is an opinion. It states it as a fact, sir, I suggest.

A. Look, how often must I reiterate that wording? It is in the beginning of a chapter. It is in the nature of saying, "Here is what I am laying out. Now, keep reading. You don't have to agree with what I say after you have seen the footnotes, after you have seen the evidence."

Q. That same is true about the book, "Did Six Million Really Die?" You don't have to believe it. You don't have to accept it without verifying it. {850|851}

A. Oh, no. Oh, no, that's not the same thing. I'm sorry, very sorry.

Q. All right. Next question is referring at the top of page 177, you say:

*"This method may be called the 'mobile killing operations.'"*

Now, you are referring to the Commissars you talked about earlier. Right?

A. I am talking now about the entire operation, bringing the killers to the

victims.

Q. "Shortly after the mobile operations had begun in the occupied Soviet territories, Hitler handed down his second order."

Now, where is his second order?

A. The problem with that particular order is the same as it is with the first. It is oral.

Q. It is oral.

A. And there are people who say, no, it was not one order at all. It was a series of orders that were given to various people at various times.

Q. Mm-hmmm.

A. This is a matter for dispute and for {851|852} argument among historians, and for this purpose one has meetings and second editions of books, too.

Q. I see. So you have to correct that statement in your second edition. Right?

A. No, I am not saying that I have to correct this statement, but there are corrections in the second edition, of course.

Q. This statement does not appear to be qualified with the words you added here today this is a matter of opinion and subject to dispute, and others may disagree with it. It states, "Hitler handed down his second order". No qualifying words. Right?

A. No, there is no qualifying word there.

Q. Do you want to see the book and make sure I am not misleading?

A. I agree with you that in this introductory statement I stated my conclusions ahead of the treatment to follow.

Q. I see. So if Mr. Harwood had been able to write a book and give you more evidence, he would have been able to follow up his statements with more information, too? {852|853}

A. That would be a tall order, wouldn't it?

Q. I wonder, sir. Can you show me where the second Hitler order is?

A. That is not the question.

Q. It is now.

A. But the major [major] question as I understood it all along is whether there was a Holocaust, not —

Q. That is not the question from me. The question from me is whether or not you can verify, as you say one ought to, as —

A. One certainly ought to, I completely agree, but certain matters can be shown up to a point and not beyond.

Q. Can you show any evidence of the existence of a second Hitler order at all? And if so, what is it?

A. I indicated to you, although I have revised my judgments, but if you want to look, I don't say that everything I expressed in this book I retain. I am entitled to change my mind about something I do.

Q. And is Mr. Harwood also entitled to change his mind? {853|854}

A. He may change his mind, but I am talking about what I thought then to have been a pivotal Hitler directive as stated by Goering to Heydrich on July 31, 1941.

Q. That is the letter which originated the Wansee Conference which occurred in January 1942. Correct?

A. Well, it was the letter that set in motion the train of events that eventuated in the Wansee Conference.

Q. I put it to you that the letter from Goering to Heydrich talked about re-settlement in the east of Jewish people. Didn't it?

A. Well, the term "re-settlement" became the word used throughout the correspondence in World War II in German records to refer to the process of deporting people to killing centres. In short, this was to be distinguished from bringing the killers to the victims. Here the victims are being brought to the killers.

Q. Well, that is your interpretation of —

A. That was my interpretation, and it still is now.

Q. But it wasn't an order or a letter {854|855} from Hitler at all.

A. No, it is not.

Q. But it says here, "Hitler handed down his second order". Correct?

A. That is correct.

Q. That could be a little misleading, couldn't it?

A. Yes, it could be misleading, and for that reason we write second editions

Q. Yes.

A. The belief I had then was that the order written by Goering was written at the behest of Adolph Hitler, since Goering was the number two man and could speak on any matter whatsoever. It is not a belief I hold as firmly right now, because I have since discovered additional information to indicate the draftsmanship of this order, who drafted it, and the circumstances under which it was given, and this leads me to the conclusion that the order was initiated by Heydrich.

Q. Now, what about the existence — let's get to the point of saying that you now maintain that any talk of re-settlement in the east you now interpret as being an order to kill all Jewish persons. Is that your {855|856} interpretation, or was it then when you wrote this?

A. It was then and it is now my opinion that re-settlement was the synonym used for deporting Jews to death camps.

Q. Mm-hmmm. Was there not a Madagascar plan to deport Jews to Madagascar?

A. There was such a plan and it was popular for a while in 1940, and to the best of my knowledge it was considered at the highest level, as late as but no later than February 2nd, 1941.

Q. Was there not a plan also to deport Jews out of Europe into the area of Latvia?

A. Now, this is a different matter.

Q. I know this is a different matter, but was there such a plan?

A. When you are referring to deportations of Jews to Riga from Berlin and from other German cities, in the late fall of 1941, following the operation of the Einsatzgruppen, the idea was, to the best of my reconstruction of events, that these Jews were to be shipped there in order to be shot upon arrival by Einsatzgruppen personnel stationed in Riga. This was not colonization.

Q. Aha. That is, according to your inter-{856|857}pretation of the results. That is what you said, isn't it?

A. Well, we do know what happened to these transports.

Q. Do we?

A. Yes, we do.

Q. In Riga.

A. Yes.

Q. I suggest to you, sir, that there is no evidence whatsoever that re-settlement in the east referred to in Goering's letter had any other meaning than what it said on the paper.

A. No, no. In a way there are some conclusions one may come to and there are other conclusions one may not come to, because there is such a thing as a body of evidence.

Q. A body of evidence. All right.

A. And the fact of the matter is that orders went out to no longer permit the emigration of individual Jews. The fact of the matter is that the whole number of Jews under German control was now so great that emigration, other than to Madagascar, which was being considered up to but not beyond February 1941, was considered a manifest impossibility in the middle of a war. {857|858}

Q. Yeah. There would be problems created by the war in forced emigration of Jews. Right?

A. Obviously.

Q. And there was a problem, because the Russian front started to move west by 1943.

A. 1943. But we are jumping years.

Q. Well, two.

A. That is a long time, because a lot of Jews were killed in the interval.

Q. You are maintaining there was a Hitler order to kill Jews by the spring of 1941 which we now know that is sort of somebody's view of what you say Hitler may have said verbally. Right?

A. Mm-hmmm.

Q. And the second Hitler order we don't really believe any more existed. Right?

A. No, I didn't say that. Quite the opposite. I said there was a divided opinion on whether there was one or whether there were several orders. I might say to you, just to make the point in your favour, there is a minority opinion that states — two German historians — that there was

no need for a Hitler order.

Q. Mm-hmmm. {858|859}

A. That the process went on without it, but this is a minority opinion and very much in dispute.

Q. That's very much in dispute at your conference, or the conference of exterminationists at the Town of Stuttgart in May of 1984. Right?

A. Well, it's a major city.

MR. GRIFFITHS: Well, what is an exterminationist?

MR. CHRISTIE: I will ask the witness if my friend doesn't know.

Q. Do you know the definition between exterminationists and revisionists?

A. This vocabulary is something else.

Q. I suggest you used the term yourself.

A. No, I did not use the term "extermination" except in quotation marks.

Q. Well, you have used it in quotation marks.

A. But never as my word.

Q. But there is a school of thought about which you are aware, and about which you have spoken publicly, and about which you are reported to have spoken publicly, that categorizes people that believe in the Holocaust {859|860} as you define it as exterminationists. Isn't that true?

A. No, it is not true.

Q. So you don't use the word to define people who believe in the Holocaust?

A. No. I don't know the source of your statement, but that is pretty well off the mark.

Q. Is it? And you have never used the term yourself?

A. No. I don't write about this whole school of thought as defined by the defendant.

Q. They are beneath your dignity, a whole school of thought opposite to yours?

A. Not beneath my dignity, but I do not devote my efforts in discussions such as we have here.

Q. Could you turn to page 631 of your book?

A. Yes.

Q. Now, first column at the bottom:

*"In November, 1944, Himmler decided that for all practical purposes the Jewish question had been solved. On the twenty-fifty of that month he ordered the dismantling of the {860|861} killing installations."*

Correct?

A. Yes.

Q. You give there a footnote referring to an affidavit [affidavit] by Kurt Becher, March 8, 1946.

A. Mm-hmmm.

Q. Document PS-3762. Correct?

A. Yes.

Q. How do you explain that the wording of this document provides no basis for your statement, neither as to the date, nor does it make any mention of killing installations?

A. Again, this is a question of treating statements in context. Look, no document is self-explanatory, and every rendition of it involves some interpretation, unless the text is reprinted in its entirety.

Q. All right. Unless a text is printed in its entirety. Correct?

A. All right. You have the text, I will be glad to comment on it.

Q. Thank you. I now produce and show to you document 3762-PS. Do you recognize it?

A. Yes.

Q. At the top it describes it as the affidavit by Kurt Becher, SS-Standartenführer. Is that right?

A. Yes.

Q. 8th of March, 1946, with the undated latter by him. Correct?

A. Yes. {861|862}

Q. Did you look at that?

A. Yes.

Q. I am going to read you something that I suggest is close to its text as I can get. It says:

*"I, former SS-Standartenführer Kurt Becher, born on 12 September,*

*1909, in Hamburg, wish to make the following statement in lieu of another:*

*1. Approximately between mid-September and mid-October 1944 I induced the Reichsführer-SS Himmler to give the following order which I then received in two original copies, one for the SS-Obergruppenführer Kaltenbrunner and Pohl, and one copy for myself:*

*Effective immediately, I forbid any extermination of Jews and order to the contrary that care be taken of the feeble and sick. I hold you (meaning Kaltenbrunner and Pohl) personally responsible for this, even if this order should not be strictly complied with by my subordinate quarters."*

*Carrying on:*

*"I personally took the copy destined for Pohl to his office in Berlin and handed up one meant for Kaltenbrunner into his secretary's office in Berlin. {862|863} I feel that after this date Kaltenbrunner and Pohl should, therefore, be held personally responsible for any killings of Jews that took place afterwards.*

*2. On the occasion of my visit to the concentration camps of Mauthausen, 27 April, 1945, at nine o'clock in the morning, the camp commander, SS-Standartenführer Zierreis [rect: Ziereis] informed me in strict confidence as follows:*

*Kaltenbrunner has instructed me that at least one thousand people still have to die in Mauthausen every day. The facts mentioned above are in conformity with the truth. These statements are submitted by me of my own free will and without any duress. I have read them through, signed and affirmed them with my oath."*

*Then follows the date, signature, the rank, and:*

*"Subscribed to and sworn before us at OBERURSEL/Germany this 8th day of March 1946. Richard A. Gutman."*

*Is that right?*

A. I wouldn't know how to pronounce his name.

Q. Is that what you say is the justification for your statement that in November 1944 Himmler decided that for all practical purposes the Jewish question {863|864} had been solved?

A. Yes.

Q. And the order to dismantle the killing installations ...

A. Yes.

Q. Well, it indicates there, at least, mid-September and mid-October, and it wasn't in any way an order from Himmler originated by him. You say it was originated by Becher. Is that not true?

A. No, no. What I say is what's in the document. Becher states.

Q. Let's analyze what is in the document.

A. Let's analyze it. I am not going to say the document speaks for itself because it is a complicated thing. Becher states here —

Q. Let me ask you some questions.

A. All right. Go ahead.

Q. The actual document here is an affidavit of Kurt Becher. Correct?

A. Yeah.

Q. It's not an order from Himmler. Correct?

A. No. He quotes —

Q. He says there was one. Right?

A. Yeah.

Q. It's an allegation of an order from Himmler. Right?

A. That's correct.

Q. But it has not been produced.

A. He produces it, presumably from {864|865} memory, in this affidavit. It need not, may not have been the exact language used by Himmler, but the substance of it, to me, seemed plausible and believable.

Q. So your statement on page 631 is certainly false as to date, and it's false as to the existence of an order. It, in fact, refers to an affidavit that says an order existed and quotes from the alleged order. Is that right?

A. Well, are you trying to say that I am in error as to the exact month?

Q. Well, that's one error, but it is not the only one. It is an error there, isn't it?

A. Not necessarily, because Becher does not recollect precisely when he acted. He said that sometime between the middle of September and the middle of October he approached Himmler. He was successful in

convincing Himmler. That doesn't mean that Himmler carried out the order, gave the order the next day.

Q. With the greatest respect, sir, it doesn't say, "approached Himmler". It says, "induced Himmler".

A. Induced, fine. Induced Himmler.

Q. That, in effect, means he accomplished the objective of giving his order. Is that right?

A. Well, it doesn't mean he got the order on the precise date.

Q. So you know when the precise order was?

A. No, I wouldn't say that I know very precisely. I would say that it is November, because I do believe, knowing how long it takes for orders to be {865|866} written, to be filtered down and to be carried out, that the great likelihood was for the order to have been given in November – not September or October, particularly because gassings were going on in Auschwitz in October. And here we would be implying gassings going on despite specific orders already having been received.

Q. Well, now you have explained the difference of date. You say that Himmler decided that, for all practical purposes, the Jewish question had been solved. This affidavit seems to indicate that the author made a decision and induced Himmler to sign the order. Right?

A. Fine.

Q. That certainly puts a little different light on it, do you think?

A. Not really, because don't you see, this was an S.S. Colonel. He was trying, in making this affidavit, as so often happens with S.S. Colonels who were prospective witnesses in war crime trials, to put the best face on himself. Here is something he could claim credit for, so he came forward with this affidavit. The question is, was he the only one to have made this suggestion? Perhaps not. Was he making it precisely in the form in which he said? Perhaps not. But that the order was given, I do believe.

Q. You have explained that these types of affidavits were often false, but you chose to believe this one. Right?

A. No, no, no. Here again you are trying to put words in my mouth.

Q. That's right. I am trying to suggest {866|867} to you that there is a short, simple answer to this convoluted explanation you gave, and it is this, that some S.S. Colonel doesn't force someone by the rank of Mr. Himmler to make an order, and that this affidavit was an exaggeration for self-defence purposes by Kurt Becher, and you should know that as an expert. That is what I put to you.

A. My understanding is that you suggest that Himmler gave no such order, period?

Q. I am suggesting to you, sir, that this affidavit, you would have to acknowledge, was highly dubious as a source.

A. But you see, we know when the last gassings took place. We know, you see, the sequence of events pretty well. Of course, when one does not have, as I explained at the outset, the proper documentation, that is to say, the original correspondence, one must have recourse to testimony. One must have recourse to statements made by people who made assertions. One must weigh these assertions.

In this case the historian is not different from a jury, is no different from a judge. One must weigh. Now, I weighed, to the best of my ability, and I would still weigh it much in the way in which it is described here in the book published in 1961.

Q. In this book in 1961 you didn't say in your statement that we don't have the Himmler order. You said we have an affidavit from a colonel in the S.S. who says he managed to convince or induce Himmler to make an order. Did you?

A. Well, I have given a footnote {867|868} stating plainly, "Affidavit by Kurt Becher".

Q. Mm-hmmm.

A. In this affidavit is the purported text of Himmler's order.

Q. Right. Would you agree with me that it is rather dubious in its contents?

A. Well, I don't know how to answer you, because I have already said repeatedly —

Q. A simple yes or no would do.

A. Well, I don't agree with you.

Q. You don't agree?

A. No. I seem to have to repeat it fifty times.

Q. Not any more. Not once more, I can assure you. I now produce and show to you the results of an interview which purports to have been had with you in "Le Nouvelle Observateur". Is this an interview with you?

A. Yes.

Q. Do you recall it?

A. Yes.

Q. Do you know when it took place?

A. Several years ago. It took place shortly before the appearance of the —

Q. 9th July 1982, is that correct?

A. Well, the interview took place before then, but not too long before.

Q. You were speaking French in the interview, were you not?

A. No, no. As a matter of fact I was speaking in English. This is a translation of my {868|870} remarks.

Q. Well, I suggest to you that you said that, "I would say that in a certain way Faurisson and others, without having wanted to do so in the first place, have rendered us a good service. They have come up with questions which have the effect of engaging the historians in fresh research work. The historians are obliged to come forward with more information to scrutinize the documents once again, and to go much further in the understanding of what has really happened."

Was that your statement?

A. Yes.

Q.. Were you referring to Professor Robert Faurisson of France?

A. Yes.

Q. Do you know him?

A. I know him only through some of his publications. I don't know him personally. He once wrote me a very nice letter. We have not met..

Q. Would you agree that many of the premises you started with in your research, because they were never questioned, you have now had to revise slightly?

A. Well, I don't quite understand what you're asking. I've had to revise because they were never questioned, or —

Q. I will make it clear.

A. All right. Please do.

Q. This seems to indicate to me that due to the fact that people like Faurisson who have been asking questions about this issue of the Holocaust, you've had to do some fresh research work. {869|870}

A. No, no. I think you are somewhat overstating the matter.

Q. I thought it was a pretty clear quote from what you said.

A. Yes, but here again, please keep in mind the context. The question was supposed to be from a journalist for a French publication who wanted to have my opinion, particularly, I suppose, with regard to my personal feelings and reactions towards people who deny the Holocaust — and incidentally, in the process several of them use insulting language about me personally.

Now, given this insulting language, one might think that I might be very angry or something of this sort, but I am not. Quite the opposite.

Q. Well, you are not accusing Dr. Faurisson of —

A. I am not accusing him, but the question was a broader one. It included this whole group of people who say that the Holocaust did not happen, or Butz, or people of that sort, and of course, Rassinier and Butz are quite insulting in their language about me.

Q. Oh, really, Rassinier is quite insulting in his language about you?

A. May I finish?

THE COURT: Yes, you can finish.

THE WITNESS: Well, I said that, nevertheless, I will consider what anyone says about anything in such a way as to re-think something. Just because I believe that something happened does not mean that I have explained it adequately. I am a classroom teacher for three decades, and I have learned the hard way that one must explain everything, that nothing is {870|871} obvious, that one may take certain things for granted as being understood immediately; they are not.

So in this rather peculiar roundabout way I have said, fine, I will be

willing to look at anything said by anybody, no matter what his motivation may be, and if this leads me to re-state anything, to substantiate anything, to look for anything, that's fine.

Q. So it does cause you to do fresh research work, as you said here?

A. Well, I think – please don't exaggerate. I am always doing research. I am always doing research, of course.

Q. These are your words, sir.

A. Absolutely. If there is something requiring more substantiation, I will, necessarily, have to go and find it.

Q. I put it to you, sir, that as far as the researching the scene of Auschwitz, Treblinka, Sobibor, Chelmno, Stutthoff, you didn't do any firsthand, on-site research whatsoever until after you wrote your book.

A. What I did in the case of Sobibor, Belzec, Chelmno and Treblinka was to look at the German, West German court records. I have testified repeatedly that I learned about these camps from documentation and from testimony. I am not a person who will take in a particular scene and be able to describe it in such a way that a professional policeman does. I am not that kind of individual, and this is not my research method.

In short, I have, in the nineteen sixties and seventies, looked for and at documentation, {871|872} testified about these particular camps. It was not necessary for me to go there because going there would not have helped me substantially.

Q. It might, in fact, have disproved your theory, sir.

THE COURT: Gentlemen, I think what we will do is excuse the jury till two-thirty and resume then.

— The jury retires. 1:00 p.m.

— The witness stands down.

— Luncheon adjournment.

— Upon resuming.

— The witness returns to the stand.

— The jury enters. 2:30 p.m.

THE COURT: Yes. Go ahead, Mr. Christie.

MR. CHRISTIE: Thank you, sir.

Q. I'd like to get back briefly to page 631 in this book where we were discussing this statement, bottom of the page on the first column, the statement:

*"In November, 1944, Himmler decided that for all practical purposes the Jewish question had been solved."*

You mentioned that although the document Kurt Becher prepared was an affidavit which was referred to in the order, and although it didn't give the date of November, you said because it said mid-September, {872|873} October, that it would mean November. Right? Takes some time.

A. That was one reason. There were several other reasons.

Q. Yeah. How did you come to the conclusion referred to in the next sentence that on the 25th of that month he ordered the dismantling of the killing installations? That strikes me as a precise date, and I wondered if you get that from the text, too.

A. No. Where are you reading from, please?

Q. Next sentence:

*"On the twenty-fifth of that month he ordered the dismantling of the killing installations."*

A. That is, perhaps – I should perhaps include one or two other sources. It is sometimes difficult to present all of them when they happen to be testimony.

Q. Was there another source?

A. Yes. There were several other sources, and one of these was from a man who also talked to Becher and got that information.

Q. So you have some other source that didn't talk to Himmler but talked to Becher.

A. Yes. That's correct.

Q. Oh, I see. That wasn't referred to in your book at all.

A. That wasn't referred to, no.

Q. Now, earlier on you referred to the Commissar [sic] order as an order to shoot the Jewish Bolshevik {873|874} Commissars. Right?

A. Yes.

Q. Would you agree, to put that in context, that there was a belief in Germany at that time that Bolshevism had Jewish origins, and all Commissars would be Jewish?

A. No. That is not something that I would assume.

Q. Are you familiar with the theories of the day and the beliefs about communism?

A. I am familiar with the theories of the day. I am also familiar with the manner in which these theories were received by the population, including even the S.S. people. I don't think they are unsophisticated [unsophisticated] people.

Q. I am not suggesting anybody was unsophisticated [unsophisticated]. I am suggesting that a prevalent theory, at least of the Nazis, was that communism and bolshevism was Jewish.

A. That was propaganda.

Q. That was propaganda, but they claimed it was their belief at the time?

A. They claim.

Q. They said that Trotsky was Jewish and Seneviv was Jewish, and Karl Leitnik was Jewish?

A. There are all kinds of people labelled as Jews, whether they are or not.

Q. It is certainly true about Trotsky and Seneviv.

A. Certainly true.

Q. And they were very important. {874|875}

A. Very important.

Q. So they had this belief and so that they assumed the Commissars were Jewish. Right?

A. Well, I would not go so far as to say that. Not even Hitler had that thought. I don't think even Hitler may have thought that.

Q. Oh, it's hard for us to perceive what Hitler thought, isn't it?

A. Yes, indeed it is.

Q. Now, in your testimony in-chief you said that there were perhaps forty thousand affidavits at trial, or documents. Well, I will quote you, and you said yesterday morning:

*"From this I could tell you that the prosecution documents at the first Nuremberg Trial were approximately forty-five hundred, five thousand, including affidavits, that the prosecution documents in all the subsequent trials which I have mentioned aggregated roughly forty thousand documents, including affidavits, but in addition, there were many defence documents."*

That is what I recall you saying. That is correct, isn't it?

A. Yes.

Q. Now, I would like you to tell me if you recall testifying at the preliminary hearing of this matter. Do you?

A. Well, it happened a while back. {875|876} If you would like me to recollect what I said, go ahead.

Q. Right. But what I am going to ask you, am going to read to you – do you know John Fried?

A. Yes.

Q. Professor Fried from New York City?

A. Yes.

Q. He was called as an expert with you at the preliminary. Right?

A. Yes.

Q. And he was an expert in Nuremberg because he was there and whatnot.

A. That's correct.

Q. Now, I am going to read to you what he said and ask for your comment as to whether this is true or not:

Q. Well, what comment, if any, do you have to that proposition, Mr. Fried, about fraudulent affidavits? Can you tell us how the affidavits were obtained?

A. Altogether?

Q. Yes, sir.

A. I think there were well more than a hundred thousand by the defence alone.

Q. By the defence?

A. By the defence. There were an incomparably smaller number by the prosecution in these affidavits insofar as deliberations that were never used without the affiant testifying in open {876|877} court.

Now, do you consider that truthful, or erroneous?

A. I think that seems to be what a man recollects as having happened, and I see nothing especially wrong with that.

Q. He was there and you weren't. Right?

A. Yes.

Q. You say forty thousand. He says a hundred thousand.

MR. GRIFFITHS: He said a hundred thousand defence documents, and Dr. Hilberg has testified about forty-five hundred prosecution documents.

THE WITNESS: Yes. And many more defence. That is what I said.

Q. MR. CHRISTIE: Well, when you said, "aggregated roughly forty thousand documents, including affidavits, but in addition, there were many defence documents", you mean there were only forty thousand prosecution documents?

A. Yes.

Q. And there were many from the defence?

A. Yes.

Q. Are you sure this is accurate?

A. As I said, the numbers are accession numbers so one could easily add them up, and I did that years ago.

Q. Is that from the twenty-five thousand feet of shelf space that you referred to? {877|878}

A. No. I am only referring Nuremberg documents, which is a rather small percentage.

Q. Right. In your evidence you dealt with the subject of Rassinier who you said did some concoctions on your statistics.

A. Yes.

Q. You said that the document, "Did Six Million Really Die?" was false because it attributed to you the figure that was not your figure.

A. That's correct.

Q. I suggest to you that Professor Rassinier, in his book, attributed the figure to you after he prepared some calculations from your figures.

A. Well, that conforms with my testimony. He found certain figures in my book ...

Q. That's right.

A. ... and then he, as I testified, concocted certain numbers and then came out with this eight hundred some odd thousand total.

Q. Yes. Well, isn't it true that he referred to your statistics as fog?

A. That he referred to them as fog?

Q. Yes. Fog.

A. Very possibly, if he is liberal in his characterizations.

Q. Yes. Just this sentence here.

A. I might add that the copy I have is a German translation, which is in several respects different from the French original. So this may have been the first time I have seen that phrase.

Q. Well, am I right in my understanding? {878|879}

A. Well, good enough, yeah. Again, I don't want to be, here, a translator from the French.

Q. Well, you understand it. Doesn't that say that, "The study that I have made of Mr. Hilberg's statistics ..." – is that what it says there?

A. Well, to him it appears to be that number, 896,000.

Q. 896,892.

A. Yes.

Q. Well, that's just the figure that is given in the book, "Did Six Million Really Die?" as attributed to you.

A. Yes, but in the book it is attributed to me, period.

Q. I agree it is.

A. But I have never made that statement. I have never published such a figure and I have never —

Q. That's right. Just read that sentence in English, if you would.

A. It appears that this figure is my figure, from this sentence.

Q. Yeah. This sentence.

A. That is what he says.

Q. I agree. It is not what you say; it is his mistake; right?

A. In this work a figure is attributed to me.

Q. Correct, sir.

A. And I testified that I had never, never given such a figure, anywhere, period, finished.

Q. That's right. I understand. But {879|880} this book attributes that figure to you.

A. Is this book in the footnote, referring to the "Did Six Million ..."?

Q. It is in the content. But answer my question. Doesn't this book, the book of Paul Rassinier, attribute that figure to you?

A. Yes, he does.

Q. Okay. So if you have a quarrel with whether that's accurate or not, it is a quarrel with Mr. Rassinier who said it was your figure, even though quite concede you say it was not your figure.

A. But it is not my figure, and this pamphlet does say it is my figure.

Q. Yes, because it quotes this book which says it is your figure.

A. But it does not say in the sentence, the two sentences in which this figure is attributed to me, that this is taken from some book.

Q. It does say it is taken from this book, sir. Read the first paragraph where it is referred to as your figure, which you say is erroneous.

A. He concludes, Rassinier concludes certain numbers.

Q. Yes. And he refers to the lower estimate of 896,000 in a study of the same problem of statistician Raul Hilberg.

Q. Yes. He attributes it to you. That is erroneous, isn't it?

A. That is totally erroneous. It is a concoction.

Q. But he says Rassinier attributes it {880|881} to you, doesn't he?

A. Yes, in this paragraph it does. There are two mentions of it.

Q. Yes, sir. And the ones on the next page. So if you want to look at the next page, I agree with you.

A. Okay. He says the Jewish statistician Raul Hilberg estimates it at the lower estimate of 896,892.

Q. But you see my point, I trust. He is saying that Rassinier attributed it to you, which Rassinier did say, although Rassinier was wrong in attributing it to you.

A. Well, I will say this much. You have found the French edition, and in my German edition it is different. And it is not attributed to me in the German edition.

Q. But it seems to be in this one.

A. It seems to be in this one.

Q. So if Harwood made a mistake in saying Rassinier had attributed it to you, he was accurately reporting what Rassinier said, although Rassinier was wrong. Isn't that true?

A. We can leave it at that, sure.

Q. As far as this edition is concerned, that is a fair statement?

A. As far as this edition is concerned, and that page.

Q. Well, that's right. But it's that page which gives that figure, though.

A. Okay. {881|882}

Q. But apparently Rassinier altered the edition later to reflect that he was just analyzing your statistics. Correct?

A. That seems to be the case.

Q. I understand now. So – okay. I think understand. Did you give any consideration to trying to understand how Rassinier came to this conclusion about 896,892?

A. Well, I did give some consideration to it, of course, but —

Q. I agree you don't agree with it, but can I just try and understand it so that we know what it was he was doing with your figures which you disagree with?

A. He took two columns from —

Q. Can I describe it and you correct me if I'm wrong? Maybe I can put it in quick words. He took the number of those who were counted, according to you, in 1931, and he took the survivors in 1945, calculated the difference, and then he took from that a number that he called "recovered immigrants".

A. That's right.

Q. And that's where I think where you would say his error comes in.

A. Well, error is a mild word.

Q. Well, you would consider it, somehow, deliberate. You think that he was trying to distort things?

A. Yes.

Q. But that's what he did; right?

A. Yes. {882|883}

Q. Okay. It is my understanding that you indicate that we should not take what we call the survivors away from the total that were counted in '45. Right?

A. I'm sorry?

Q. Well, I will leave that question. But I think I've explained, I hope clearly, and you agree with me, that's the error that you feel Rassinier has made.

A. Yeah. Well, it's – "error" sometimes refers to some misinterpretation of some documents, and this is a lot more than a misinterpretation. This is sort of an invention of figures.

Q. You think so.

A. Oh, yes.

Q. You don't think we should even consider that there were immigrants that came to – just let me finish, please, sir.

A. Sorry.

Q. During the War and shortly thereafter there were masses of emigrants from Europe of Jewish origin who entered the United States and were not counted as being of Jewish origin. Do you agree that there was no census of the religion of emigrants to the United States in those years?

A. The Commission did count the Jews, particularly, among the displaced persons, and very, very, few people entered this country prior to then because of the quota in the United States then in effect.

THE COURT: When you say "this country" ...

THE WITNESS: I'm sorry. The United {883|884} States. I'm sorry.

Q. MR. CHRISTIE: Could we just have a look at your statistics, sir? In your book – I believe it is in front of you ...

A. Yes.

Q. And I think I may have left inside of it the German version of the affidavit of Becher. Is that right?

A. Yes.

MR. CHRISTIE: perhaps if I can file that, just as an exhibit for identification – it is of very little value in German, I suppose.

THE COURT: It is of totally no value. This is a trial in English. But it has been referred to. I will mark that as an exhibit for identification, but it is, as I said what is that, madam clerk?

THE REGISTRAR: Exhibit "I" for identification.

— EXHIBIT "I" (For Identification): Affidavit in the German language sworn by Kurt Becher.

Q. MR. CHRISTIE: Could we turn to Table No. 1 in your book, sir?

A. What page is that? Oh, yes. Page 5. Yes, I've got it.

Q. Is this figure giving a figure for Polish survivors?

A. I'm sorry, I am looking at some thing else. When you say Table which page do you mean? {884|885}

Q. Well, I'm afraid it is not in my notes, and until it is I am going to move to another area. I see it's on page 670 of your book, where you get involved in statistics.

A. 670, yes.

Q. And I think it says, "The Jewish Population Loss 1939-45".

A. Yes.

Q. Now, under "Poland" you have 3,350,000 survivors in 1939 and 50,000 in 1945.

A. Yes.

Q. In Table 2, which says, "Postwar Jewish Population Changes in Eastern Europe" —

A. You are changing the numbers of the tables, so you must give me the page numbers.

Q. I think it is Table 96, actually. It is on page 737. I'm sorry not to give you the page.

A. All right. Got it.

Q. Okay. Now, that says, "Postwar Jewish Population Changes in Eastern Europe", and then it says "Poland" "Survivors and Returnees 1945-46" 225,000 survivors.

A. Yes.

Q. Now, where did the extra 175,000 Polish Jewish survivors appear from?

A. From the Soviet Union. These are repatriates. These are part of the two hundred thousand people or so that fled or otherwise located in the Soviet Union. That is the reason that we got returnees as well as survivors. These are not all survivors, and the year here is 1945-46, rather than 1945. So these are two {885|886} different counts, two different groups of people.

Q. So you count the number of surviving returnees as 225,000.

A. Within the Polish frontiers, postwar boundaries by the end of 1946, yes.

Q. Although you list the Polish survivors in '45 as fifty thousand.

A. Yes.

Q. That being Jews?

A. In other words, if you subtract that fifty thousand from the two hundred and twenty-five, you get the approximate number of people who returned from the Soviet Union who are technically not survivors, but have fled.

Q. What I am saying is, are you relying on Soviet statistics to say what people stayed in the Soviet Union?

A. We have to rely on something in life, and in this particular I have relied not only on the statistics of the Soviet Union, but postwar Poland, and Poles did record the number of survivors or returnees. We have this data. Virtually the entire postwar population of Poland has since emigrated, so we have a further check in knowing where the Jewish population of Poland went, roughly, at least, since the vast majority went to Israel; thus we have a ballpark figure, or a good idea of the correctness of this data.

Q. That's the number of returnees.

A. The number of returnees.

Q. That's the 225,000.

A. Yes. That includes mostly the {886|887} returnees. That is about 175,000 returnees. There may be a few more, because the boundary changes took place, and there were, in Eastern Poland, a few thousand more in the territory of Poland that is now part of the Soviet Union.

Q. This figure, then, is based upon an estimate from Polish authorities as to the number who returned in '46.

A. No. This is not simply an estimate, because the repatriation took place after an agreement had been made between Poland and the Soviet Union, and these people returned in trains that had definite numbers of passengers, special trains; and so that is actually a count; this is not a simple matter of individuals crossing frontiers and so forth.

Q. How do you know that all the Polish Jews returned to Poland?

A. We do know something about the Jewish population in the Soviet Union from subsequent census data of the Soviet Union.

Q. Do all Soviet Jews announce themselves to be Jews?

A. Well, that's an interesting question and much debated. There is some speculation in this matter, if you want to call it that, in the initial postwar census that it may have understated the number of Jews in the Soviet Union in the sense that, perhaps, not all of them identified themselves as Jewish; but the subsequent two census are rather different in the sense that now people do identify themselves as Jewish, given the possibility, at least, of emigration, and in matters pertaining to {887|888} half-Jews, that makes some difference inasmuch as I understand the Soviet procedure, a sixteen-year-old can choose whether he wishes to be Jewish for nationality purposes in the census, or Russian-Ukrainian, as the case may be.

Q. So all of this is rather complex, isn't it, Doctor?

A. It is not simple.

Q. No. Isn't it true that the whole of Poland was moved bodily westward by hundreds of millions [miles] after the War in terms of boundary?

A. It was certainly moved westward, yes.

Q. And isn't it true that it is really difficult, if not impossible, to give any accurate figure for Poland when the Polish frontiers were so radically altered after the War?

A. Well, it all depends on how much accuracy you want.



Q. I agree. But it is very difficult to give accurate figures in those circumstances.

A. I have spent many hours research in the matter, so it is certainly not easy.

Q. If the Germans had an official [official] policy of exterminating the Jews, how is it that there were as many as 3.7 million left at the end of the War?

A. The principal number of those left are, as you could see from that table, in the Soviet Union, and —

Q. They were Jews, I suggest to you, that had been in Poland previously and had gone to the Soviet Union to get away from the Germans. {888|889}

A. Well, some of them. But you see, we know the census figure for Poland for 1931 and the extrapolation to 1939. We also have a census figure for the Soviet Union for January 1939. So that we have some idea, although one may argue as to whether casualties occurred as a result of action within the pre-War Polish frontier or as a result of action within the pre-War Soviet frontier. Nevertheless, we have a pretty good idea of the total.

It's like a punching bag that if you want to make the figure larger in one area, you have to make it smaller in the other.

Q. Mm-hmmm. On page 767 you have a table that lists the statistics of Jewish dead.

A. Yes.

Q. In the table, on that page you give the figure for losses in France and Italy as seventy thousand.

A. Yes.

Q. Yet on Table 89 on page 670, which we had looked at earlier, the figure for losses for France and Italy works out to eighty-seven thousand. Why is this contradiction?

A. In the first place, my figure as represented in the second table for France and Italy combined, I now recognize to be too low. I was a bit too conservative. The number of losses from France alone is in the vicinity of seventy-five thousand, and to that one must add the Italian losses of roughly seven thousand.

Q. Are you familiar with the Klarsfeld publication for the deportations in France? {889|890}

A. Yes. Yes.

Q. Mr. Klarsfeld listed all the deportees in France by name, date.

A. Yes.

Q. Are you aware that the figure you give for the total losses is very close to the figure he gives for the total deportees?

A. That's true. There were very few returnees from Auschwitz or wherever.

Q. All right. Looking at the table for the statistics on Jewish dead again at page 767, the total Jewish loss is given twice as five million one hundred thousand. Right?

A. Roughly. Mm-hmmm.

Q. In Table one, that is page 670, you give a figure of 5,407,500 for the total loss.

A. I do no such thing.

Q. Have you totalled the losses?

A. I deliberately did not. Mr. Rassinier totalled the losses, but not I. Now, please excuse me a minute. These figures are not comparable. One cannot subtract one from the other, because, as I clearly stated, the boundaries are different.

Q. Oh, I see. Okay. Why is the Table 1 loss for "Roumania" 370,000 — that is Table 89 in your book, page 670? For Rumania it is 370,000. Right?

A. Mm-hmmm.

Q. The difference between 800,000 and 430,000, which is 370,000.

A. Yes. It is a substantial difference within the boundaries of Rumania. {890|891}

Q. Just a moment. Table 3 you give the losses for Rumania as 270,000.

A. Mm-hmmm.

Q. Then again, that is just explained by the fact that you say the

boundaries shifted. Is that right?

A. Yes.

Q. We've got a difference there of almost a hundred thousand.

A. Yes. There are post-war data that are used. In other words, post-war boundaries are used for 1945, as are clearly indicated in the table on page 670. Okay.

Q. Mm-hmmm.

A. Post-war boundaries. However, pre-war boundaries are used in the other tables, so these, again, are not comparable figures.

Q. So do we take it that Rumania grew in size during the War, then?

A. No.

Q. Well, it seems to me that we have no problem there.

A. Well, let me clear up your problem.

Q. Okay.

A. If you were to adjust the boundaries to reflect the territories lost to the Soviet Union, then the number 430,000 would be increased so as to account for people alive in the areas ceded to the Soviet Union, and then you would see that the two figures would be comparable, or roughly comparable since 800,000 is very rounded.

Q. So when you use the statistics on {891|892} page 671 for Rumania, and when you use the table on page 767 and you say it's for Rumania, you mean two different —

A. Absolutely.

Q. I see. Two different countries.

A. Not two different countries, but same country with two different boundaries.

Q. It doesn't seem to indicate that in the table at all.

A. Yes. It indicates it very clearly. You just have to read it.

Q. Well, I read it.

A. Look at the first sentence in the footnote;

"The statistics for 1939 refer to prewar borders and postwar frontiers have been used for 1945."

That is a signal and announces to anyone with an ounce of competence not to subtract figures from the left, because they are not comparable figures. And this is just what Rassinier did.

Q. Is that the note you put in 767 to those statistics, or didn't you make such a note?

A. Well, again, I have said the data are for the boundaries of 1939, for this particular tabulation. "Borders refer to August, 1939". Clearly stated.

Q. Well, the losses, then, on the second table are for 1939 borders, the 270,000?

A. Yes. That's correct.

Q. But I thought you said that Rumania was bigger in '39 than it was in '45. {892|893}

A. Yes.

Q. Well, then, the losses for the calculations should not be larger; they should be smaller.

A. No. Go back. Go back a mile here.

Q. No. If it's impossible for me to understand, I think I will move along. Okay?

A. All right.

Q. Now, you gave the losses for Yugoslavia — I suppose they are the same problem — on Table 89 as sixty-three thousand, being the difference between '39 and '45. Is that because you say the boundaries of Yugoslavia changed?

A. No.

Q. So we have sixty-three thousand for Yugoslavia on the same boundaries, and we've always had — right?

A. Roughly. Sure.

Q. Okay. So then we get to Appendix III, which are the statistics on Jewish dead, page 767, and we have losses for Yugoslavia there, we have sixty thousand, rounded.

A. Rounded numbers.

Q. I see. Rounding off at —

A. Well, it's not just that. I must make some allowance for the fact that Yugoslavia was a theatre of war; some Jews were in the Yugoslavian

army, some were killed in action. In wartime birthrates dropped. Adjustments have to be made, and we are talking about three thousand. {893|894}

Q. I don't understand. Do you mean to say that you excluded from your figures anybody killed in action or as a result of the deprivations of war?

A. On page 767 we have the Holocaust dead. I didn't use the term "Holocaust", but that is precisely what it is. What we have on the other chart, it is totally unadjusted, before and after figures, not even aligned for boundaries. So this table should not be used, the one on page 670 – which for some unaccountable reason Rassinier used; he should have used the other one – should not be used except to find out what is going on and what is to be done with this data.

Q. Did you say you were a statistician?

A. Absolutely not.

Q. No?

A. No, I am not a statistician. This is the pamphlet. You are confusing —

Q. Oh, the pamphlet said you are a statistician.

A. Yes.

Q. And I am looking at all the explanations and I was going to ask you again if you were a statistician, but the answer is still no.

A. No. The answer is no. Because a statistician is a person with, at the very least, an undergraduate, and hopefully a graduate degree in mathematical statistics. I am not that person. I add and subtract.

Q. Yes. I see. You say that the explanation for the difference between Table 89 and Appendix III table for Greece is changing boundaries, as {894|895} well?

A. No. There are no changes in boundaries here. What are we talking about – two thousand people?

Q. That's right, two thousand.

A. The numbers on page 767 are, first of all, rounded to the nearest ten thousand, if not more. So if you will notice, I have resisted the temptation to be super precise where super precision is impossible; but also, I have taken into account that, in the case of Greece, as well as in other countries, the fact that there were Jewish soldiers who were killed, the fact that there were Jewish war casualties; and in the statistics of Jewish dead I am referring to Holocaust dead.

Q. And the difference in terms of Poland amounts to three hundred thousand, but that's, again, as a result of shifting boundaries.

A. That's a major shift. And returnees, yes.

Q. So we now understand that the statistics are an attempt to calculate the problems of varying boundaries and the possibilities of some being killed by deprivation of war.

A. A few, comparatively few, were killed in the course of War, yes.

Q. You consider that anyone who starved to death in the camp was, then, a Holocaust victim?

A. Yes.

Q. I see. And you consider that anyone who died from typhus in the camps is a Holocaust victim?

A. Yes. A Jewish person in a camp {895|896} was there because he was a Jew. So he is a Holocaust victim.

Q. I see. So that it doesn't mean you are saying these people were gassed, then.

A. No. If I say they were dying in certain camps, that means they died in those camps, be it as a result of gassing, or because of privation.

Now, when I speak of certain camps, virtually one hundred per cent of the victims were gassed, but in other camps, that's a difference.

Q. That brings us to the subject of gas chambers. Let's get to that point. Now, was there a homicidal gas chamber in Bergen Belsen in your opinion?

A. No. No.

Q. No. Buchenwald, in your opinion?

A. Are you referring now to gassings of Jews, or a gas chamber in which occasionally people were gassed?

Q. I used the term "homicidal gas chamber". I don't differentiate between Jewish people and others. They are the same.

A. Well, that's nice, but it presents a problem to me.

Q. Why the problem?

A. There were certain camps, and among them —

Q. Well, let's deal with just one – Buchenwald.

A. I will give you a short answer to save you a lot of questions. Natzweiler and Mauthausen, particularly the latter, had very small gas chambers in {896|897} which people were gassed.

Q. Let me deal with one at a time. I want to make sure I don't misquote you. Buchenwald, no.

A. I am not aware of a gas chamber for that purpose.

Q. Dachau?

A. That is a maybe, but I would not make the statement – you see, here it's a factual question of whether certain people were gassed or were not gassed, and this is a difficult problem to determine whether they were or weren't. Small numbers.

Q. Okay. Flossenberg. Yes, no or maybe?

A. These are all maybes. Probably not, except for a very small handful.

Q. Very small what?

A. Handfuls. Individual people – too weak to work, things like that.

Q. I see. Individual people, too weak to work. So you think there was a gas chamber, but it wasn't used much. Right?

A. Not necessarily. I am not familiar with all of the camps and their layout because my specialization is the gassing of Jews.

Q. I want to know whether there were gas chambers in these locations in your opinion: Neuengamme.

A. I don't believe there was a gas chamber there, but again, you refer to a particular kind, one which was used in order to kill people.

Q. That's right. We agree, don't we, that the word gas chambers for the delousing of —

A. Okay. Then fine. {897|898}

Q. Now, I am interested in homicidal gas chambers for the killing of people.

A. I will give you a short answer, and that is that it is a maybe, except for Natzweiler and Mauthausen.

Q. Okay. You say a maybe for Neuengamme. Correct?

A. Yes.

Q. And that's a maybe.

A. That's a maybe.

Q. Oranienburg.

A. Same thing.

Q. A maybe?

A. I am not aware of any gassings of people there at all. I have not even heard anything.

Q. You have not heard anything.

A. No.

Q. So do you take it that there is, or you take it that there isn't?

A. It is an open question. If somebody comes along and says, yes, there was, I will listen; otherwise I can't make the statement that there was. In other words, I do not know whether there was or whether there wasn't a gassing of individuals in particular camps.

Q. Sachsenhausen?

A. Same thing.

Q. What's that, a maybe?

A. Yes.

Q. Ravensbrück?

A. Same thing.

Q. Maybe, eh? Stutthof, Natzweiler, is that a yes? {898|899}

A. Those are two camps.

Q. Well, we'll put them together for the purpose of consideration.

A. Well, no, because in Natzweiler there were some gassings.

Q. There were?

A. As for Stutthof, there is some testimony to that effect, but I would not give it the weight that would make it, in my opinion, a certainty.

Q. Stutthof is then a maybe.

A. Yes. In Stutthof there were shootings.

Q. I see. Well, now, Stutthof Danzig is another camp, isn't it?

A. Not – Stutthof is near Danzig.

Q. I was talking about Stutthof near Natzweiler.

A. Oh, you mean Struththof.

Q. That is what I was trying to say.

A. Sorry. That is a maybe. That's a different camp. That's S-t-r ...

Q. Okay. Stutthof Danzig.

A. That is probably not. Probably not.

Q. Probably not?

A. Yes.

Q. Theresienstadt.

A. No.

Q. Mauthausen.

A. Yes.

Q. You are sure there was.

A. Yes. There's been very – most {899|900} recent scholarship in Germany has gone in very great detail about the gassings in Mauthausen of Soviet prisoners.

Q. Hartheim.

A. I am not even familiar with that camp. Excuse me, do you mean Hartheim?

Q. H-a-r-t-h-e-i-m.

A. Oh, yes. Let me explain, however, this is a different matter. There were, altogether, six facilities designed exclusively for gassing people —

Q. Well, let's deal with this one.

A. — of which Hartheim is one. It is not a camp.

Q. You are saying it is not a camp, but there was a gas chamber there.

A. Yes.

Q. Maidanek you say yes, definitely?

A. Yes.

Q. And that was what, steam or carbon monoxide, or ...

A. In Maidanek, which the Germans called Lublin, there were three gas chambers, and one or two – I am not sure, offhand, which – were equipped interchangeably for the use of the carbon monoxide or hydrogen cyanide. Both were used.

Q. Belzec had how many gas chambers there?

A. Initially, in all probability, three. Upon the expansion of the gas chambers in the summer of 1942, six.

Q. Six in '42.

A. Well, the initial three were also in 1942, but after some months, because of the heavy volume {900|901} of traffic into the camp, the rebuilding took place and six gas chambers were erected in lieu of the earlier three.

Q. Right. And you say that this was for what kind of gas?

A. Carbon monoxide.

Q. Just carbon monoxide?

A. Oh, yes. I might add, however, that the German court leaves open the possibility, based only on testimony, that initially hydrogen cyanide may have been tried experimentally.

Q. Chelmno.

A. Chelmno was equipped with gas vans. Carbon monoxide.

Q. Pardon?

A. Carbon monoxide.

Q. Carbon monoxide. Sobibor?

A. Those had gas chamber.

Q. Carbon monoxide?

A. Yes.

Q. Treblinka?

A. Carbon monoxide gas chambers, yes.

Q. And you've given, I think, in your book, an indication that the carbon monoxide gas chambers used old Russian diesel tank engines.

A. Yes.

Q. Well, I put it to you, sir, that diesel engines don't produce sufficient quantities of carbon monoxide, but they actually produce mostly carbon dioxide. What do you say to that?

A. I can't really comment about it, because afterwards, when I had more interest in the {901|902} technical details, my understanding was

– and it was left at that in the German trial – that what came out was a mixture of carbon monoxide and carbon dioxide.

Q. And you say that came from diesel engines in your book.

A. Yes. And the outflow was a mixture, but the proportions were not indicated, and when you mentioned Hartheim before, which was a totally different facility for mentally impaired people that were gassed there, that was chemically pure carbon monoxide, to distinguish it from the kind of mixtures that emanated there.

I did call it carbon monoxide. I still call it that for short, but it's a mixture.

Q. This is Hartheim?

A. No. Hartheim is pure bottled, chemically pure carbon monoxide gas.

Q. Now, you say these gas chambers, at Auschwitz, there was one, at Birkenau there were four. Right?

A. Well, first there were two huts, and then there were four more built, and then one of the huts was —

Q. We have identified on the plan what you are describing – the four gas chambers. They are called crematoria on the plan.

A. Yes.

Q. Now, you are familiar with the source of the belief of what you said, and one of them, at least, is one Kurt Gerstein. Correct?

A. Well, that's one source, yes.

Q. It is one source that strikes me {902|903} as being important to you, because you refer to it ten times in your book.

A. Yes.

Q. You quote this man, Kurt Gerstein, and a document, PS-I553, ten-times.

A. Right. I wouldn't doubt it.

Q. I put it to you you do, having counted them.

A. Yes, I am sure you have.

Q. Now, you quote him because he gave a statement which, although it wasn't used at Nuremberg, it was used – rather, at the I.M.T., but it was used at the N.M.T. – the American trials. Correct?

A. Well, let me see.

Q. Just answer that question.

A. Yes, have used that document. You see, I don't use —

THE COURT: Just a moment, Doctor.

Q. MR. CHRISTIE: My question, Doctor, is whether it was used at the Nuremberg Military Tribunal of the United States, and it was – right?

A. I think it was, but I can't swear to that.

Q. Now, let's go slowly. I won't try to cut you off, but I want to deal with one question at a time.

A. All right.

Q. Now, isn't it true that Kurt Gerstein had, by that time, hung himself in a French jail?

A. Well, whatever the circumstances of his death were, he was dead. {903|904}

Q. Dead. Very dead. They did use, however, his statement, in fact, parts of his statement. Is that correct?

A. That is what I did. I used parts.

Q. Now, I am going to refer to the parts that you didn't use.

A. Okay.

Q. And it's true, isn't it, that Kurt Gerstein made a long, detailed statement in French on the 26th of April, 1945, which I suggest to you was some of the most incredible nonsense that you or I have ever looked at; do you agree?

A. Are you alleging that I used it, or didn't use it?

Q. I am suggesting you commented on it but didn't use certain parts.

A. All right. I would be very, very careful in the use of certain statements, that I would put Gerstein's statement as one that one must be most careful about. Parts are corroborated; others are pure nonsense.

Q. You would take parts that are, in your view, credible.

A. Yes.

Q. And leave out the parts that, in your view, were incredible.

A. That's a fair assessment, yeah.

Q. And when someone swears a statement such as this one was sworn ... Right?

A. Mm-hmmm.

Q. ... don't you think it reflects on the author that some of those statements are totally {904|905} ridiculous?

A. It certainly reflects on him, and the only answer I can give you here is that I am not a court of law.

Q. No.

A. And I am at liberty to take —

Q. You can take anything out of context that you like as far as I am concerned. I don't care.

A. All right.

Q. But I am asking you whether, as a commonsense principle, if you meet somebody that tells you that between twenty-eight and thirty-two people can be packed into one square meter, 1.8 meters high, that that person is either a fool or is a liar? Would you agree with me?

A. Well, on this particular datum I would be very careful, because Gerstein, apparently, was a very exciteable [excitable] person. He was capable of all kinds of statements which he, indeed, made not only in the affidavit but its context.

Q. He wasn't totally sane.

A. I am not a judge of sanity, but I would be careful about what he said.

Q. All right. I will put it to you what I suggest certain things that he said in his statement which was referred to as PS-1553, referred to and quoted as authority by you ten times in your book.

A. Are you quoting from the statement as I used it, or as he made it?

Q. As he made it.

A. Oh, well. All right. {905|906}

Q. We are going to deal with it as he made it, not as you used it. Okay.

A. All right.

Q. Now, he did say that seven to eight hundred persons were crushed together on twenty-five square meters in forty-five cubic meters; didn't he?

A. Well, what do you want me to say to that?

Q. Just yes or no.

A. Whether he made that statement?

Q. Yeah.

A. Well, if you've got the document there, it speaks for itself.

Q. That's right. But you are the expert, and I ask you whether it meets with your recollection, and if that is the statement you used as your authority.

A. Did I use these data?

Q. No. You ignored that part of the statement, but this statement, taken as a whole, includes that data, doesn't it?

A. We have no quarrel on that.

Q. Well, just yes or no, then.

A. Yes.

Q. So did you think that that was just a mistake, that he had said that in error?

A. It's very hard to characterize the man, because he was capable, in his excitement, of adding imagination to fact. There is no question of that.

Q. And he refers to Hitler and Himmler being there to witness gassings. Right? {906|907}

A. Totally false.

Q. Well, did he say that?

A. He attributed to someone else the statement that Hitler was there. And Hitler wasn't, because Germans researched that subject.

Q. And we know that to be a totally false statement; right?

A. Absolutely.

Q. And it was one of the statements Gerstein made.

A. Yes.

Q. He then also said — in fact he said twice — that seven to eight hundred people were crushed together in twenty-five square meters in forty-five cubic meters. He said it twice.

A. He may have said it three times as far as I know, but I didn't use that statement.

Q. No. I realize you left that out. Now, would you agree with my calculations that seven to eight hundred persons in twenty-five square meters means between twenty-eight and thirty-two people in one square

meter? Would you like to just calculate that?

A. Well, look, I won't go through the arithmetic. I trust yours.

Q. But it is my understanding that you actually made a calculation that supported that proposition. That's what I understand from reading your evidence at the preliminary hearing. Am I wrong?

A. I do not recall the exact question asked of me, but I do remember an answer to the effect, to the other counsel, that you'd be surprised as to how many {907|908} people could be squeezed into a space.

THE COURT: I would like to read the question, Mr. Christie.

MR. CHRISTIE: Yes, sir. I was looking for it.

Q. It is at page 128 of your cross-examination, and it was a rather long question. I suppose I could read it all. Now, unfortunately, Volume I of the green series we are looking for is not available. Another copy was obtained. I have given my friend one. I will produce one to the witness and one to Your Honour.

I will refer you specifically to page 253, about halfway down the page where it refers to seven to eight hundred crushed together in twenty-five square meters and forty-five cubic meters. And further down it refers to seven hundred and fifty persons and four times forty-five cubic meters:

*Now, I submit to you that just logically or mathematically it would be physically impossible to put eight hundred people into twenty-five square meters at anyone time. Would that seem to you that that might be an exaggeration?*

*A. Well, I have made the calculation and it is amazing how many people can be squeezed in, but if you will permit me, I will say a few words, because I know what you are leading up to in this affidavit.*

Were you asked that question and did you give that answer? {908|909}

A. Yes.

Q. Now, sir, I just want to suggest to you that when a witness such as Mr. Gerstein seems to give this type of information, he is not someone who you should rely on as authority ten times in your book. Would you agree?

A. Well, let me say that the camps Belzec, Sobibor and Treblinka were with the undocumented camps in which I was interested. Gerstein was an S.S. officer in charge of delivering poison gasses, hydrogen cyanide, and in that capacity he made his trip, which is verified, he did make the trip in the company of other people to Belzec, and also to another camp; and also verified is the fact that he made statements on the way back on the Warsaw-Berlin express train to a Swedish diplomat at the time, in fact confirmed by the Swedish Foreign Ministry.

To me, the important thing was that an S.S. officer had seen the procedures.

Q. Well, that's his story; right?

A. Yeah, but this is a corroborated story.

Q. How is this story corroborated, in view of the fact that no action was taken by any Swedish diplomat whatsoever? They totally thought the man was nuts.

A. I have no doubt that this could very well have been the impression, and here you have to keep in mind, it is 1942, someone who is very exciteable [excitable] tells an absolutely incredible story, something that had never been heard before, something utterly unimaginable [unimaginable] {909|910} and unprecedented — well, here is a careful diplomat; he is not going to immediately credit everything he hears.

Q. Thank you. Now, you said you did some calculations.

THE COURT: I think, Mr. Christie, we will take an adjournment. Fifteen minutes.

— The jury retires. 3:30 p.m.

— The witness stands down.

— Short adjournment.

— Upon resuming.

— The jury returns. 3:50 p.m.

— The witness returns to the stand.

THE COURT: Yes. Go ahead, Mr. Christie.

MR. CHRISTIE: Thank you, sir.

Q. Now, I meant to add, I am told that in referring ten times to Kurt

Gerstein, you were quoting ten times PS-1553, and actually referred to Kurt Gerstein twenty-three times in your book for authority for the truth of what you are saying. Am I correct, sir?

A. Well, we can look at the index and see the number of references there.

Q. Well, if you want to do that, please do.

A. I don't regard the question as material in any way, but ...

Q. Well, that is not for me, but for you to decide. {910|911}

A. Well, I've got here three references and indexes to him in text, but there may be more in footnotes.

Q. Well, you wouldn't dispute that, then.

A. No.

Q. You said you made some calculations to see if the twenty-eight to thirty-two people, depending on seven or eight hundred, in twenty-five square meters was correct. What calculations were they that you made?

A. Oh, it's a very simple matter, because we worked with feet. When one lays out the number of feet, roughly —

THE COURT: You should know, Doctor, until recently we worked in feet, too.

THE WITNESS: And that gives one an approximate notion of the size of such a chamber, and one tries to figure out how many people may be squeezed into it, and it is a surprisingly large number.

Q. MR. CHRISTIE: Well, for the purposes of demonstration, I am going to and have prepared something that purports to be one square meter, and I am going to ask some people to come and stand in it.

THE COURT: No, you're no. You are not going to ask anybody to come and stand in it without my permission.

MR. CHRISTIE: Well, may I?

THE COURT: Would you excuse us, members of the jury, please?

— The jury retires. 3:55 p.m. {911|912}

THE COURT: Mr. Christie, if you are going to be innovative, you might have the good grace to discuss it with me now.

MR. CHRISTIE: I'm sorry. I didn't think it would be a problem. I can see now how it would come as a surprise.

THE COURT: What do you propose?

MR. CHRISTIE: Well, actually, have some people to try and stand in one square meter, and just demonstrate that the figures are preposterous. And that's all.

THE COURT: Why wouldn't you ask the witness if they are preposterous so that we don't have a whole lot of people standing in a courtroom in a trial such as this in what you say is one square meter? I don't want to become technical with you, but before I could allow the jury to accept one square meter, I would have to hear a lot of witnesses who measured it.

Is that really necessary, when you can ask the witness a perfectly simple question and get the answer first?

MR. CHRISTIE: Well, yeah, I did.

THE COURT: Why don't you ask him? He said you'd be surprised how many people you can get in one square meter. Now, do you want to see how surprised the jury gets? Why wouldn't you ask him whether or not that is, to all intents and purposes, in commonsensical everyday living, ridiculous, and see what he says. Ask him now, and perhaps then you will get the answer without having a lot of people being — I don't know who you are going to get to stand in the meter. Do you have people {912|913} outside the door to come and stand in it?

MR. CHRISTIE: No. I have people in the courtroom who are ready to do so.

THE COURT: Well, do you want to ask the witness the question first?

MR. CHRISTIE: Yes.

Q. Witness, do you agree it is a preposterous statement, totally ridiculous statement?

A. I don't know whether I would characterize it that way. You know — how many square meters did you say again? How many was that again, twenty-five?

Q. Well, he said seven to eight hundred people in twenty-five square meters and twenty five cubic meters, and he describes that as one

point —

A. All right. Square meters will do, because they are not crouching down.

Q. That's right. But to make sure we understand the height, he does say in a couple of places 1.8, or 1.9 meters high. So that is how you get the cubic area. So I say that is an utterly preposterous, ridiculous statement, and I thought you indicated that it was not ridiculous.

A. No. What may be surprising is that the order of magnitude, the number of people one can push in such places, is in the hundreds. It may not be eight hundred; it may be three hundred. Moreover, this particular witness may not have estimated the area quite correctly.

We don't know what size of gas chambers he is referring to, so I would not characterize the statement as totally preposterous, but neither did I accept {913|914} it and I wouldn't use it.

MR. GRIFFITHS: If I may, this is my objection, and I was three times ready to get up. Dr. Hilberg has repeatedly indicated he has not used those figures, and he only used those parts of the affidavit that he could corroborate.

THE COURT: Yes, I heard all that.

MR. GRIFFITHS: So I don't know what the purpose of all of this is.

THE COURT: What is the purpose?

MR. CHRISTIE: When somebody quotes in the book, twenty-three times, and ten times refers to this document as authority for propositions, they shouldn't pick and choose what is credible from what is incredible if it is all sworn to be true by the same person. It becomes dubious when these things are in such an argument.

I suggest that the person with this argument is deluded, or hallucinating, specifically, "twenty-five million killed, mountains of clothing, thirty to forty meters high."

I think that I am trying to show that this is a preposterous document which is used in its so-called rational part by this expert witness as authority for his theory.

MR. GRIFFITHS: The jury, Your Honour, in a courtroom, is entitled to accept some, all or none of a given witness, and surely that is what Dr. Hilberg has done in his assessment of the affidavit, as an expert.

THE COURT: Mr. Christie, you have the last word.

MR. CHRISTIE: If the jury is entitled {914|915} to consider some, all or none of any witness' testimony, I quite agree, but in the usual —

THE COURT: That would have to be the law.

MR. CHRISTIE: But in the usual course of affairs, they have opportunity to hear cross-examination, and they can see where a witness is either mistaken or lying or dubious. If an authority such as Dr. Hilberg relies on an expert or witness such as Gerstein, quotes him as authority for his argument and that document, which he alluded is only used in part, the ridiculous portions being edited out, the ability to show that that document and its author are dubious is eliminated, if my friend is right to circumvent my cross-examination such that I was not entitled to lead evidence to show that the source of the Doctor's opinion is a ridiculous [ridiculous] source, then I don't think I have done my job, which is to demonstrate that the basis of this belief both of Dr. Hilberg and his expert opinion.

THE COURT: Anything further?

MR. CHRISTIE: No.

—— {915|916}

#### RULING

THE COURT: Counsel for the accused, during the course of his cross-examination of the witness,

Dr. Hilberg, proposes, in the presence of the jury, to demonstrate, through the use of certain "props" being persons in the audience in the Courtroom, to stand them up in front of the jury within the confines of some sticks he has placed on the floor in front of the jury box. He tells the Court that the arranged sticks constitute a certain specific measurement being his own concoction.

His purpose in doing so is to discredit the testimony of this witness. Dr. Hilberg has testified

that he employed, as part of the background for his evidence, the con-

tents of an affidavit or another type of narrative document said to have been given by a Nazi war criminal during the course of either the Second World War or in the period of time soon thereafter.

The subject matter that is under discussion in the cross-examination of Dr. Hilberg is a

portion of that German narrative affidavit which was not employed by this witness as supporting material for the field of expertise in which I permitted him to testify as an expert. {916|917}

I should hasten to add that another portion from the same German affidavit, which is not the subject of this discussion, has been employed by this witness in his own writings and as a small part of his expertise in his field of endeavour upon which he has been authorized by this Court to testify as an expert.

Counsel for the accused is perfectly entitled to attack the credibility of any witness, including the one who is presently being cross-examined. It becomes a question of my discretion whether I will permit what I would regard as a type of sideshow in front of the jury. I will not permit it because it would constitute precisely that. It will not happen for that reason.

Perhaps a stronger reason, in law, is that in my view the subject matter of the cross-examination is such that, while it may indirectly have the effect, through the jury's eyes, of affecting the credibility of the witness, the information that is put to the witness by defence counsel, emanating as it does from the long-deceased German Officer, is not going to be considered for the truth of its contents by this jury. Its use would {917|918} only be to have the jury decide what weight, if any, the jury will attach to the overall evidence of this witness.

For those reasons, this application, made at my behest and not by counsel who proposed it in part at the beginning in front of the Jury, will not be permitted.

THE COURT: Now, please pick up those sticks and get on with your cross-examination.

MR. CHRISTIE: Can I ask another question before I get caught in anything else?

THE COURT: I will let you know that when I hear the question. What is it?

MR. CHRISTIE: The question is, can I ask questions pertaining to other parts of the Gerstein statement which has been alluded to by the witness on twenty-three occasions in his learned work to demonstrate the lack of, shall we say, credibility in that work, thereby to demonstrate the reliance put upon it by the expert witness as illfounded?

I specifically allude to the part of the Gerstein statement where it refers to: Twenty-five {918|919} million people killed, clothing forty-five meters high, Zyklon-B, 175 kilograms, enough to kill eight million people; Mauthausen and even Gussen, these are the places in which millions of people disappeared in gas chambers, or gas chamber-like cars. The method of killing children is to hold a tampon with the gas under their noses. At Oranienburg I saw the prisoners who were there being perverts and homosexuals disappear in a single day, and I am ready to swear to the truth of all my statements.

These remarks, in my submission, demonstrate that an expert such as the witness at bar should not edit the portions of his reference to Gerstein which he has acknowledged doing, and acknowledged as patently ridiculous as taken out of context, and that is what the Crown accuses the author of "Did Six Million Really Die?" as doing, and I want to demonstrate that there is a certain amount of poetic licence being used by this expert in parts of what is otherwise a questionable document. Thank you.

THE COURT: I have no comment to make on that. I have heard no objections to any of your questions up to now from the Crown. I do not propose to restrict your cross-examination in advance of your asking the {919|920} questions. If the questions are proper, you will be permitted to ask them. If they are not, you will not. It is as simple as that. Bring in the jury, please.

MR. CHRISTIE: . May I have time to do what Your Honour ordered me to do?

THE COURT: Yes.

— The jury returns. 4:05 p.m.

THE COURT: Go ahead, Mr. Christie.

MR. CHRISTIE: Witness, I put it to you that the only person you make more numerous

references to in your learned work than this Gerstein is one Hoess. Do you agree or disagree?

A. No. I totally disagree. The index is ample evidence of who is quoted how many times.

Q. Mm-hmmm. I put it to you that Gerstein being referred to in your book twenty-three times and quoted as to PS-1553 ten times is an important witness for your belief in the book.

A. He is an important witness for the fact of the existence of these camps, particularly Belzec, in 1942, the gassings that took place there with carbon monoxide. The fact that he, as a disinfection officer, as a dispenser of poison gasses, was present is significant. Beyond that I realized, of course, clearly, what sort of person this was from the context of the language he used, and did not rely upon any statements that appeared to me, {920|921} either imaginative or exaggerated. I did not use them.

Q. In fact, in your book, in your use of his statement, you eliminated all such ridiculous parts.

A. Well, I eliminated anything that seemed not to be plausible or credible, certainly.

Q. You consider that it was credible or plausible that eight hundred people could be crushed together in twenty-five square meters?

A. Well, as I indicated, the actual number who can be crushed in such a place may be in the hundreds. I wouldn't say that many.

Q. All right. You said it twice, though, sir, exactly the same both times. Do you agree or disagree?

A. Said twice what?

Q. He said the same thing twice.

A. He did?

Q. Yeah.

A. But the question of whether two or three hundred people may be squeezed in such a place, or seven hundred, becomes of interest when one looks at the gas chamber, the number of people gassed, and the calculations that may be made therefrom. It suffices for this particular S.S. Officer that there were gas chambers.

Q. That's right. You quoted him to prove that there were gas chambers and left out some of the things he said.

A. That is correct.

Q. Now, I notice from the book of Leon Poliakov, earlier, you regard him as an authority. {921|922}

A. I regard him as a capable researcher.

Q. He quotes extensively and accurately up to a point the same report of Gerstein.

A. Well, he used it more than I do.

Q. He also said something interesting. He suppresses that figure of seven or eight hundred in twenty-five square meters, and he suddenly turns it into 23 square meters, doesn't he, in his book, page 294?

A. Well, there are several versions of this Gerstein affidavit, and I really can't tell you which one.

Q. There is only one version of PS-1553, and that is the figure which has the figure seven to eight hundred, in that case, in the actual document, in twenty-five square meters, and he has actually changed that to twenty-three square meters, hasn't he?

A. I really cannot testify to that. I can see a number, but you are not asking me to pass judgment upon the manner in which a document was used by another researcher.

Q. It appears that somebody else thought that the figure was inaccurate and changed it, wasn't it?

A. I don't know whether he changed the figure, or as I said, if there is another version [version] of the affidavit that he may have made use. I really can't answer that.

Q. Thank you. Do you consider that a person who would make a statement like this is credible, that Belzec and Treblinka, nobody both-

ered to take anything {922|923}approaching the counts of the number of persons killed, the figures announced by the BBC are inaccurate [inaccurate] and actually about twenty-five million persons were killed, not only Jews, but especially Poles and Czechoslovakians, too, who were, in the opinion of the Nazis, of bad stock? Now, do you consider that a credible statement?

A. Well, parts of it are true, and other parts of it are sheer exaggeration, manifest and obvious exaggeration. To me, the important point made in this statement is that there were no counting at the point at which people entered the gas chamber.

Q. So you take the obviously exaggerated part out and used the part that you thought was credible, that there was no counting. Right?

A. Yes.

Q. I see. That's the process of your research.

A. Well, in certain situations, when affidavits are at stake, when long statements are involved and they do touch upon important matters, one must be judgmental.

Now, there are some things I would not use at all; there are some things I would use in part.

Q. This is one you would use in part.

A. Mm-hmmm.

Q. The part about the twenty-five million persons —

A. Obviously not. Rhetoric.

Q. Leave that out of your assessment.

A. Absolutely.

Q. Now, do you deny that is exactly {923|924} what he said in his statement?

A. Well, you know something, it is immaterial to me.

Q. I don't care whether it is immaterial to you. I want to know if that, in your opinion, was in the statement.

A. I would not deny anything. I don't even recall this, to tell you the truth.

Q. It was not something that was so unusual that it would stick out in your mind?

A. No, because of the fact that one tends to exaggerate numbers sometimes, and one does so, obviously, without basis in fact. Any competent researcher can see that and pay no further attention.

Q. Do you think that someone-who swears that, "I am ready to swear the absolute truth of all my statements" and says that, is a credible person?

A. Well, counsel, at the risk of offending every lawyer in this room, I don't go by whether a statement is sworn to or not. Certain people may make truthful statements not sworn to; others may make statements that are not based upon fact, even though sworn to; some people are not aware of the fact that they make misstatements. There are all kinds of possibilities here.

Q. Do you think either one of, those possibilities applies to this statement?

A. I think that Gerstein was somewhat given to great excitability, [excitability] in the course of which —

Q. And lying?

A. Well, I would not characterize it {924|925} a lie, because a lie is a deliberate falsehood. I don't know whether, in his mind, this was a deliberate falsehood. The fact that you characterized him, yourself, as not quite with it, what can you say about his motivations?

Q. Well, he was crazy, I suppose.

A. Well, I am not making diagnoses here, but —

Q. Would you say that somebody who would say twenty-five million people were killed at Treblinka and Belzec was a rational person?

A. I would not characterize him as totally rational, no, but that is of no value, because I am not the expert on rationality.

Q. I see. Well, he said further on, I put it to you, that there were eight gas chambers and whole mountains of clothes and underwear, thirty-five or forty meters high.

A. Mm-hmmm.

Q. Do you think that was a rational statement? Do you think that was credible?

A. Well, the thirty or forty meters is a very interesting number, because how does one estimate the height of anything unless you are trained to do that? And on the other hand, if he says eight gas chambers, is that a more important dictum? Although I, myself, believe it was six, I could see how somebody thought it was eight given the number of doors and things of this sort.

Q. How do you know the number of doors, having never been there?

A. Well, the question as to how many gas chambers there were at Belzec at any given time is a {925|926} matter entirely of the persons who were there.

Q. And this is one of them, claiming to be.

A. Yes. But on the other hand —

MR. GRIFFITHS: Perhaps he could finish the answer, Your Honour.

THE COURT: Yes.

THE WITNESS: But there were a number of people who did not merely visit there, but who were stationed there, and who testified, repeatedly, as to the number of gas chambers.

Q. You don't refer to them ten times, sir.

A. No, because this book was a 1961 book, and the, testimony to which I refer occurred after the publication for this book. That is the reason for second editions.

Q. I see. You write that Gerstein — I put it to you that Gerstein said 275 milograms [kilograms] of Zyklon-B were enough to kill eight million people. Did he say that, to your knowledge?

A. I don't recall that. I honestly don't.

Q. He also said, according to this, he is alleged to have said Auschwitz and Mauthausen, Gussen, these are the places in which millions of people disappeared in gas chambers, or gas chamber like cars; the method of killing the children was to hold a tampon and press the gass [gas] under their nose.

Now, do you consider that true, or false news?

A. Well, there were massive gassings {926|927} at Auschwitz. I would not characterize it as millions, but certainly a million.

Q. Do you believe in the part of holding a tampon with gas under their noses?

A. I don't know about the tampons. I have heard repeatedly from witnesses about such killings. I have not cited them in the book because when it comes to certain matters of this kind, I am super careful.

Q. Mm-hmmm. Not so super careful about your sources, though, because this source says that was done, and swears it is as much credible as he does the rest of his statement.

A. Yes, but I quoted only those portions of his statement that seem to be credible, and I

made no use of those that were not.

Q. Wasn't that editing? Isn't that taking out of context?

A. No, I do not think that that is taking out of context. Where a number of statements are made on separate points and separate matters, and so long as the intent and the meaning of what a person said is not tampered with, then I don't regard it as taking out of context. If a statement contains ten points, be they numbered or not, and I decide that two or three of them are credible, are correct, are plausible, I will make use of them. If I decide others are not so, I will not make use of them.

Q. I suggest to you that is what you did in relation to this statement of Kurt Gerstein. You

selected the portions that you thought would be plausible and used Gerstein as your authority for your proposition. {927|928} Right?

A. No argument.

Q. But if anybody read the Gerstein statement, they might take a little different view of the rather plausible image you presented for this source. Would they not?

A. For the use I made of those portions of the affidavit?

Q. Well, I think, to put it back where I asked you before, you used the plausible parts and then referred to Gerstein.

A. Well, obviously, yes.

Q. Leaving out what is evidence, I suggest to you, of a very strange mind prone to exaggeration.

A. Yes.

Q. Because that would not be plausible.

A. That's correct.

Q. So the impression you leave when you quote Gerstein as your authority is that he is a plausible man.

A. No.

Q. No?

A. No. It merely means that he has made certain plausible statements, and that is another matter for being a plausible man. You could go into an institution for mentally ill people and get some rather plausible statements, and then total nonsense as well.

Q. Right.

A. You don't have to reject everything as a human being. You don't have to reject everything that he says. {928|929}

Q. I agree, but if I get a book describing a situation, and in it the author quotes a madman but he quotes the rational parts of the madman's statement and he ignores the fact that he is a madman and he ignores the fact that things he said are impossible, do you think I have an accurate picture, if I got the truth from that book?

A. Are you characterizing me, and are you wishing that I should agree with you?

THE COURT: Just answer the question, Doctor.

THE WITNESS: Well, I really can't, because I deem it a rhetorical question.

Q. MR. CHRISTIE: Well, let's put it this way. Gerstein was obviously incredible.

A. He was incredible for many people, and nevertheless, one may take people of that nature and discover that they have made certain statements that have certain value.

Q. All right. Gerstein made another statement to which you did not refer, on the 6th of May, 1945, before he died, which was introduced in evidence at Nuremberg, PS-2170. Is that not right?

A. You are saying I did not use it?

Q. That's right.

A. Yes, I didn't.

Q. Because it casts grave doubts, greater doubts on the credibility of this man, Gerstein, that you have referred to ten times as various authority for your propositions.

A. Look, it is entirely possible that {929|930} a man's condition can deteriorate. You, yourself, suggested that he committed suicide.

Q. So you are suggesting the second statement that you, yourself, referred to may have been as a result of a deteriorated condition and not the first?

A. I have never met the man, and I am not competent to make a diagnosis.

Q. No. Well, it's only about ten days later, for the second statement, sir. Would you agree?

A. Again, I am not a physician. I can only look at the statement that he made. I find nothing in it that I need, nothing that is persuasive or indispensable, so I don't use it.

Q. Nothing in it that you need, nothing that is persuasive?

A. Or indispensable.

Q. Indispensable to your theory.

A. No. To the elucidation of what happened.

Q. I see. Let me direct you to your document that I show you, which is PS-2170, introduced at the Nuremberg Military Tribunal on the 26th of October, 1945, dated the 6th of May, 1945, about ten days after the first statement that you referred to ten times in your book. I ask you to identify that as being the document that it says it is. Would you agree?

A. Yes, I've seen that.

Q. Now, there's some highlighted portions there. I would just like to check with you and see if that is what it says. You see the first one?

A. Highlighted {930|931}

Q. Yes. He makes all kinds of rather mysterious allusions to producing a certain quantity of prussic acid, right – 260 kilograms?

A. Yes.

Q. This man, Gerstein, was responsible for producing the prussic acid for the administration?

A. Well, the question you raise is a complicated one in jurisdiction, but – I'm sorry, but it is a complicated question.

Q. Well, I will try to make it simple. Isn't it simple enough to say that he was responsible for the concentration camp administration delivery and shipping of Zyklon-B?

A. That is true, but the camps at Sobibor and Treblinka were not part of the concentration camp administration.

Q. But he distributed Zyklon-B to Auschwitz?

A. Which was a part of that administration. That is the problem.

Q. To Birkenau, too.

A. Yes. That was part, and so was Lublin.

Q. And strangely enough, he distributed the same amounts of Zyklon-B to Oranienburg on the same dates, where there were no arrangements for killing people, according to you.

A. Exact amounts?

Q. Exact amounts in 1953 that we referred to earlier.

A. I did not make use of the numbers he asserts to have been calling for the deliveries made. {931|932}

There are documents, real documents signed by Gerstein —

THE COURT: Just a moment. Ask the questions, please.

THE WITNESS: — upon which one can rely. I mean, why take an affidavit if one has documents?

Q. MR. CHRISTIE: Sir, let's rely on the affidavit that you relied on in your book.

A. That's not this one, is it?

Q. No, but PS-1553 is a document filed at Nuremberg that gives the distribution of Zyklon-B to Auschwitz-Birkenau and Oranienburg in exactly the same amounts on exactly the same dates. Do you deny that?

A. Are you suggesting that I made use of this data?

Q. I am asking you if you know about it.

A. Yes.

Q. I am not misleading you, am I?

A. No.

Q. May I point out to you that if Zyklon-B was used for killing people in Birkenau, then there is no reason for it to not go to Oranienburg at all.

A. You see, Oranienburg was the headquarters of the economic-administrative main office from where it is entirely possible gas was distributed. I have no way of knowing that. I have no way of knowing what happened. The gas may not have been used at Oranienburg at all. It may simply have been stored there for shipments to another concentration camp. Oranienburg was the head of all concentration camp facilities. {932|933}

Q. May I suggest to you another reason for that? May I suggest to you that the real reason for that fact, which we agree exists, as to the distribution of Zyklon, is that it was used for delousing in both places in the same way?

A. Well, you are entitled to your suggestion, but please don't impose it upon me.

Q. No, I won't impose it upon you, but I suggest that is as logical an explanation as yours, sir.

A. Well, you are not asking a question.

THE COURT: He is entitled to put it to you, witness, the way he is doing it. What is the answer?

THE WITNESS: Well, I cannot agree. It is not a plausible explanation at all.

Q. MR. CHRISTIE: You do agree there are no gas chambers at Oranienburg for killing people?

A. My testimony was that I had absolutely no information about people being killed in gas chambers and Oranienburg.

Q. Could you turn to page 10 of the document I showed you? You will find a highlighted portion there. And is that also part of Mr. Gerstein's statement?

A. There are two highlighted statements. Which one are you —

Q. Starting at the top: Likewise tests were carried out with compressed air. People were put in boilers into which compressed air was forced, using the conventional blacktop row compressor.



Is that in that statement in those {933|934} words, in the first highlighted portion?

A. Yes, I see that statement.

Q. It is a pretty ridiculous statement, isn't it?

A. I cannot explain that one at all.

Q. It is pretty far out.

A. It is a far-out statement, and even taking into consideration that there were some far-out people in some of these camps, I would not credit it, and I have not used it.

Q. No. The next statement highlighted there, please follow me and correct me if I'm wrong when I give you the English version:

An approved method of killing human beings in Poland is that these people were made to climb the circular staircases of blast furnaces, then finished off with a pistol shot, suffocated ..... subsequently incinerated ..... however, in this respect my source of information is not one hundred per cent reliable.

Is that what he says?

A. Yeah.

Q. Now, that is, I suggest to you, 11 another rather incredible statement from Mr. Gerstein.

A. Well, he himself says it is not entirely reliable.

Q. He seems to state it is not entirely reliable.

A. Yes.

Q. I suggest to you that Gerstein, to whom you made considerable references, is a man of whom we should have grave reasons to doubt. Wouldn't you agree? {934|935}

A. I have testified before and will again that in the use of such affidavits, one must be extraordinarily careful.

Q. Now, you want to see how you used Gerstein in your book, "The Destruction of the European Jews"?

THE COURT: We will do that tomorrow.

MR. GRIFFITHS: Your Honour, before we adjourn for the night, could I speak with you in the absence of the jury? Thank you.

THE COURT: Members of the jury, the same admonitions concerning coming to any conclusions, and other admonitions, still apply. There is a matter that I must deal with at ten o'clock tomorrow morning. I don't think it will take very long. Please be ready to come in at ten-thirty. Thank you very much.

— The jury retires. 4:30 p.m.

MR. GRIFFITHS: Your Honour, again before the jury retires for the night.

THE COURT: All right. I will ask them to stay in their room. What's the problem?

MR. GRIFFITHS: The problem is, Your Honour, that I think as I indicated a week ago —

THE COURT: Do you want Dr. Hilberg?

MR. HILBERG: No, Your Honour. It is the Doctor's difficulty and mine that I am addressing you on. As I think I commented to you a week ago, there are scheduling problems involved in a trial of this nature {935|936} where people are coming in from other places who have other obligations, and I had initially scheduled Dr. Hilberg to be testifying as the first Crown witness a week ago, and because of argument, what-have-you, that was impossible and we re-scheduled it for him to commence his testimony yesterday.

I think, as I indicated yesterday, I had assigned two days to that, as had Dr. Hilberg. He has a class tomorrow morning that opens his new term, and he is most anxious to go and to attend to.

I also have here in town a witness from Vancouver who will be quite lengthy as well who I expected to start off with tomorrow morning, and I guess my request was going to be two-fold: One, if possible, to sit later tonight to complete the cross-examination. I know it's been a long day. If that's not possible, whether, if I could have a moment with Dr. Hilberg, maybe we can interrupt that cross-examination and have it continue on another day other than tomorrow.

THE COURT: Mr. Christie, what are your views as of the moment?

MR. CHRISTIE: Well, if there was some way that I could convenience Dr. Hilberg, I would. My client, every day, it costs him thousands of

dollars to keep experts waiting, to keep people who are here waiting.

I am well aware the Crown has difficulties. They have more resources than we have to cope with it, and I must say that it wasn't our desire to cause difficulty, and I don't want to now.

THE COURT: What is your suggestion? {936|937}

MR. CHRISTIE: I can't see any other way than to proceed in the normal manner. I know it is inconvenient for witnesses. It happens all the time.

THE COURT: Are you in a position to say how long you will be?

MR. CHRISTIE: I can guarantee you that I couldn't finish it tonight.

THE COURT: You couldn't. All right. Does that make any difference to your thinking, Mr. Griffiths?

MR. GRIFFITHS: It may to this extent, if I may have a moment. Your Honour, I am obliged. I have spoken to Dr. Hilberg and it is more complex going in and coming back than it is to stay, so he will be here tomorrow morning.

THE COURT: Ten o'clock tomorrow morning.

— The witness stands down.

— Whereupon the hearing is adjourned to January 17, 1985.

(Volume V follows) {937|938}

## [Volume V]

### JANUARY 17, 1985

— Upon the hearing resuming.

THE COURT: Is there anything before call the jury?

MR. GRIFFITHS: Nothing from me, Your Honour.

MR. CHRISTIE: There is one question that I had. I just wanted to confirm what I understood, and that is that the jury no longer requires the booklets, I understand, if that is the situation.

THE COURT: I don't know if they do or they don't, but I will canvass that with them.

MR. CHRISTIE: Yes. If you will, thank you very much.

THE COURT: The jury, please.

— The jury enters. 10:45 a.m.

### RAUL HILBERG, previously sworn.

#### CONTINUED CROSS-EXAMINATION BY MR. CHRISTIE:

Q. Dr. Hilberg, there are only a couple of things I want to raise from the Gerstein statement to which you made reference yesterday, but before I do that, I wanted to confirm that in your evidence so far, I think we have agreed that you indicate you are not a statistician; is that right, sir?

A. I am not a statistician as that term is understood and defined today, and I confine my operations to numbers with additions and multiplications and very simple things. {938|939}

Q. And statistics, as far as enumeration and census figures are concerned, is a technical field of endeavour, isn't it?

A. Well, it depends upon what one wishes to do with this data. I am qualified, I believe, to look at census data insofar as the question arises as to what they refer to. On the other hand, if one wishes to engage in very complicated projections, then I'd stay away from such mathematical operations.

Q. Mm-hmmm. That degree of qualifications that you have would be the same degree of qualifications of anyone who wished to make research into the field of statistics.

A. Well, I don't know what to say, though, in that regard, because "anyone" would comprise a large number of people in the college-educated person. Perhaps I've had one more math course than other people.

Q. Being more precise, your endeavours to find out accurate statistics is no more qualified in the academic science than that of Mr. Rassinier.

A. Oh, no, not at all. My ability to see statistics in a context and understand what numbers refer to is, I believe, superior to that of the gentleman you've just mentioned.

Q. Yeah. However, in terms of any academic [academic] qualifications in that field, you are not better qualified than he was.

A. Oh, yes, I am more academically qualified for the simple reason that statistics, numbers that are embedded in documents referring to specific events and occurrences, involve complicated issues, such {939|940} as boundaries and the like, and in this regard I am more qualified.

Q. What academic qualifications do you have in the way of any academic recognition in the area of statistics that is greater than that of Mr. Rassinnier [sic]?

A. I was not calling myself a statistician. I am called a statistician in the booklet. I have tried to correct the impression that it's possible, from the statement "statistician" in that booklet, by limiting my competence in this matter so as to involve only the numbers insofar as are referred to and are embedded in historical data, sometimes very complicated situations, and on that regard my training as a political scientist does entitle me to look at statistics with more understanding; and my preoccupation with this subject over the years has given me some ability to see what the statistics mean and what they don't mean.

Q. Is there anything else you want to add?

A. I believe that answers it.

Q. Mm-hmmm. So the answer, I suggest to you, is that you have no academic qualification in respect to statistics except you are qualified in political science.

A. That does give me some competence in looking at numbers and understanding them, yes.

Q. Mm-hmmm. Well, Mr. Rassinnier's experience, you are aware, was that of an inmate of a German concentration camp during the War; isn't that true?

A. That seems to be his statement. {940|941}

Q. Do you deny that?

A. I deny nothing.

Q. You deny nothing.

A. No. I deny nothing. It is simply a matter of what he states. I have not checked upon where he was. I was not interested.

Q. M-hmmm. Well, at least he claims to have had firsthand experience of concentration camps.

A. He is entitled to that claim. He has made that claim. He has checked upon it. I have no comment to make.

Q. And in his publications – you have read them – by no means was he a Nazi sympathizer, but a communist elected member of the legislative —

A. Whatever his past and whatever his reason for his incarceration, I can only look at the book he wrote afterwards, and that's the limit of my knowledge about him.

Q. In the book it certainly indicates that, doesn't it?

A. Whatever he was in the past, that is indicated. I have no comment to make upon it.

Q. Well, tell me whether it says it in the book or not.

A. I recall that it says that in his book.

Q. Thank you. I am not asking you to tell us whether it is the truth or not as you do about the other things you say, because in Mr. Rassinnier's work he says he is either a communist or socialist.

A. Yes. {941|942}

THE COURT: He has answered your question. What is your next question?

MR. CHRISTIE: I am aware of that, Your Honour.

THE COURT: What is your next question?

MR. CHRISTIE: I was about to ask it, Your Honour.

THE COURT: Please do.

Q. MR. CHRISTIE: You are aware he was an elected member of the Parliament in France – at least, he claims so in his book?

A. All I can say is what I said before. I can only agree about what he said about himself. I have not checked on anything.

Q. Oh, I know you have not checked on anything, sir, but in his book he said he was an elected member of the Parliament of France?

A. I don't recall all the details of what he said. I am quite willing to accept what you are saying. It is close enough as far as you are con-

cerned.

Q. Do you recall how long he claimed to have been in the concentration camp in Germany?

A. I don't recall the number of years. I simply can't remember that.

Q. Mm-hmmm. But he, to you, was not credible.

A. Not credible.

Q. Right. I am going to read you from Gerstein, to which you attached some credibility, where he said, and I put it to you that he said, you having quoted him on ten occasions in your book: Missions of so-called {942|943} doctors, actually nothing but young S.S. men in white coats, rode around in limousines throughout the towns and villages of Poland and Czechoslovakia selecting the old and tuberculous people, shortly afterwards sent to the gas chamber.

Did you attribute credibility to that statement?

A. Well, I have not used it, of course, and it is a complicated statement involving a great many separate events some of which, indeed, did occur.

Q. Well, do you consider that one as having occurred?

A. There was a certain attempt to gas Polish people who were tubercular, on a large scale.

Q. I see.

A. The matter was put by a Gauleiter Graiser. He wanted to gas some thirty thousand Poles who had tuberculosis, and his reason was that they might infect Germans. In fact, that particular project was vetoed, but it was proposed.

Q. You are quoting another source. I asked you a specific question. I would like you to deal with the question, and then I will deal with the generalization.

A. Well, you mentioned illness and killing.

Q. I quoted a specific quotation, and I asked you if this is credible, and I will ask you if this is true in your opinion.

A. I tell you that there are elements of what appears in this global statement that are true, but I would not — {943|944}

Q. This is a global statement?

A. Well, because it does involve several regions, multiple events, and long periods of time.

Q. I suggest to you the statement in that respect is utterly fantastic, that young men in white coats did not ride around in limousines in Poland, Czechoslovakia or anywhere in the Third Reich picking up people for gassing. Do you maintain that to be true?

A. I have never said that this is true. I would not say that people in white coats pretending to be doctors rode around in vehicles or limousines. No, I don't think that this particular detail is sufficiently credible to be used by a scholar, nor have I used it.

Q. No. That's one of the parts of this material, the Gerstein statement, that you chose to ignore; correct?

A. Yes, I did ignore it.

Q. Yeah. But it's, nonetheless, from the same author of those things you chose to accept.

A. It is from the same author. I think we've been over that ground.

Q. That's right. But it's rather a new point, isn't it? We didn't discuss this yesterday.

A. I don't believe it is a new point, but please go on.

Q. Did I mention to you yesterday, does your memory tell you that I mentioned to you yesterday: Men in white coats riding in limousines?

A. No. It is in the gender of questions you asked before. {944|945}

Q. They are the same type; right?

A. Yes.

Q. But the point is, Dr. Hilberg, you chose to ignore that aspect of the statement and select what you thought was more credible; right?

A. Yes.

Q. I suggest to you that what you did was take the Gerstein statement and attribute credibility to it out of context with what is obviously incredible from the same author under the same oath in the same statement. Would you agree?

A. No. I disagreed with you when you made that statement yesterday, and I have to disagree with it today. Nothing has changed.

Q. Nothing has changed, yes.

A. I explained to you what I mean by "out of context". Out of context means the use of words by an author in such a way as to render the meaning he intended differently from the way that he intended it to be. That, to me, means out of context. It means to leave out qualifications. It means to leave out ifs, buts, however; but if a person makes a statement which can easily be segmented into ten different assertions or twelve different assertions or twenty different assertions and I find that ten are credible and ten are not credible, or that five are credible and fifteen are not credible, if I happen to choose those, which I find to be confirmed by others, which I find to be plausible in the light of events as I know them, then I'm not taking these statements out of context, of what he is saying.

Q. Mm-hmmm. You are taking them to {945|946} support your thesis.

A. I am taking them in order to create a larger canvas of the facts; if that happens to support my thesis, fine; if the thesis is not supported, the thesis will be modified.

Q. Yes. But when there happens to be parts of the larger canvas to which you attach this statement that are inconsistent with this statement so that the statement becomes incredible, you simply cut out parts of the statement. Right?

A. I think that there are several statements rolled into a single affidavit or deposition, and I have simply used judgment —

Q. Yes

A. — in the utilization of this particular material.

Q. Yes. Your judgment was that it will be best to leave out the parts that seem rather dubious; right?

A. Absolutely.

Q. Would you agree that someone looking at this Gerstein statement might take it that the whole thing was rather dubious? Would you give them the right to believe that?

A. I would give any right to anybody who was honest, who was cautious, who wishes to look at things cautiously. I am myself that way. I permitted myself the use of portions of this manuscript because I was familiar with other material that enabled me to use that particular statement. I also told you that I have seen documents signed by Gerstein at the time, so that it {946|947} is not the only statement, not the only Gerstein documentation.

Q. No. That's right. There's at least four or five of them, aren't there?

A. Well, there are letters, correspondence by Gerstein, too. When I keep using Gerstein, I have used correspondence by Gerstein, 1944 correspondence by Gerstein.

Q. But that is not what you referred to in your book. You referred to this document, PS-1553, eight times specifically by letter and number.

A. Well, look, sir, your number, the number of times I referred to this, changes every time. I don't know how you are accounting these things. Now, if you will check the record, you said once over twenty, now it's eight, then it's ten.

Q. Are you arguing with me about the number of times you used it?

A. You are the one that brought up the number of times I used it. I wish to be clear about one thing. There are letters written by Gerstein which I used. These are documents. These happen to be correspondence. These were written at the time of the events. Now, if you wish to confuse the issue, please go ahead and confuse it; but I wish to remain clear about things.

Q. Mm-hmmm. You say that you are not confusing the issue in people's mind by referring to a statement that obviously has totally incredible parts to it. That is not confusing people, eh?

A. I don't see why anybody should be confused unless they wish to be. {947|948}

Q. Well, if they read the statement and tried to attach credibility to it, it does create a problem, doesn't it?

A. Well, sir, the reason that there are people like me who write books is that we develop a certain amount of expertise in the use of these materials.

Q. Yes.

A. There is no need for anybody to trust my research. You can check

any document you wish. You can come to any conclusion that you wish.

Q. Well, my question to you was directly, would you accept the fact that honest people, looking at the Gerstein statement that you referred to PS 1553 — could honestly take the position that it is totally incredible?

A. They could certainly take that position if they know nothing except that particular document.

Q. They could also, I suggest, take that position if they didn't believe you. Right?

A. Well, if they did not believe me after reading eight hundred pages, I don't know what to say, because that signifies the failure of a lifetime.

Q. Is that right? Well, just because people don't believe what you conclude in your thesis, that's a failure, is it?

A. That would be my failure.

Q. All right. But you must concede that some people decide things differently than you, and they should be free to do so. If they look at the Gerstein statement and they say it is incredible, they are free to {948|949} do so, in your view of the matter?

A. You have twice used the phrase "free to do so".

Q. I did. Do you agree or disagree?

A. I must qualify what I am about to say; I'm sorry, but I must qualify.

Q. Oh yes. Go ahead.

A. I do believe in academic freedom. I do believe that people —

Q. Are people free to doubt your word on the statement?

A. Certainly. If deliberate misconstruction and malice are not involved, I certainly believe that they should have that freedom.

Q. They are free to publish their opinion about the Gerstein statement?

A. Absolutely. Such a statement, such an article did appear in a rather prestigious German publication.

Q. Now, is it true that the Gerstein statement, the one we have referred to, is an important part of your book, because you rely on it to prove the number of deaths at Treblinka and Belzec?

A. No.

Q. Isn't it true that there is no other source for your figures in respect to Treblinka and Belzec?

A. In my book, the first edition, I do not give precise figures for Treblinka or Belzec because, at the time, I did not feel that I could give a figure for each of these counts. What I had in my possession was a {949|950} figure that applied totally, combined, to Treblinka, to Belzec and to Sobibor. That came from a German document.

Back in the nineteen fifties I was not able to break down that figure for those three camps. I am better able to do this now, but I did not do it then and I did not rely on Gerstein or anyone else.

Q. Mm-hmmm. You didn't rely on Gerstein when he said — and I am referring to the part where he says: Belzec, on the Lublin Hamburg road, on the sector of the Russian demarcation, maximum fifteen thousand persons a day (Seen). Sobibor, I don't know exactly where it is located (Not Seen) twenty thousand persons per day. Treblinka, 120 kilometers north north east of Warsaw, twenty-five thousand persons per day (Seen).

A. What I relied upon in the statement was the fact that he had been there, that he had seen the two facts to which he referred. I did not take from that statement his estimate of maximum capacity in the camps.

Q. So that part, too, then, was incredible, was it?

A. I did not say that. Just a moment, please. You keep on putting words to my mouth.

Q. I want to get to the point.

A. The point is that I had no basis, in those days, for making an estimate of the capacity, the daily capacity, or the total toll in each of these camps. I only knew the global figure to December 31st, 1942.

Q. Isn't it true, Professor, since you claim that you know about the transcripts of the Nuremberg Military Tribunal — that is, the American portion of the International Military Tribunal — that the judgment of the {950|951} court in the Pohl case, specifically that of Judge Michael A. Musmano, quotes extensively from Gerstein's document, PS-1553, and ignores parts of it, as you did?

A. Well, I would say that Judge Musmano had good cause to do what

he did, that he was a capable judge.

Q. Yeah. Another case of selected editing for the reasons of the judgment. Right?

A. Now you are accusing a judge of the same thing you are accusing me of.

Q. That's right.

A. Fine.

Q. He did that, though, didn't he?

A. I don't quarrel with it.

Q. No. And your estimate of the executed persons, as you called them, or people that you say were gassed at Auschwitz, was a million, roughly.

A. Yes.

Q. You put that in your book. Right?

A. Well, I have that, yes. That was my estimate then. That is the recalculated estimate, roughly the same now.

Q. Yes. And part of the basis for that opinion, certainly at Nuremberg, was the admission of Rudolf Franz Hoess's affidavit. Right? The so-called Commandant of Auschwitz.

A. No. Let me – if you want me to explain how I arrived at that —

Q. I didn't accuse you of using Hoess. I am saying part of the Nuremberg judgment relied on the statement. {951|952}

A. Hoess was a witness.

Q. And he was quoted in that judgment.

A. And he was quoted in that judgment, but you are asking a complicated statement if you ask what a particular set of judges relied upon in coming to a conclusion.

Q. Am I? Well, I put it to you that this particular judge said what he relied upon in coming to his conclusion, and I quote to you from the transcript of his judgment, same judge, and he said, and I quote page 113 of the judgment of Musmano in the Pohl case – he is quoting Rudolf Franz Ferdinand Hoess, Commandant of Auschwitz which was from May 1st, 1940 to December 1943, he said that he estimated that at least 2,500,000 victims were executed and exterminated there by gassing.

A. Well, he is quoting Hoess.

Q. That is what I am trying to establish.

THE COURT: Mr. Christie, did you say that you are quoting from a transcript?

MR. CHRISTIE: I am quoting from a Nuremberg transcript. I can show it to Your Honour.

THE COURT: Please, if you will. Is it a judgment, or the transcript?

MR. CHRISTIE: It is the transcript, judgment. The only transcript that is published. I am quoting from the trials before the Military Nuremberg Tribunals, Nuremberg, October 1946 to April 1949, Volume V, which includes all of the reported portions of the trial, and I am quoting from page – actually it's page 1131, and {952|953} it was the judgment of Mr. Justice, I suppose he is referred to as Judge Michael A. Musmano. Do you wish to see that?

THE COURT: Please.

MR. CHRISTIE: May I carry on, Your Honour?

THE COURT: In a moment you may carry on. Thank you. I have looked at it.

Q. MR. CHRISTIE: Now, is it not true, sir, that apparently, from this judgment, a judge found, on the basis that a man who was himself, later, to be hanged, namely Mr. Hoess, that 2,500,000 were to have been executed there, and Hoess, of course, claimed to be an eye witness? Correct?

A. Hoess was there. Hoess was quoted. No question of that.

Q. And Hoess said, according to the transcript, 2,500,000 —

A. He made two statements about victims, and in one of them he made the statement that you quoted.

Q. All right. Let's deal with what I suggest, first. If you want to elaborate and discuss any other subject he may have said any other time, any other place, I am delighted to hear from you, sir; but let's deal with the question. He did say that, and it is quoted in the judgment as a finding of fact, I gather.

A. It is quoted.

Q. As a reason for the judgment. I showed it to you. You disagree with that?

MR. GRIFFITHS: Well, we haven't {953|954} heard that judgment.

MR. CHRISTIE: I don't propose to read the whole judgment.

THE COURT: Just a moment, Mr. Christie. I can only hear one at a time. Surely you can just contain yourself while I hear from Crown counsel. In the same way, he will contain himself while I hear from you. Is that agreeable with you?

MR. CHRISTIE: Always has been, Your Honour.

THE COURT: Then please don't interrupt.

MR. GRIFFITHS: Thank you, Your Honour. I am objecting to the judgment or portion of it put to the witness, and I have no objection to that, but to start to characterize or ask this witness to characterize what the reasons for the judgment is, or the rationale, or that is what the judgment was based on, I don't know if this witness is qualified to do that, Your Honour. I haven't heard any qualification —

THE COURT: You don't propose to do that, Mr. Christie.

MR. CHRISTIE: No, sir. I haven't done that.

THE COURT: Then proceed.

Q. MR. CHRISTIE: Certainly that is what a judge quoted of Hoess. Right?

A. Right.

Q. And it appears that that figure, again, was twice what you, today, say was the truth. Right?

A. It's twice the figure that I give {954|955} in my book in 1961.

Q. Mm-hmmm. Well, didn't you give the figure in 1961 that you believe to be the truth?

A. Yes.

Q. Would you say, then, that the publication I referred to and the judgment of the Court was false on that point?

A. It's an error in my opinion.

Q. Yeah. Twice the facts.

A. That's my opinion.

Q. The Court found twice as many victims as you find in your research.

A. The Court quoted Hoess to that effect.

Q. It would appear that Hoess is another important part of the belief of the six million.

A. No. He was the Commander of Auschwitz from the time it was founded until November 1943. He then was present in Auschwitz again during the summer of 1944. He was absent for some times from the camp on other duties. He does, however, have important information about Auschwitz.

Q. He was captured by whom, sir?

A. He was – I am trying to recall whether it was the British Army of occupation. I think it was in the north of Germany where the British were.

Q. He wrote a book in which he said he was beaten and tortured by the British; isn't that right?

A. I am not aware of his having said that in his book. I would be pleased to look at it.

Q. All right. I now produce and show {955|956} to you a book entitled, "Commandant of Auschwitz", the biography of Rudolf Hoess, translated from the German by Constantine Fitzgibbon, with an introduction by Lord Russell of Liverpool, published by Pan Books Limited, London, 1956, it appears.

I refer to page 196. I ask you if am reading correctly. when I say, looking halfway down the page, highlighted here, "At my first interrogation evidence was obtained by beating me. I do not know what is in the record, although I signed it." "1" is a footnote. It says at the bottom, "A typewritten document of eight pages which Hoess signed at 2:30 a.m. on March 14th, 1946. It does not differ substantially from what he later said and wrote in Nuremberg or Krakow".

Have I read it correctly, sir?

A. You have. I am not familiar with this edition. I have the German edition.

Q. I see. Do you think the content is different?

A. It may well be that I kept no immediate recollection of this particular passage in the German edition. I don't dispute what is stated here. It is his allegation. He said he was being beaten and that he signed a record.

Q. May I go on to read, sir, and you correct me if I am wrong? He says: Alcohol and the whip were too much for me. The whip was my own which by chance had got into my wife's luggage. It had hardly ever touched my horse, far less the prisoners. Nevertheless one of the interrogators was convinced that I perpetually used it for flogging the prisoners." Correct? {956|957}

A. You are reading, and —

Q. "I was taken to Minden on the Weiser, the main interrogation centre in the British zone. There I received further rough treatment at the hand of the English prosecutor, a Major." Footnote, see page 14 of Lord Russell's introduction for details of this interview.

Have I correctly set out the context of this statement, sir?

A. Yes.

Q. All right. And I have referred to the footnotes; correct, sir?

A. Yes.

Q. All right. Now, it would seem to indicate from his autobiography that he considered himself to have been beaten. Right?

A. It appears from what you read that he did consider himself to have been beaten with his own whip.

Q. Right. And he didn't understand what he was signing, he said, but he signed it anyway.

A. That appears what appears to be said there, yes.

Q. All right. Now, you quoted earlier from Frank Zierreis, did you not?

A. Yes.

Q. Now, he was a man who was kept in custody by somebody else [else], wasn't he?

A. Well, I don't know the precise circumstances inasmuch as they are somewhat complicated.

Q. Well; I will put some facts to you and you tell me if I am wrong. {957|958}

A. Yes.

Q. I put it to you that Frank Zierreis was the Commandant of Mauthausen in Austria.

A. Yes.

Q. That he was the recipient of torture in that he was seriously wounded by three bullet-wounds in the course of his interrogation, or immediately prior, that he knew he would die shortly, that he was interrogated for a period of six to eight hours during May 22nd —

THE COURT: You are going too quickly Mr. Christie. Even the competent reporter that we have, cannot take it down at that speed.

MR. CHRISTIE: I'm sorry. I will try to go a little slower.

Q. ... that he knew he would die shortly, that he was interrogated for a period of six to eight hours during the night of the 22nd and 23rd of May, and that he died that morning. That is all correct, sir, isn't it?

A. No, I can't say that. I've had and read about two or three versions of his wounds and his subsequent death.

Q. He died shortly after signing his affidavit, sir.

A. He certainly died shortly after the end of the War as a result of wounds he received. According to one version he had tried to escape; according to another version, angry inmates inflicted the injuries upon him. You have just read yet another version. Unfortunately, I cannot choose between these versions. I can only confirm {958|959} that he had wounds, that he did make the statement, and he subsequently died.

Q. You told the jury what his statement was about gassing tubercular people; right?

A. Excuse me? To whom are you referring now?

Q. Franz Zierreis. You quoted him.

A. Not in connection with gassing tubercular people; that was Gerstein. No. Excuse me. That was in connection with the question you asked me about Gerstein and attributed to Greiser, not this man. A totally different person. No connection.

Q. Again, for the record, I understand that you referred to somebody.

You don't say what they said. Correct, so far — you haven't said anything about what they said?

A. About what, Greiser?

Q. Greiser, yes.

A. I indicated to you to the best of my ability that Greiser had proposed the gassing of tubercular Poles in his area.

Q. So you put —

A. That's all that Greiser wrote at the time, so it's a document.

Q. Where is the document?

A. It is quoted in my book. If you wish to find it, it is easy to find it.

Q. Documents of destruction, or —

A. No. The big book.

Q. Thank you. Referring specifically to Franz Zierreis, I now produce and show to you the {959|960} affidavit of Hans Marcellis, which is a translation into English of document 3870-PS, again from the transcript of the Nuremberg Military Tribunal, and I read to you:

Franz Zeireiss was interrogated by me ... — this is Hans Marcellis, a policeman of the 11th Armoured Division —

... the former prisoner and physician, Dr. Kosinsky, and in the presence of another Polish citizen, name unknown, for a period of six to eight hours, that the interrogation was effected from the 22nd of May to the 23rd of May, 1945. Franz Zeireiss was seriously wounded, his body had been penetrated by three bullets, and knew that he would die shortly and told me the following ...

Then is quoted what is attributed to Franz Zeireiss. Correct?

A. Well, might I just simply —

Q. You go ahead and have a look.

A. Might I just simply add one thing. I don't know if it is in my rights to do so, but immediately above the line you just quoted is the statement that he was shot while being tried by American soldiers while escaping, which is somewhat different from the version you read.

Q. I didn't read it all.

A. Oh, I understand.

Q. You think that I was misleading you, do you?

A. Well, you read from a source that you do not identify. You were asking me to confirm something that begins in the middle of a paragraph, as a matter of fact, and in the sentence immediately before it {960|961} is the sentence that he was trying to escape. He was shot by American soldiers. He was then wounded. He was interrogated in the presence, according to Marcellis, of a representative of the 11th Armoured Division.

Q. And then the document was tendered to include the statement of the dead man. Right?

A. That is his recollection. That is Marcellis's recollection of what was said by Zeireiss.

Q. Yeah. And that's put into evidence to confirm the contents of the affidavit, isn't it, supposedly proving a gassing plant was built in concentration camps at Mauthausen, prisoners were gassed in this room, and it was done on the urging of S.S. Haupterfuhrer Dr. Krechsbach [Sturmbannfuhrer Dr. Krebsbach]. All of that is quoting the dead man, isn't it, who you say was shot while escaping? I am not arguing about that.

A. No. That's in here. I said there were three versions.

Q. Well, here's one that is sworn.

A. In this sworn version he was trying to escape and was shot while trying to escape.

Q. This was a prosecution affidavit, wasn't it?

A. You are asking, in essence, for my comment about the laws of evidence as used in the particular —

Q. No, I am not. I asked you if it is a prosecution document.

A. Yes, it is a prosecution document.

Q. I am not asking you about the laws of evidence, just questions of fact, because you, as an expert, have said that you read the volumes and — {961|962}

A. I have read this document, certainly.

Q. Well, then, tell me if that wasn't used, or was it used in the transcript of the proceedings.

A. I cannot tell you exactly whether it was used. I wouldn't be surprised if it was used to some extent. It is a prosecution document. I might add that the fact of a number such as 3870-PS does not mean that the document was introduced in evidence.

Q. It doesn't.

A. No, no. This is not ipso facto evidence of the document having been used in evidence. It merely means that it was collected by the prosecution, given a document number. It might then have been used; but not all of the prosecution documents have been used as evidence.

Q. This document appears to have had a number attached to it, and I thought you said in your evidence earlier that every document that was introduced got a number in sequence.

A. That's correct.

Q. Well, now, this has a number PS-3870.

A. It is an accession number.

Q. I put it to you, sir, that maybe they didn't consider it in their judgment, but that really it was before the Court.

A. I don't quarrel with that.

Q. Mm-hmmm.

A. I just wish to point out that just {962|963} because a document had a number does not mean that it became an exhibit.

Q. Oh?

A. I don't happen to know whether this one was or was not given an exhibit number.

Q. Well, this tends to signify, at least, the existence of a practice of people that were shot while trying to escape, shall we say, who died shortly after giving the statement and then, instead of introducing the statement with a signature on it, they quote the man who took it and include the statement. Right?

A. That's correct.

Q. That's what they did here.

A. Yes.

Q. And that's a practice that you don't have any professional judgment on one way or another, I suppose.

A. Well, do you want a professional legal opinion about the use of evidence —

Q. I am not asking for a professional legal opinion. I just suggest that it's something you don't seem to think, as an ordinary human being, with the same common sense that I have, you don't think that there is anything wrong with that.

A. I would say the following: When a man has been the commander of a concentration camp and is wounded, the question of whether he may or may not be interrogated is essentially a medical question. Whether the physicians were consulted or not, I have no way of knowing. When I look at the document — and I did look at it — I could use it or not use it, depending, once again, {963|964} as to whether or not the information contained in it seems to be credible, plausible, corroborated, confirmed or not.

Q. In the document that I just showed you that you said you read before, I suggest that it says that there was a million or a million and a half human beings killed in the Castle Hartheim near Linz. Did you believe that to be true?

A. There were people gassed at Hartheim, certainly not the number that you have just quoted, no.

Q. Well, that's quoted in the affidavit, isn't it?

A. Well, here again, all I can say is, I did not use that particular datum. Indeed, in the first edition I don't even believe that I have mentioned Hartheim, which was a facility for gassing incurable persons.

Q. I am not suggesting you used it, sir, but isn't it true that that would be considered a false statement?

A. Well, the fact of Hartheim existing as a euthanasia station for gassing incurably ill persons with mental or neurological disorders, and also for gassing concentration camp inmates that were either obstreperous or at the end of their physical strength has been confirmed over and over and over. The numbers alluded there are manifestly out of the question.

Q. So as far as the number is concerned, it is utterly false.

A. Oh, absolutely.

Q. But the part that you chose to believe as true is that gassings existed at Hartheim. Right?

A. Oh, this is not based upon my {964|965} reading of this particular affidavit alone. There is a lot of information —

Q. Oh, no. Other sources, right?

A. Yeah.

Q. Other reliable sources. Right?

A. You don't have to put the inflection on "reliable". They are reliable.

Q. Then tell me what they are.

A. Indeed, it happens not to be my research, but in the *Journal of Contemporary History* published under the aegis of the Institute of Contemporary History, in English.

Q. Let's have the English title.

A. You will find discussion at great length about euthanasia, an important subject involving the killing of an estimated eighty thousand in six euthanasia stations, of which Hartheim was one.

Q. Sir, you are telling us that that's based upon credible information. Right?

A. Oh, yes.

Q. But you don't know what that information is, do you?

A. I have checked some of it.

Q. Some of it.

A. Oh, yes. But it is not my area, not my area of research.

Q. Well, forgive me. I am not asking you to go beyond your area of research, but I am suggesting to you that these types of documents were tendered to prove the existence of facts, namely, the figure 1.5 million, that were utterly false. Correct or incorrect? {965|966}

A. I agree that the number is false.

Q. Now, I put it to you that these types of documents are not rare, sir, that torture was common, sir.

A. Torture of whom, by whom?

Q. Well, I'll name names. Franz Ziereiss [sic] I've mentioned. Hoess I've mentioned. Franz Hoettl I will mention. Konrad Morgen I will mention. Josef Kramer, Erik [Erich] von Manstein... Now, do you suggest those are far-out, strange people, or are they central to the whole of the Nuremberg issue?

A. All the names you have mentioned are familiar to me. The allegation of torture, in most of the cases that you have just indicated, are not familiar to me.

Q. They are not familiar to you.

A. No. If you'll wish to introduce the documents, then I will probably agree to seeing what it is in print there, but I have no independent knowledge, I can tell you right away.

Q. You haven't looked into, I gather, just what degree of voluntariness was involved in these statements. Is that correct?

A. No, no. I am, of course, interested in how much a particular affidavit can be trusted. At the very outset I pointed out that my principle reliance was on documents, that my secondary reliance, where the documents do not speak for themselves or sufficiently so, is upon statements. I handle all such statements, whether deliberate under the freest circumstances or under constraint [sic], with the utmost of care. {966|967}

Q. Do you agree you referred to yourself as an empiricist?

A. Yes.

Q. Do you agree that empiricism is the process of looking at experience and conducting experiments with real things? Or do you have a different word for "empiricism" than I understand?

A. Well, I am not going to extend the definition of "empiricism" to include experiments as a matter of necessary consequence. There are manipulations, some of which is simulation, are experiments, and some of which are not either.

Q. What I put to you, sir, is that what you have told us about the expertise is the examination of documents.

A. Yeah.

Q. And the examination of documents may be scholasticism, but it

certainly isn't empiricism, sir.

A. Well, I'm sorry to say that the simple definition, which is mine —

Q. Which is yours.

A. — of the method I have followed, my description of what I am doing, is the procedure of looking at facts as they are contained in documents, and then coming to a larger picture, going from the small to the big, and that I call the empirical approach to the subject. There are, and could be, other approaches, but that happens to be mine. "Experiment", to me, suggests a repetitive element that can be manipulated in a laboratory. This I don't do.

Q. May I suggest that experiments can {967|968} mean going to the scene of an event and conducting scientific tests?

A. One may conduct scientific tests. I don't exclude that.

Q. Have you done it?

A. I do not. I have repeatedly said that I am not a chemist. I am not a geologist. I am not a photo interpreter. I do not do these things.

Q. I don't doubt that you don't. I am asking you if you have done any physical experiments at all.

A. Oh, in the laboratory in college, but not in this —

Q. No. In respect to the research we are dealing with here.

A. No. No.

Q. Do you know of one scientific report that substantiates that any single place was used as a gas chamber, just one? If so, please name it.

A. What do you mean by a scientific report?

Q. Well, you told me —

MR. GRIFFITHS: No, it's your term, Mr. Christie. You tell the witness.

Q. MR. CHRISTIE: I don't usually have to define simple words, but by "scientific report" I mean a report conducted by anyone who purported to be a scientist and who examined physical evidence. Name one report of such a kind that showed the existence of gas chambers anywhere in Nazi-occupied territory.

A. I still don't quite understand the {968|969} import of your question. Are you referring to a German, or a post-War —

Q. I don't care who — German, post-War, Allied, Soviet — any source at all. Name one that —

A. To prove what?

Q. To conclude that they have physically seen a gas chamber. One scientific report.

A. I am really at a loss. I am very seldom at such a loss, but —

Q. I put it to you you are at a loss because there isn't one.

THE COURT: Gentlemen, there will be one at a time, please. Now, Mr. Christie, cross-examination is permitted with some latitude. You have reached the edge, because you keep interrupting the witness. You may not like the answers he gives; you may not like the length of the answers; I completely understand that, insofar as you are concerned, but would you please let the witness answer?

Now, then, start again, please. Ask the question and then, please, let the witness answer. If he becomes too long or he is not sticking to the point, I will get him to stick to the point. Now please ask the question again and let's get on with this. It is an important subject.

Q. MR. CHRISTIE: Can you tell me of one scientific report that concludes that any single object, place or thing was a gas chamber?

A. Again, I can only state that there have been aerial photographs that were analyzed. Perhaps that is not in your definition of science. There have {969|970} been contemporaneous documents about the lethality of the gas that was employed. Perhaps this is not important to you. There are documents —

Q. Excuse me, I want to understand clearly. You say the second thing is evidence about what?

A. The lethality, the toxicity of the gas, the nature of the poison and what it does.

Q. Mm-hmmm.

A. Signed by scientific personnel within the German chemical industry.

Q. As a matter of fact, the cans were labelled for Zyklon-B "poison".

A. That's correct. None of these examples will satisfy you because you want the proverbial connection to be made so close.

Q. No, no —

THE COURT: Go ahead, Doctor. Just answer his question, please. Don't anticipate counsel.

THE WITNESS: The additional, how shall I say, scientific evidence is contained in such subject matter as filters for gas masks and the like, again indicating the caution with which one must approach this gas. Now, these are all connected with gas chambers.

Q. MR. CHRISTIE: Mm-hmmm. I don't want to interrupt you. Is that the end of your answer?

A. Well, for the moment, it's a couple of examples that at the spur of the moment I can bring up. If you want me to reflect on the matter, I can certainly conjure up from my recollection other examples, but I am still at a loss to really understand your question.

Q. I see. So you say we have aerial {970|971} photographs; right?

A. As an example.

Q. Yes. Okay. Now, I'll show you an expanded version of an aerial photograph that I suggest on a previous occasion you looked at and told us this was proof of the gas chambers.

MR. GRIFFITHS: May the jury be excused for a moment, please, Your Honour?

THE COURT: Yes. Excuse us, please, members of the jury.

— The jury retires. 11:35 a.m.

THE COURT: Yes, go ahead.

MR. GRIFFITHS: Sorry, Your Honour, I don't mean to interrupt my friend's cross-examination, but it sounds as if he is about to refer to an aerial photograph or something. I want to know, before it being shown to the jury, whether this is a photograph that will be proven, where it comes from, and on what prior occasion, because I don't believe it was at the preliminary inquiry that this witness gave evidence to the photo that my friend has referred.

THE COURT: Yes. Mr. Christie.

MR. CHRISTIE: Does Your Honour not wish me to show the photograph that was shown, and I think identified, at the preliminary, or — I have an expanded version.

THE COURT: Would you just please answer — don't be asking me questions, Mr. Christie. Would you please just reply to what you've heard from the {971|972} Crown so that we can get on with the case? It's not a question of you asking me rhetorical questions as to what I will allow.

Now, if you are going to produce a photograph, how do you intend to prove it? Will you be proving it in due course? It's very simple.

MR. CHRISTIE: Yes, I would.

THE COURT: That's all I need to know. What else do you want to know?

MR. GRIFFITHS: Fine. If he's got the photographer, I will be happy to hear from him.

THE COURT: Do you have the photographer? How do you intend to prove it, in other words?

MR. CHRISTIE: I intend to call someone who says they took photographs from — aerial photographs from the National Archives. The witness who claims to have seen these aerial photographs and has identified them can say whether or not they accurately depict the scene.

Now, I am not here to prove anything. I am here to show the basis of the Crown's opinion. I don't think that I should be precluded from showing what — I am prepared to call witnesses to say there are photographs from many books of what purports to be people on the way to gas chambers. I have the people here. They have been waiting for days. They are ready here to testify.

I simply — and I can identify the people who made these prints from existing books and from National Archive photographs. Really, I don't know what my friend is complaining about.

THE COURT: I don't know that he is {972|973} complaining

Mr. GRIFFITHS: I want the books of photographs, too, Your Honour. I want to know, I think I am entitled to know, either it is a business document that is being held in some archive, or a copy of that document. Then I'd like to have it introduced in the proper manner, not from the book, but an archivist to say that is a true copy being held in the archives. That is a manner of proving it.

MR. CHRISTIE: I have a document issued by the U.S. Department of Commerce from the Central Intelligence Agency in Washington, D.C. It's number — it is called "Holocaust Revisited — Experimentation Complex", and the photographs in this brochure are mainly enlarged and some taken from the originals in Washington.

THE COURT: Who did the enlargement?

MR. CHRISTIE: Well, I will call the person. Do you want to know? I will have to check on that.

The name of the photographer who made the enlargement is Clinton Ashton, I am told.

THE COURT: And from what source did he make the enlargement?

MR. CHRISTIE: I don't know offhand. If Your Honour is insisting that I prove this right now ...

THE COURT: No, I am not. I am not insisting on anything. I am merely asking.

MR. CHRISTIE: My information is that he made the enlargements from negatives taken from the National Archives in Washington. Some. Some are taken from books which are authorities that I think the Doctor would recognize. The expert would probably know where these {973|974} come from, because they indicate things that he, himself, says and believes. As a matter of fact, I can produce the books. I don't understand the difference. I could produce the books; I could produce the Central Intelligence Agency report, or I could produce the photographs, as long as I can prove the origin of them later.

I have undertaken that I am in a position of being able to do so. The same applies to all the other photographs. The same applies to Dr. Hilberg's proof. I haven't asked for proof of the authenticity of that, either. I don't know why we are wasting time on such a point. It doesn't seem to make sense to me. I don't understand it.

THE COURT: Mr. Griffiths.

MR. GRIFFITHS: It makes enormous sense to me, Your Honour. We are in a courtroom here where hearsay is ultimately not allowed except for the rulings of Your Honour. If there are going to be documents submitted in court, I am satisfied that my friend indicates that at the appropriate time he will be calling the documents to prove them in accordance with the laws of evidence, not photographs taken out of a book that we have no source for, but from an archive or from a specific source, whether the photographer is available or the archivist is available.

That is what the laws of evidence, I submit, say, and I am prepared to make further argument.

MR. CHRISTIE: I am flabbergasted with the proposition that we should exclude hearsay when everything the Doctor said is hearsay. Now, I wish to cross-examine him on other hearsay that he, apparently, doesn't wish to recognize. He wishes to object that it is {974|975} hearsay. I might point out I am not obliged to prove the truth of any hearsay, to prove hearsay not for the truth of the hearsay but that it is the basis for the belief of my client, [client] which I am entitled to do, and if I am not allowed to lay the foundation of that belief with the introduction of what my friend says is hearsay, and I can undertake to be the original evidence, then he seeks to apply one set of rules to his advantage and one set to my disadvantage when I, myself, am not required to prove the truth of anything. Thank you.

I point out that at page 137 of the transcript of the preliminary hearing, this particular witness said, and I quote —

Mr. GRIFFITHS: On page ...

MR. CHRISTIE: 137, line 17: Now, the photographs that I saw in the National Archives, the United States clearly show that the purpose of the picture taken was Monowitz, was a very large area in the Auschwitz complex called Auschwitz III, where Monowitz, where the industrial installations were located. Thus one can find on some of the photographs Buchenwald, which was the death camp in the lower lefthand corner. It was obviously not the intent of the military to record the Holocaust or even to discover it. This was an incidental discovery that wasn't even looked at. Photographic interpretation didn't mention it but was only subsequently made when the two C.I.A. agents managed to retrieve these photographs where they saw the crematoria. There is a

photograph of June 1944 with a train on a ramp in front of the gas chambers in a kind of ragged line, not a military formation, on its way to one of these gas chambers. {975|976}

Now, I have the photograph that I think the witness will identify as being the one he referred to, and I'm gonna ask him if this is his photographic evidence of the gas chambers that these people were "on their way to". He says:

Further, these were very large buildings in which gas chambers and crematoria were designed in a single structure.

Now, obviously, that is the issue. That is why it arises. There is the reference to it by Dr. Hilberg in evidence on a former occasion. Here is what I suggest is the photograph of what he was talking about, enlarged. I will be asking him if that is the basis of his photographic evidence. I have others, if you wish it to go further.

MR. GRIFFITHS: If the witness has seen the photograph before, that's fine. Fine, Your Honour. But he is not a photo interpreter and has said that, relying on the interpretation of the C.I.A. agents who took that photograph.

THE COURT: Has the witness seen that photograph?

MR. CHRISTIE: It is my understanding that is what he referred to. I am prepared to show it to him now.

THE COURT: Yes, please do.

THE WITNESS: Do you have the entire photo from which this is the excerpt, in an original?

Q. MR. CHRISTIE: Oh, you want it in an original?

A. Yes, because you see — {976|977}

Q. You think there might be retouching on it?

A. No, no. The original photograph is provided with information.

Q. I'll show you some more photographs with information.

A. No, no, no. It has to be the entire photograph as taken from the aircraft, and not some small part of it.

Q. Well, I will show you —

THE COURT: Were you shown that photograph before at the preliminary hearing, Doctor?

THE WITNESS: No, I was not shown any photographs. I have, however, been to the National Archives and have, myself, purchased some of these photographs which are provided with detailed information in the margins as to the flight, as to the date, as to the height of the photograph. In addition, there is ample documentation about the purpose of the photograph and photo interpretation attached in other documents. And this is what I am referring to.

If I am being shown something which looks pretty fuzzy out of a photo, without any of the numbers and other identifying data, which come from the document itself, in this case I am referring to the photo as a document, then I am a bit hesitant to come to quick, off-the-cuff conclusions, even if the appearance is that way, which I testified to because it is appearance. And this is important to defence, and —

THE COURT: Your position is you haven't been shown any of these photographs which counsel {977|978} is holding before you?

THE WITNESS: Well, what I am saying is that this is an enlargement of — could be an enlargement of a very small portion, just a very small portion of the original photograph.

THE COURT: But the photograph print that you are holding now, were you shown that before at a preliminary hearing?

THE WITNESS: Oh, no. I was shown absolutely no photos at a preliminary hearing. Not this or any others.

THE COURT: Is that in accord with your view of the matter?

MR. CHRISTIE: I don't know. I wasn't at the preliminary hearing. I can't say what happened there.

MR. GRIFFITHS: I was at the preliminary hearing. There were no photographs.

THE COURT: Then the ruling is that you have a photograph, total photograph in the Archives. You can show him that and refer to whatever else that you have there; but in the absence of that, you cannot. That is the ruling.

The jury, please.

— The jury returns. 12:13 p.m.



THE COURT: Go ahead, Mr. Christie.

Q. MR. CHRISTIE: In your evidence earlier, sir, you said that there was only three sources of scientific evidence to support the belief that you have {978|979} about the killing of six million Jews in gas chambers — one was aerial photos, evidence of lethality of gas, and scientific evidence for gas masks and filters in gas masks, — in response to my question as to whether there was a scientific report on the existence —

A. I didn't say that there were only three. I said on the spur of the moment, not fully understanding the nature of your question, I could only find these three.

Q. In your book, "The Destruction of the European Jews", if you had a scientific report proving the existence of only one gas chamber, wouldn't you have used it?

A. Oh, well, there is no single report, as you say, proving scientifically the existence of a gas chamber, unless you mean by this the chamber. Now, if you mean a scientific report as to what happened to people inside a gas chamber after they have inhaled gas, that's a separate matter. One can assemble —

Q. I didn't ask you that.

A. Well, that's the reason I am saying I am not quite sure as to the nature of your question. What scientist would make a report about a couple of hundred people squeezed into a gas chamber, and what exactly happens physiologically to them all, when you've got, from German sources, the exact description of what this gas will do once it is inhaled by human beings?

Q. You are asking me a long question, sir, as to what a scientist would do. I will put to you an answer in the form of a question, and I would like you to answer my question. I suggest to you that it is quite {979|980} possible to determine if hydrocyanic acid in gas has come in contact with stone or brick or mortar or substances on walls. Do you know of a single scientific examination of any of those objects to determine, in 1945, the existence of hydrocyanic acid inside the walls of any buildings, sir, anywhere in the world, certainly in Europe?

A. Well, we have numerous structures described in German documents for utilization of gas for a variety of purposes. The particular gas to which you refer was delivered in various strength, and some of the structures were sealed off more securely, others less so, depending upon the purpose.

Obviously, to me, from the existence of the industry, the reported quantities of gas used in the majority for fumigation purposes —

Q. In the majority for fumigation of what, sir — lice?

A. Of buildings, of ships — oh, I see. Not necessarily lice. It could be cockroaches.

Q. Anything, bugs, were disinfected with Zyklon-B; right?

A. The bugs were disinfected? The building was disinfected. The bugs were killed.

Q. To kill the bugs they used Zyklon-B.

A. Pardon me for giving you a long answer again, but that "B" stands for the strength of the gas. There was Zyklon-C and B at the beginning, at least, and depending upon the purpose, these particular strengths were used in the strengths indicated for the purpose.

Q. Mm-hmmm. Well, my question, to get back to it, was whether any building — and there are so {980|981} many buildings you've mentioned, you said there may be gas chambers, there really were gas chambers and they are there but they are ruined or reconstructed, I want you to tell me if you know of one scientific report of the analysis of those structures that was used in conjunction with hydrocyanic acid, or Zyklon-B, which is otherwise referred to, for the killing of people. Just one such report.

A. No, I don't know of any such report unless it is, you know, somewhere in the records of the Soviet Polish Investigation Commission of Lublin, Maidanek, because you have to remember that aside from the Lublin chambers, otherwise known as Maidanek, and the one Auschwitz chamber still in existence, there wouldn't be any

THE COURT: Doctor, I think — do you know of such a report?

THE WITNESS: No.

THE COURT: All right. That's the answer to the question.

Q. MR. CHRISTIE: Now, isn't it true, sir, that Professor Rene Fauvre, toxicologist, in 1945, was asked to examine the corpses of people allegedly gassed at Struthoff-Natzweiler, five kilometers [kilometers] from Strassburg in Alsace-Lorraine, and have scraped things from the van and the alleged chambers itself where Kramer was supposed to have gassed people, and that the results of that report is that there were no poison evidence in his analysis?

A. I am not at all familiar with this report.

Q. Was there, in your knowledge, the existence of a single autopsy report to indicate that the cause of death of one person was from the ingestion of {981|982} hydrocyanic acid, prussic acid, or Zyklon-B in existence in this world today?

A. Unless you are referring to the report of Professor August Hirt, who caused Jews to be gassed in a chamber at Natzweiler for the purpose of investigating their skulls in an anatomical investigation, that would be it.

Q. Is that a report that you've seen?

A. Yes, I do believe that I've seen that in a document, but it does not give a detailed medical description of what transpired in the course of gassing, since that was not his purpose.

Q. Does it give any evidence that you know of that the person or persons died from ingestion of hydrocyanic acid?

A. He caused them to be gassed in order to sever their heads for anatomical studies.

Q. Where is this report, sir?

A. You will find it in the Nuremberg documents. I regret I can't give you the number.

Q. I see. And this is your evidence to say that that report exists, and that it does say that people died from prussic acid, hydrocyanic acid or Zyklon-B.

A. I am saying that this man caused several individuals to be gassed for the purpose of conducting an anatomical study of their heads. He caused them to be gassed first and then he severed their heads in order to conduct anatomical studies. He made sure that they would die with the proper dosage of Zyklon in a gas chamber.

Q. You say there was some sort of {982|983} command to perform gassings?

A. There was correspondence there. There was a request for the delivery of the individuals.

Q. Ah, this is what we have, then, is a correspondence, that is a request for the delivery of the individuals.

A. I am —

Q. Is that right?

A. Perhaps I should simply state that —

Q. No such report exists. That would be the simple answer.

A. I would not go so far as to say that no such report exists, but what you want —

Q. I want the report.

A. All right. If you want a detailed medical study of what happens to an individual after he has been gassed, I have not seen that, and that's it.

Q. I don't want a detailed study of what happens to a person after having been gassed. I want reports after the War, before the War, or during the War to show that between 1939 and 1945 someone was killed by the use of those substances.

A. Well, there are plenty of such reports, but you want a scientific report by a physician.

Q. Yeah. An autopsy.

A. No, no. Unless we are talking about this August Hirt document series, which I would not exclude the possibility here of something autopsal in his report, but I cannot now testify to that.

Q. No. You wouldn't exclude the possibility of something autopsal, but you certainly can't {983|984} swear that there was correspondence to prove anything there.

A. Well, I've just testified that they wanted individuals to be delivered to him for the purpose of conducting anatomical studies of their heads.

Q. I heard you say that three times, but specifically — let me finish my question before you make some remark. Would you mind telling me if

you recall seeing any document such as that, or any other, that proves that someone died from the use of prussic acid?

A. I don't really wish to answer that so quickly, because it's possible that I have seen such things.

Q. Okay.

A. But my mind is simply not structured towards these, towards these details.

Q. Okay. Now, there is something which I gathered from reading your testimony given on the first occasion here. You correct me if I am wrong, but did you not say that there were many documents to prove the killing of Jews in existence in Germany after the War?

A. Yes.

Q. I now produce and show to you an article entitled, "Social Education", or a booklet called, "Social Education April 1978". I turn to page 272 of this article, and there is an article that says, "Confronting the Moral Implications of the Holocaust".

THE COURT: Just a minute. You are showing the witness an article?

MR. CHRISTIE: I am, sir. He is reading over my shoulder.

THE COURT: Well, then, ask him if he recognizes the document.

MR. CHRISTIE: He is the author, sir.

THE COURT: I am not interested in you arguing with me. Do what I ask. Just ask him if — identify it.

MR. CHRISTIE: I am reading, identifying it.

Q. Are you the author, sir?

A. I'm sorry that I can't give a yes or no answer even to that. The footnote will indicate —

Q. That you are — you are the Raul Hilberg, Professor, Vermont University, author of "The Destruction of European Jews". This article is a transcript of an address delivered at a National Invitational Conference sponsored by the anti-defamation league of the B'nai B'rith held in New York on October 9th and 11th, 1977.

Do you recall those occasions, sir?

A. I do recall those occasions.

Q. I put to you words that are attributed to you and ask you if you said these things in this address:

A. Please, will you allow me to answer the question? You asked whether this was my article.

Q. I did, yes.

A. The transcript is a transcript with numerous errors of a lecture that I did not have time to edit.

Q. You can tell me whether this is true or false, whether you said this or not:

There were peculiar uses of language, the very language of people like Butz who denied the Holocaust [sic]{985|986} ever took place, who now say it has to be read literally. Resettlement, for example, and other such words, were euphemisms for killing. I kept looking for one single document, any document which contains the actual word "killing". After going through tens of thousands of documents I found the word just two weeks ago in a report of an actual killing action for real four-legged dogs. The word killings was not used for dogs. Human beings were specially treated. They were re-settled, or the Jewish problem was solved.

Those latter two words "re-settled", or the Jewish problem "solved" were in quotes. Does that accurately reflect what you said, sir?

A. That reflects it accurately enough.

Q. So I take it it is true, first of all that you didn't find in all your research reference to killing Jews at all, only reference that you would interpret as meaning as killing Jews.

A. All I said there was that the word "killing", "tunden" [töten] in German, was not used with reference to the annihilation of the population of Europe.

Q. But you would have us believe that all the German people and the German soldiers and S.S. who are familiar with taking orders and seem to be inclined to take orders would somehow learn a new language where killing was meant in resettling, and the Jewish problem solved also meant killing. Is that what you would have us believe?

A. I would not have you believe it. I state, as a fact, with all the exper-

tise at my disposal which may or may not be sufficient, that in correspondence there were strictly understood customary rules as to how the {986|987} killing process was to be referred to. As a matter of fact, even some of the euphemisms, after having been used repeatedly, were proscribed, forbidden, when, for example, Kohrerr, the aforementioned statistician in the S.S., used the word "special treatment", which was a euphemism for killing. It had been used so much it was understood so well, that Himmler said he no longer wanted this word used in the report and wanted the report changed and another word substituted.

Q. The other word was "transport[i]eren"?

A. No. The other word was "durchgeschleusst".

Q. I am putting it to you, sir, that the man you referred to, Kohrerr, wrote a letter to the newspapers in Germany in 1977 to explain that he had tried to find out at the time what the word "sonderbehandlung" special treatment, meant. Right?

A. I have no fewer than four affidavits by Kohrerr about his report. I don't know any of his letters to newspapers in 1977.

Q. Well, let me just put something to you. I suggest to you, and I am now showing you a copy of what purports to be the magazine "Der Spiegel"

A. I am familiar with it.

Q. It is a famous magazine in Germany. No. 39 in 1977 there is a letter attributed to Dr. Richard Kohrerr, and could you just have a look at the highlighted portion? I will read what I suggest it says in English, and you tell me if I have translated correctly or not.

MR. GRIFFITHS: As I understand, this is a letter that the Doctor has not seen before. {987|988}

THE COURT: That's my understanding.

THE WITNESS: I have never seen that letter.

MR. CHRISTIE: I am putting it to him and asking him some questions about it.

THE COURT: Well, you can't.

MR. CHRISTIE: Why not, sir?

THE COURT: The ruling is you can't because the Doctor is not familiar with the letter, unless you want to call the writer of the letter. If you tell me that you may do that — but it seems to me, Mr. Christie, that it would be most improper, once the witness has said he does not recognize the letter, to permit you to quote hearsay to him about a letter and a writer of which he has disavowed any knowledge.

MR. CHRISTIE: He hasn't disavowed any knowledge of Dr. Richard Kohrerr. He has referred to the Kohrerr Report repeatedly. He has quoted from it, and I haven't even seen or heard my friend object to the introduction of hearsay there. Now, I will withdraw the question. Fine.

THE COURT: You can rephrase it and quote to him anything you want as long as you don't attribute the quotation to something that this witness knows nothing about, or has said he knows nothing about.

If you want to put it to him, you can, but in different language.

MR. CHRISTIE: Thank you very much, sir.

Q. Would you be surprised, sir, to find that Dr. Richard Kohrerr is still alive? {988|989}

A. As a matter of fact, I would be. He must be getting on in years, and —

Q. Maybe I should more correctly say — I'm sorry, was I making an improper question?

THE COURT: Yes. The witness hadn't finished answering the question, I don't think. I don't know.

Q. MR. CHRISTIE: Would you like to say something else? You are surprised because he would be very old?

A. More than that, because Dr. Richard Kohrerr has made several statements, all of which I have seen, before German prosecutors. He was asked in 1960 to make another statement and he said he was no longer capable to do so, and that was that. That is in 1960. That is why I am surprised to see a letter purported to have been written by him in 1977, if he could no longer make a statement in the nineteen sixties.

Q. I show you a picture allegedly taken in July of 1978 of Dr. Kohrerr. Do you recognize him? Does that man look incompetent?

A. He is smiling, but he, himself, said he was no longer competent in 1960; and that particular correspondence written by a German prosecutor I have seen.

Q. Did Dr. Kohrerr write that?

A. A German prosecutor attempted to get a statement from Dr. Kohrerr, and he could not do so because of the alleged incompetence of Dr. Kohrerr to make statements.

Q. And that is the words of the prosecutor, not of Dr. Kohrerr that you are stating? {989|990}

A. Obviously.

Q. So I take it you understand the opinion of the German prosecutor?

A. I am giving you my best recollection of what I saw in that letter.

Q. Yeah. And it was signed by the German prosecutor.

A. Oh, yes.

Q. I see. Thank you. Not that it was a letter from Richard Kohrerr.

A. No. Richard Kohrerr was no longer, presumably, writing letters. That is what surprises me about this letter.

Q. I see. Well, what I am going to suggest to you is that he indicated in 1977 that he had contacted his superiors in the RSHA. Do you know what the RSHA was?

A. Yes.

Q. That was superior to Dr. Richard Kohrerr?

A. No.

Q. They were not superior to Richard Kohrerr?

A. No.

Q. And that he asked that this term, "sonderbehandlung", be defined, and he was told it meant resettled in the District of Lublin.

A. No. I can give you —

Q. Is that false?

A. It is not accurate.

Q. Thank you very much. Now, do you {990|991} know about Madam Veil?

A. I know of her from newspapers. That's all I could tell you.

Q. Are you aware that she's alleged to have been killed in the gas chambers and was referred to as such in the book by von Hefte, "Auschwitz" [Hefte von Auschwitz]? Are you familiar with that, sir?

A. Well, the journal to which you refer has been published over a period of years, and I cannot remember every reference in that particular journal. I just told you that I recall the name in newspaper articles and the like. I am in no way really capable of telling you anything about her, her life or anything, because it has interest to some people, but not really to me.

Q. Yes. So you, don't know whether she is alive or dead, I suppose.

A. I cannot tell you.

Q. Okay. Now, you gave evidence on a previous occasion right here before the jury that, when my friend asked you whether it was true to say that the cause of the Second World War was the matter of the treatment by the German Government of the domestic Jewish population, you said that the cause of the War was common knowledge, of the German invasion of Poland. Right?

A. I said that the German invasion of Poland occurred on September 1st, and that Great Britain and France declared war on Germany on September 3rd.

Q. Yeah. That was in answer to some relevant question as to whether the statement in the book, "Did Six Million Really Die" was true. Right? {991|992}

A. Well, the statement, you have it there, seemed to indicate that the Jews had a large, or perhaps even predominant role in causing the War to have been fought. That seemed to be the import of the statement.

Q. That's right. And I am now going to put to you certain historical events and ask you if that does not support the very point made in the booklet. Okay? Wasn't it true, or are you aware, that in 1933 Samuel Untermyer made a statement that indicated that War must be waged on Germany, that it must be waged unremittingly until the black clouds ...

Are you familiar with that speech, sir?

A. I may have seen it, but there were a number of speeches, and that's one of them. I don't recall it.

Q. Okay. Okay. Samuel Untermyer was a fairly important person, wasn't he?

A. No, I wouldn't characterize him that way.

Q. Do you know what his position was?

A. I don't even remember, but I do remember he was not an important personage.

Q. Mm-hmmm. And he urged the confrontation of Jews throughout the world. Do you agree with that?

A. That what?

Q. Well, it was a fairly prominent story, front page of the New York Times, Monday, August 7, 1933.

A. I didn't read it, in 1933, no. {992|993}

Q. But you are a historian of sorts. You gave evidence about what you thought was the cause of the Second World War and you said that it was not correct to believe that the relationship of Germany to its Jewish domestic population had anything to do with the War.

A. No. No. You are talking about whether the Jews caused the War.

THE COURT: Just a moment, gentlemen. Mr. Christie, you have put a document in front of a witness. You haven't asked him whether he recognizes the document, although I thought you were going to do that, and then you asked him about the causes of the Second World War. Which do you want done first?

MR. CHRISTIE: I think, perhaps, to accept Your Honour's direction, I will put the document in front of him and ask him if he recognizes it.

Q. Do you recognize the title of the "New York Times"?

A. I recognize this as a print-out from the "New York Times", August 7, 1933.

Q. It is already in this article being indicated that —

THE COURT: Ask him if he recognizes the article, please.

MR. CHRISTIE: Well, I can put it to him whether he recognizes it or not, can't I?

THE COURT: No. If I ask you to do it, please do it. Now, please do it.

Q. MR. CHRISTIE: Well, do you recognize the article?

A. I have not read this particular {993|994} article. I probably have seen a headline, but I have never read the entire text of this particular speech. I have testified before that there were numerous speeches. It is humanly impossible and fruitless to read all of the speeches of personages of importance or less important as they react to persecution in 1933. There were lots of speeches.

Q. Well, I take it, then, that you are not familiar with that speech at all?

A. No. I have never read it.

Q. Does it come as a surprise to you that speeches reported on the front page of the "New York Times" at that time were saying that there was a campaign to exterminate Jews in 1933?

A. Is that on the front page?

Q. Well, I think it says the front page. I don't know. If you want to tell me otherwise, and you know more than I do, go ahead.

A. Well, usually there is a page number, and there isn't in this particular print-out. The "New York Times", I must say, especially in those days and this I can testify to — printed a lot of things.

Q. I see. Does it come as a surprise to you that major comments were being made about extermination as early as 1933 in the press in a form of propaganda about this being the cause of war and seeking war, specifically referring to the Jews as being the victims of persecution, as early as 1933? Does that surprise you?

A. Well, I do not know in what context such a word was used. It is common knowledge, and it is obvious that there was no campaign to annihilate {994|995} the Jews — I have said this before — in 1933. I have testified to and written about the evolution of this process. People were killed as Jews because they were Jews in 1933, but there was not, in 1933, an immediate threat of total, physical annihilation of the Jewish population of Germany.

Q. So if anybody said in 1933 that the Hitler regime originated to fiendishly exterminate the Jews by placarding Jewish shops warning Germans against dealing with them, by imprisoning Jewish shop keepers,

would that be false news to say that?

A. It is a form of rhetoric, since it was common knowledge to anybody what was happening. It was widely reported. People knew what was and what was not occurring, because it was at that moment a time of peace and there were correspondents in Germany reporting daily on the events there.

Q. So it was not a form of false news; it was a form of rhetoric?

A. I would say so.

Q. Now, you said that the Nuremberg Trials — would you disagree with what the article said, “Did Six Million Really Die”, what it said? Does it misrepresent, them?

A. Well, would you like to point to a specific reference? There is so much misrepresentation here that I said it was a lot of concoction, untruth, mixed with half-truths, occasional truths, a sentence may be half a sentence.

Q. You made a blanket reference to it as being basically a biased statement. {995|996}

A. Oh, yes. Basically biased.

Q. Now, in its reference to the Nuremberg trials would you agree that it condemns them and says they are the result of torture and that they had pre-conceived notions of guilt and that kind of thing?

A. Yes.

Q. You consider that true or false?

A. I consider that largely false.

Q. Do you know who Harlan Fiske Stone was?

A. A jurist.

Q. Yes. Chief Justice of the United States.

A. Mm-hmmm.

Q. If I said that this article, “Did Six Million Really Die”, said portions of the Nuremberg trials could be capsulized by saying that the Nuremberg trials were a high-grade lynching party, would you say that I am false?

A. Yes.

Q. Okay. You wouldn't consider the Nuremberg trials as a high-grade lynching party.

A. Absolutely not.

Q. Would you consider that, if it came from Harlan Fiske Stone to that effect, would you consider it somewhat credible?

A. Well, you say to that effect; did I. he use “lynching party”? Did he use any such phraseology?

Q. Yes. I refer to the book of the autobiography of Harlan Fiske Stone, member of the Law, by A. Thomas Mason. I refer to page 716 where I quote {996|997} from the second paragraph.

MR. GRIFFITHS: Excuse me, just before we quote from the second paragraph, is this something that this witness is familiar with?

MR. CHRISTIE: We are not allowed to ask questions about this, Your Honour?

THE COURT: Go ahead, Mr. Christie. Don't be editorializing all the time. Just do what you must do and get on with this.

MR. CHRISTIE: Thank you very kindly, sir.

Q. It says, and I quote:

“Yet irritation growing out of the accumulated inconvenience he attributed to Justice Jackson's absence provoked even more intemperate comments. ‘Jackson is away conducting his high grade lynching party in Nuremberg,’ he remarked. ‘I don't mind what he does to the Nazis, but I hate to see the pretense that he is running a court and proceeding according to common law. This is a little too sanctimonious a fraud to meet my old-fashioned ideas.’”

Did I read that correctly?

A. Yes.

Q. Now, who is Justice Jackson?

A. Mr. Justice Jackson was a member of the supreme Court of the United States.

Q. He was a prosecutor at Nuremberg, wasn't he, of the United States of America?

A. He was a prosecutor at Nuremberg of the United States of America. Prior to being in the Supreme Court of the United States, he was the Attorney {997|998} General of the United States.

Q. Yes. And I put it to you that it's very clear that at least Harlan Fiske Stone referred to Jackson is away conducting his high-grade lynching party in Nuremberg, he is referring to nothing else than the Military Tribunal of which Mr. Justice Jackson was the prosecutor and a member of the United States of America.

A. Well, Mr. Thomas Mason, who wrote this biography, on page 716, may have quoted, for all I know, an intemperate remark made at a lunch table by the Chief Justice who was annoyed because one member of the Court was taking a prolonged leave of absence to Nuremberg.

He was, as he correctly described him, old-fashioned. Now, he may have used his intemperate language — I don't challenge the accuracy of the quotation, but you must put it into the context of the book, of the remark, of the circumstances, and of everything else.

Q. Mm-hmmm. So would you call it false news to say that the IMT, International Military Tribunal, was regarded as a high-grade lynching party?

A. Well, I cannot probe the mind of every jurist, and there were, no doubt about it, difficult legal questions connected with the indictment, particularly the notion of a crime against peace, which is nothing to do with the Holocaust, and about which a great deal has been written. There is no doubt that this particular trial caused, in the legal community, much discussion, be it in the matter of evidence, or in the matter of substance, particularly as it pertains to crimes against peace. I said before that Mr. Justice Jackson had been {998|999} Attorney General of the United States. As Attorney General he was asked whether it was in conformity with the Constitution of the United States to permit the transfer of fifty destroyers to Great Britain, and at a time when Britain stood alone. He advised them that it was in accordance with the Constitution and of international law to do so. He felt the obligation to reinforce the point that one could take measures short of war in sending fifty destroyers to another country in need that was defending itself and other countries against aggression. He wanted to nail the point against aggression. He stated this clearly in the Conference in London, establishing the Charter of the International Military Tribunal. That has caused controversy.

Q. Would you agree with this statement about the Nuremberg Tribunal referred to at page 715, quoting again, I suggest, quoting:

“... the Chief Justice expressed his disapproval of the entire proceedings by refusing Biddle's personal request to swear him in. ‘I did not wish,’ he explained, ‘to appear, even in that remote way, to give my blessing or that of the Court on the proposed Nuremberg trials.’”

This, I gather, is the Court called the Supreme Court of the United States; is that right?

A. This is the man who is the Chief Justice.

Q. Yes. Fairly prominent jurist, isn't he?

A. So is Mr. Justice Jackson.

Q. Yeah. Now, would you agree that he {999|1000} seemed to indicate that he didn't approve of the Nuremberg Trials?

A. There is no question that that is the indication.

Q. All right. Did he say further on that —

A. He is quoted as saying, please. I don't know what he actually said.

Q. Well, I am looking at a book which you could look at, anyone can read. Is it false news?

A. What do you mean by “false news”?

Q. Do you take issue with the truth of these statements?

A. I don't take issue with the truth of what was in the mind of Mr. Chief Justice Stone as reported here.

Q. All right.

A. But all you seem to be asking me about is whether I agree with what was in the mind of Mr. Chief Justice Stone respecting a whole lot of questions which I believe mainly to be questions of the count of aggression.

Q. Well, let's let the jury decide what the statements say. I just want to ask you, who made the judgment on the book, “Did Six Million Really Die?” as to its distorting the matters at Nuremberg, whether or not you believe these statements are true or not yourself, expert as you are.

Now, do you understand me?

A. Do I believe what Mr. Justice Stone is saying?

Q. No. Do you understand me? {1000|1001}

A. Maybe I don't. Are you asking me whether I agree with Stone?

Q. No. I am asking you whether you agree with the words spoken by Stone.

A. No.

Q. All right. Let me read some more of them. He is quoted as saying:

"For your information, but not for publication as coming from me, I would like to advise you that the Supreme Court had nothing to do, either directly or indirectly, with the Nuremberg Trials or the governmental action which authorized them. I was not advised of Mr. Justice Jackson's Participation until his appointment by the Executive was announced in the newspapers."

A. That's right.

Q. Do you agree with that as to the truth or falsity?

A. There is no question of it that here was a slight conflict, shall we say, between the judicial and executive branches.

Q. He is quoted as saying further in the same page:

"So far as the Nuremberg trial is an attempt to justify the application of the power of the victor to the vanquished, because the vanquished made aggressive war, ... I dislike extremely to see it dressed up with a false facade of legality."

A. Well, as I've testified, the issue – and I did testify without even reading this – that the issue was the count of aggression.

Q. We will read on and see if this is {1001|1002} so, but do you agree that the Nuremberg trials were dressed up in a false facade of legality?

A. No, I do not agree.

Q. All right. So you disagree with the Chief Justice of the United States on that point.

A. If I may be permitted to, yes.

Q. Oh, yes.

A. I have no training in international law.

Q. Yes, you have expressed your opinions without reservation. I am just asking you if you agree with him.

A. I do not agree with him.

Q. All right. He goes on to say:

"The best that can be said for it is that it is a political act of the victorious States which may be morally right, as was the sequestration of Napoleon about 1815. But the allies in that day did not feel it necessary to justify it by an appeal to nonexistent legal principles."

Do you agree that the principles of Nuremberg were non-existent legal principles?

A. I certainly do not agree. If I may give a reason for my statement, I will be happy to do it.

THE COURT: No. Just, you don't agree. Go ahead.

Q. MR. CHRISTIE: So I take it although this may have been – and I suggest to you it was the opinion of the Chief Justice of the United States, you have a different opinion. I give you the right, but {1002|1003} that is true, isn't it?

A. Well, you are quoting statements by the Chief Justice evidently made privately in which he even said, "I don't want to be quoted". This man was expressing private opinions which are printed, and I don't agree with them.

Q. All right. Fine. But you, certainly, would acknowledge that that probably was his opinion and it is published.

A. Absolutely.

Q. And he is entitled to that opinion; right?

A. Well, the entitlement is a difficult question. He, himself, did not feel that he should make his opinion a public statement.

Q. Oh, so because this booklet, "Did Six Million Really Die?" makes similar statements publicly to what the Chief Justice of the United States makes privately, then you condemn this booklet.

A. No. These are two separate issues. The concern of the Chief Justice, apart from the fact that he was annoyed by the prolonged absence of one of the nine brethren in Nuremberg, was the count of aggression, the fact that heretofore there had not been criminal international law, as

he saw it, making criminal an aggressive act. He did not like the retroactivity of this count, as he saw it. He made no comment whatsoever about war crimes. He made no comment here whatsoever about prosecuting criminals or killing masses of people. He confined the comment, as you read it to me, to the count of aggression. The booklet, on the other hand, deals with {1003|1004} whether six million really died and raises the question of whether the prosecutions at Nuremberg were condemned by the Chief Justice for that reason.

Q. I suggest to you that there's reason to analogize that he was criticizing the whole procedure at Nuremberg.

A. I see no reason to make that assumption.

Q. Well, I suggest to you that we are allowed to make these assumptions based upon what he said, sir. Do you disagree?

A. Well, it was obvious that he was in a state of discomfiture, to say the least, about the presence of Mr. Justice Jackson, first at the London Conference in which the counts were debated and drawn up, and secondly as prosecutor representing the United States.

The point about which he was most discomfited was the count of aggression. I said this before. You even showed me the passage.

Q. Mm-hmmm.

A. And that, in my opinion, is a different matter from the well-recognized, well-precedented action of crimes being prosecuted if they have happened to be war crimes. War crimes are an established part of customary international law. You certainly know that, sir. You are the lawyer.

Q. I suggest to you what he said is:

"I don't mind what he does to the Nazis, but I hate to see the pretense that he is running a court and proceeding according to common law."

I suggest to you he is not just {1004|1005} criticizing the indictment, but the constitution of the whole Court, sir; isn't he?

A. Let me do a little bit of mind-reading, since you are inviting me to do so.

MR. GRIFFITHS: That is not necessary, Your Honour, editorial comments from my friend.

MR. CHRISTIE: I just wanted to address the question.

THE WITNESS: The Chief Justice of the United States was born and lived with a system of a written Constitution in which all crimes, to my understanding of it, are spelled out in statute, laws passed by legislatures. International law is a different proposition, but it, too, defines well-understood crimes that may result in prosecutions; that called war crimes is a well established branch of international law, as is piracy; but counts of aggression is something new and did not appear prior to the organization of the Charter and the Tribunal in 1945.

Q. MR. CHRISTIE: Can you name me one criminal court that was set up by one or more nations to try the nationals of another nation in war for anything called the crime against humanity, previous to Nuremberg?

A. The crime against humanity was not a crime so generous. The crime against humanity was considered only if it happened also to have been a war crime. There was no such thing as trying a person, a German, let us say, for having killed Jews prior to the outbreak of the War on German soil. Such an event could not be prosecuted at Nuremberg. The only way in which so-called crimes against humanity could be introduced, and {1005|1006} the record is very clear on that, is if it happened to have been a war crime. To be a war crime, the victim had to belong, by nationality, to one of the nations at war with Germany or, if the victim did not belong to one of these nations, he had to be killed on the soil of one of the nations at war with Germany. Other than that, one could not find a count of guilt in the case of so-called crimes against humanity.

Q. I say again to you, sir, that, rather than discussing those esoteric topics, the Chief Justice, in his comments published as his autobiography, was criticizing more than the technical procedure; he was saying he thinks Jackson is not running a Court – he said:

"... but I hate to see the pretense that he is running a court and proceeding according to common law."

I suggest to you he is criticizing the constitution of that court.

A. Of course Mr. Justice Jackson didn't run the Court. He was one of the prosecutors and, obviously, the entire comment from which you are reading is off the cuff, perhaps interview-type of deliberation, not something that a jurist with the experience and training of Mr. Justice Stone would be writing if he wanted his words to be weighed carefully.

Q. But it is certainly information published in his name that is publicly available, isn't it?

A. I don't deny that.

Q. Now, you did criticize the booklet, "Did Six Million Really Die?" specifically for saying that the relationship of the German government to the Jews was {1006|1007} the cause of the War. Right?

A. Yes.

Q. Do you know who was the person by the name of Forrestal? Who was he?

A. He was the secretary of the Navy of the United States during World War II, and subsequently he was the First Secretary of Defence of the United States.

Q. Okay. So I now produce and show to you a book entitled, "The Forrestal Diaries". Do you recognize the picture of the person?

A. I have the book in my possession.

Q. I put it to you that although you take the view that the pamphlet, "Did Six Million Really Die?" was wrong to suggest that the Jews had, in effect, been the cause of World War II, that in this book published for all the world to read called, "The Forrestal Diaries", at page 122, a photocopy of which I produce to you, a highlighted portion and underlined portion which I show to you, he says:

"Chamberlain, he says, stated that America and the world Jews had forced England into the war."

Now, who is the Chamberlain he is referring to, Neville Chamberlain?

A. Now, you say "he says". Who says? It is truly out of context. Who is the "he"?

Q. We'll read previous to that if you think the context is erroneous.

A. Who is "he"?

THE COURT: We will do that at two-thirty. {1007|1008}

MR. CHRISTIE: Thank you, Your Honour.

— The jury retires. 1:00 p.m.

— The witness stands down.

— Luncheon adjournment.

— Upon resuming.

— The witness returns to the stand.

— The jury returns. 2:35 p.m.

THE COURT: Go ahead, Mr. Christie.

MR. CHRISTIE: Thank you, Your Honour.

Q. This morning, witness, I was showing you an affidavit referring to the interrogation and the information from Mr. Franz Ziereiss and you looked over that with me; is that right, sir?

A. Yes.

Q. And we had some words about whether or not it was introduced as evidence, and we don't know that; is that right?

A. I don't know it at the moment.

Q. No. What I am interested in is the quotation of Franz Ziereiss where it says — I want you to correct me if I am taking it in any way out of context:

A gas plant was built in a concentration camp in Mauthausen by order of the former garrison doctor camouflaged as a bathroom. Prisoners were gassed in these camouflaged bathrooms ...

And it goes on to refer to the gassing of prisoners at Mauthausen; right? {1008|1009}

A. Mm-hmmm.

Q. So that's what we got from a man who was shot three times trying to escape, and apparently was dying at the time. Right?

A. Correct.

Q. Right. He confesses to gas chambers at Mauthausen. Right?

A. Yes.

Q. Okay.

A. Or one gas chamber, perhaps.

Q. Well, he says people were gassed in camouflaged bathrooms — prisoners. Right?

A. Yes.

Q. He confesses to that. Now, do you regard Yehuda Bauer as an authority on these matters?

A. Yehuda Bauer specializes in residue — that is, he has a knowledge, of course, of what transpired inside Nazi Europe, but his speciality in Holocaust studies is the outside reaction to the Holocaust.

Q. Did he write a book called, "A History of the Holocaust" by Yehuda Bauer?

A. It is a small history written by a graduate student, yes.

Q. And I am referring to page 209 when suggest that he says:

"Although no gassings took place at Mauthausen — many Jews, as well as non-Jews, died there in a process the Nazis called 'extermination through labor.'" Am I quoting correctly?

A. Yes.

Q. So a reputable scholar in the area {1009|1010} would you agree — says that no gassings took place at Mauthausen.

A. Well, he is a reputable scholar, and in this basic text he stated his best belief, since he had no other information, that there were no such gassings. That is what he stated.

Q. Is that false news?

A. Yes, it is, as it turns out, because more recent research published by Alfred Streim in a book about the fate of Soviet prisoners of war in German hands does refer to gassings of Soviet prisoners in a Mauthausen camp. I have not personally done this research. I am, however, familiar with the book and know Mr. Streim to be a very careful researcher.

Q. Was he relying on Soviet information?

A. No, because the camp Mauthausen is in Austria, and he was relying on a variety of sources, including statements made by people who observed and were witness to these events, as well as other material that he had at his disposal, and he has a lot of material at his disposal.

Q. Well, rather than deal with the book, which isn't in evidence and we can't consider, would you answer me this, as to whether you would consider the statement of Yehuda Bauer to be a false statement.

A. Well, I would consider that it is not a correct statement in the light of more recent research. I think that he thought there were no gassings going on, and there were.

Now, I am not suggesting that these were large-scale gassings, but there were periodic {1010|1011} gassings of Soviet prisoners according to Streim, who in this matter is probably the best authority.

Q. Mm-hmmm. When did he publish his book?

A. About two years ago.

Q. It seems like it's the same time Yehuda Bauer published this book.

A. Well, you know the publication process of any manuscript takes at least a year. This was what we call in the trade a "quickie". It was a rapidly produced book with a graduate student —

Q. Well, I put it to you this is a reputable scholar who says there were no gassings in Mauthausen. You may disagree with him and say you have better knowledge, but it seems that Mr. Ziereiss was confessing to something Mr. Bauer says didn't happen.

A. And it turns out, according to Mr. Streim, it did happen.

Q. So we have conflicting views from reputable authorities on the matter; is that right?

A. Well, you see — you do have conflicting views, but one man, namely Streim, he was the German author I referred to, did rather thorough research. The other Professor Bauer assumed from the lack of evidence at his disposal that there were no gassings.

Q. May I put it to you that another Jewish source (Reporter's Note: Name unintelligible) ... published in 1968 said there were no gas chambers in Mauthausen. You say she is wrong?

A. She might very well be wrong. I once saw the woman, but I know nothing about her. You {1011|1012} refer to her as Jewish. That's news to me.

Q. Is it your evidence that the statements about torture at Nuremberg in the pamphlet in "Did Six Million Really Die?" are false?

A. I think "torture" is a rather broad word, especially when used by prospective defendants who said they were tortured. I don't exclude the possibility of someone [someone] having been mishandled by captors, especially immediately after capture. One must take these things realistically into account. They could have happened and, probably in a number of cases, did happen. And if Hoess made a statement, signed a statement late in the evening after having been, as he says, whipped with his own whip, and in the statement were words written by somebody else that he's signed, particularly with regard to a number – well, even without having realized that this may have been a statement which he signed, prepared by somebody else, I would not use this, number, and I did not use it.

Q. Well, I am curious as to whether you say that what this booklet says, "Did Six Million Really Die?", about torture, is true or false.

A. I don't think – well, I don't exclude the possibility of one or another person having been mishandled. Actual torture, that is a broad word, but I do not think it is a broad practice and not, particularly, after the initial period of capture, confusion and the various people, military police and everything else, handling prisoners.

Q. Are you familiar with the Simpson van Roden Commission?

A. No, I am not – what are you {1012|1013} referring to particularly? I may know it by another name. I am not sure what you refer to there.

Q. The Simpson van Roden Commission, I suggest to you, was instituted to investigate the allegations of abuse against the Allied Forces in their conduct with prisoners at Swabisch Hall as alleged in the article, "Did Six Million Really Die?". Are you familiar with the Simpson van Roden Commission?

A. No, I am not.

Q. I put it to you that the truth is that Edward van Roden and Judge Simpson were entrusted with the responsibility to investigate those allegations, and your answer is, you don't know about that?

A. I don't know the allegations, even.

Q. Well, I will put it to you that the truth is that the allegations were of beatings and brutal kickings, knocking out of teeth and breaking of jaws, mock trials, solitary confinement, posturing as priests, very limited rations by virtue of deprivation, proposals of acquittal – have you ever heard such complaints with respect to the investigation at Dachau?

A. You mean prior to the Dachau trial?

Q. In regard to allegations that approximately 139 prisoners were handled in that fashion, with those methods.

A. Well, I can't say that I haven't heard anything, because one does hear things, but I am not aware of anything that is confirmed in the nature of an official finding, and I am not familiar with the particular document you have in your hand.

Q. Well, I am referring to an article {1013|1014} published in the magazine known as "The Progressive", February 1949, in which an article was published called, "U.S. Atrocities in Germany" by E.L. van Roden, and I am just going to ask you whether you consider this as true or false, because you've said that the allegations in the brochure are false when it says, American Atrocities in Germany by Judge Edward van Roden, and I quote:

"American investigators at the U.S. Court in Dachau, Germany, used the following methods to obtain confessions: Beatings and brutal kickings. Knocking out teeth and breaking jaws. Mock trials. Solitary confinement. Posturing as priests. Very limited rations. Spiritual deprivation, Promises of acquittal. Complaints concerning these third degree methods were received by Secretary of the Army Kenneth Royall last Spring."

Judge van Roden was one member appointed to go to Germany to check up on the reports. Now, do you think that is a false statement?

A. I could not confirm or deny it, because it's the first time I am looking at it, and I have no independent knowledge of what happened.

Q. Well, you see, the reason I refer to that is because in the pamphlet, "Did Six Million Really Die?" it says that there were floggings until they were soaked in blood, after which their sexual organs were trampled on as they lay prostrate on the ground.

Do you consider those statements in the context of which you read them – and I believe you said you read them – do you consider those statements false?

A. Well, I consider that a bit fanciful because I have never seen it corroborated, mentioned any-{1014|1015}where, the particular detail that you have just read.

Q. Okay. I am going to read on from the same article which I referred to as "The Progressive", February 1949, and Judge van Roden writes:

"Our investigators would put a black hood over the accused's head and then punch him in the face with brass knuckles, kick him and beat him with rubber hose. Many of the German defendants had teeth knocked out. Some had their jaws broken. All but two of the Germans, in the 139 cases we investigated, had been kicked in the testicles beyond repair."

Now, are you aware of those statements having been made sometime in 1949?

A. I am certainly not, and if this is an official report, I would certainly like to have been referred to see an official report, rather than an article in a magazine called "The Progressive", which I could then read.

Q. Yes. Well, do you consider those statements to be false?

A. I have no independent knowledge of the events alleged there.

Q. Well, when I ask you whether the article, "Did Six Million Really Die?", in respect to, allegations that they were flogged until they were soaked in blood after which their sexual organs were trampled on as they lay prostrate on the ground – you said that was false; is that correct?

THE COURT: No. He said that was fanciful.

MR. CHRISTIE: Fanciful. {1015|1016}

Q. I refer to a book entitled, "Manstein", by R.T. Paget. Have you heard of the book?

A. I know of Field Marshall Mainstein [sic]. What is the book about?

Q. The book is by R.T. Paget, his defence lawyer.

A. I don't know the defence lawyer, and I have not read this particular book.

THE COURT: I'm sorry, have you heard about the book?

THE WITNESS: No. As a matter of fact I haven't. I have read a book by Mainstein, but not about him. That's his picture.

Q. MR. CHRISTIE: That's the picture of Field Marshall Erich von Manstein, and it is by R.T. Paget, K.C., M.C.

A. I have heard the name Paget in a totally different connection, not with Mainstein. He has made other remarks; but not in this connection.

Q. All right. Now, you've said those remarks in the booklet, "Did Six Million Really Die?", were fanciful. I ask you if, in this book, on page 109, the words are written: "This commission, consisting of Judges Simpson and Van Roden, and Colonel Laurenzen had reported among other things that of the 139 cases they had investigated 137 had had their testicles permanently destroyed by kicks". Am I reading correctly, sir?

A. You are reading from a book, and you are reading correctly.

Q. Yes. Would you agree that this book seems to confirm what is in the pamphlet of "Did Six {1016|1017} Million Really Die?"

THE COURT: Mr. Christie [sic], aren't we going through the same thing that we went through this morning? He does not know the book. How can he answer the question?

MR. CHRISTIE: May it please Your Honour, he did answer the question as to whether these remarks were accurate or not. He said they were fanciful.

THE COURT: That was in Exhibit 1.

MR. CHRISTIE: I am showing that he is making statements that he doesn't know from investigations are true. I am not saying he is trying to mislead us, but I am saying he tends to make judgments without having looked at the relevant information on the subject. That's all.

THE COURT: That may or may not be, but that does not derogate from the fact that he doesn't know the book, so therefore, how can he possibly answer the question, if he doesn't know the book, when you ask him if it is accurate or appears to be accurate – because you have no basis for that. Go ahead. What is the next question?

MR. CHRISTIE: Thank you, sir.

Q. Would you agree with me that this book tends to provide confirmation of the statement in, "Did Six Million Really Die?" that they were flogged and their sexual organs were trampled?

A. All I can tell you is that you are reading words that re-appear in the pamphlet. The name Paget as the author of, or counsel of Manstein, he is known to me in an entirely different context, about {1017|1018} comments made in the House of Commons about black people. That is the context in which the name is known to me.

Q. I see. Do you wish to express other things about the man Paget?

THE COURT: Not unless asked. Next question.

Q. MR. CHRISTIE: Now, you said that "Confessions Under Torture", how would you describe it in the pamphlet, "Did Six Million Really Die?", how would you describe it in the Chapter 12 in "Confessions Under Torture"?

MR. GRIFFITHS: Give him the book. The Court has it.

Q. MR. CHRISTIE: I thought you read the book; but I should more fairly give you a copy. I think you made some comments about it before, but I am specifically asking you to draw your attention to page 12, and the Chapter, "Confessions Under Torture".

A. All I can say about this column and some additional material on the next page is that it refers to a situation involving several individuals. These are not, in the case of the matters we discussed earlier in Malmedy, Holocaust matters, and so far as the matter regarding the Dachau trial is concerned, I have no independent knowledge of what this particular information alleged here seems to indicate. I still have not seen from you or anyone else the official report, whether it was accepted or not accepted. I know about the Dachau trial, but that is all I can say. It involves personnel in the main, at Dachau. It was an early trial. It was not one of the Nuremberg trials, and what else can I say? {1018|1019}

Q. Well, maybe you can say whether that column is true or false. That is what I asked you.

A. It is, at the very least, misleading, and the statement is, to my way of thinking, an adequate description of the judicial process that took place in the multitude of trials, particularly important ones at Nuremberg. I never included the possibility of manhandling or of torture, even; but as a description of a general procedure, it's false.

Q. You mean that statements in that column are false?

A. If they are by one means to characterize the prosecution of war criminals generally under American, or, for that matter, British jurisdiction, I would not accept it as true.

Q. Well, what about it as false? What statement there is false on that column? I am not asking you to extend your view beyond that. Tell me one statement there that is false.

A. If you mean the specific statement regarding this and that particular individual or this and that particular event, I will not comment upon truth or falsity, because I do not have the independent knowledge necessary to make such a comment.

Q. I put it to you that every single statement on that page is true. Do you deny that?

A. Maybe. Maybe not.

Q. Previously you said it was fanciful.

A. It seems to me to be fanciful still.

Q. You still think it's fanciful.

A. I would have to be convinced by {1019|1020} something better than what you have shown me. You have not shown me a single official document. You have shown me "The Progressive" magazine, and a book by Paget.

Q. All right. So you still maintain it's fanciful.

A. That is the description of what is in my mind when I look at it. I do not exclude the possibility of elements of truth in this allegation.

Q. Do you have any evidence of one single lie in that whole —

A. I have no independent knowledge of what transpired. One is hard-put, ever, to say something did not happen. You should know this in this trial.

Q. Well, I am going to refer you to a trial that I suggest appeared in the

"New York Times" March 5th, 1949, and in it it says —

Mr. GRIFFITHS: Well, perhaps we could hear whether Dr. Hilberg has seen this article before.

THE COURT: I agree.

Q. MR. CHRISTIE: Have you seen it, sir, before?

A. I have read about the Malmedy trial. I cannot be totally certain that I read this particular article at that time, but the various articles about Malmedy are familiar to me, in a general way.

Q. You are aware, then, that there were accusations of the use of physical violence against the accused.

A. Yes.

Q. Are you aware of the Congressional {1020|1021} Record of March 10th, 1949, and a speech by the Honourable Lawrence H. Smith in the House of Representatives of the United States?

A. No. This particular speech is not familiar to me.

Q. Would you consider remarks made in there which, in fact, repeat the accusations that I've raised as still being fanciful?

A. All I could tell you, sir, is that as a sometime reader of the Congressional Record, most anything will be included at the Congressional Record, including the raising of radishes.

Q. So you consider these accusations in the category of such ludicrous things as the raising of radishes?

A. All I am telling you, sir, is that if you wish to convince me of something, show me at least an official document, and not the allegations repeated and repeated and repeated, which are included in various publications.

The Congressional Record is not one which one looks for any final authoritative statement in regard to certain matters, because members of Congress are given free rein to publish anything they wish there.

Q. So you consider the suggestion that there was a Simpson van Roden Commission just a fanciful figment of my imagination.

A. I am not saying to you that there was no such Commission. I testified that I didn't know about it. I would like to see, if you want me to take a stand on something or other, its official report and the {1021|1022} way it was received or not, approved of or not. I have no independent knowledge of the matter.

Q. Now you, as an expert in this area, having expressed an opinion that this article is fanciful, could you tell me what you would consider authoritative? Would you consider an article in "The New York Times" of that date authoritative?

A. I am a document man.

Q. Yes.

A. And I would look at documents also if they describe American actions or British actions in preference to anything in a newspaper, even the "New York Times", because so long as one can look at and have access to official, reliable information, why not use it?

Q. Well, this was common knowledge at the time, sir, I suggest; would you disagree?

A. Well, to some extent the Malmedy trial, which involved the prosecution of German personnel who have alleged to have gunned down American prisoners of war, was certainly a matter of common knowledge, and the manner in which these prisoners were treated and the allegations is also a matter of common knowledge. There was great anger in the United States about the shooting of American prisoners, and it is not impossible, in my mind, that the Germans, once caught, were not treated appropriately in accordance with the judicial processes necessary.

Q. Isn't the thesis of this article, Professor, that in view of the fact that there was torture involved, the things alleged in regard to the Dachau and {1022|1023} Malmedy trials, that it is reasonable to believe that the same atmosphere existed in relation to the International Military Tribunal?

A. Well, that is the crux of the matter. I am glad you raised the question, because, you see, the International Military Tribunal and the subsequent trials were conducted in an entirely different atmosphere. They were not immediate post-war events. They were not localized events. They involved carefully monitored and carefully — procedures in every



respect with highly trained police making sure that prisoners were not maltreated.

Q. So you are saying that the Malmedy trials and the Dachau trials to which I suggest that you disagreed with me, that you have no knowledge of the existence of the Simpson van Roden Commission that you suggest may or may not have happened, you are not aware if they did happen, an indication that such a situation existed at the International Military Tribunal, because that was earlier. Right?

A. Not only at the International Military Tribunal, but the subsequent trials, as well.

Q. I'd like to ask you whether you consider books authoritative on the subject of this inquiry that I've suggested existed – the Simpson van Roden Commission.

A. Books?

Q. Books, yes. Do you consider those authoritative?

A. What books?

Q. Well, the book entitled, "Crossroads {1023|1024} of Death", by James Weingarntner. Did you consider that authoritative?

A. Counsel, if you are going to empty the Library of Congress, its books, you will discover that I haven't read most of them. This is one.

Q. Well, you set yourself up as an expert to say that articles that the accused is alleged to have published are fanciful; and then, when I come forward with books, newspaper clippings, you just say, "I don't know". Now, how do you justify that?

THE COURT: You don't have to answer that question. What's the next question?

Q. MR. CHRISTIE: Well, do you take issue with this statement reported in the book I have referred to at page 192:

Simpson, van Roden and Laurenzen expressed the by now customary reservations about certain of the tricks and ruses used by the American investigators, in particular the so-called mock trials. They profess to be satisfied that the twelve death sentences which had been assigned to the guilt of the men had been adequately demonstrated. They doubted, however, that an American court martial would have, upon Americans convicted of similar crimes; in view of what appeared to be improper investigative methods in the absence of even-handed objectives in sentencing, therefore, the report recommended that all deaths be commuted to live imprisonment.

Do you dispute those statements?

THE COURT: What was the document from which you read?

MR. CHRISTIE: "Crossroads of Death", {1024|1025} the Malmedy trial.

THE COURT: Isn't that the book from which the witness hasn't read?

MR. CHRISTIE: I asked him if he disputed the statement.

THE COURT: Isn't that the book which you asked him about that he hasn't read?

MR. CHRISTIE: Yes.

THE COURT: You can't — what is the next question? You know better than that.

MR. CHRISTIE: I suggest that I can ask him questions which define his beliefs.

THE COURT: You can do that, but not from books he hasn't read. You can rephrase it, but not by reading something from a book that the witness told you he hasn't read.

Q. MR. CHRISTIE: Do you maintain that it isn't true that the 139 prisoners were beaten in the way described in this booklet?

A. May I repeat for the fourth time that I have no independent knowledge of the treatment of the 139 prisoners and the events in the Dachau trial.

Q. Then why do you say it's fanciful?

A. Because I was asked how this particular passage struck me. This is how it struck me. This is how it still strikes me. I am, of course, willing to look at something that contradicts what my impression is.

Q. It has to be a document, though; is that right?

A. It had better be something that is {1025|1026} a little more authoritative than you have shown me.

Q. Well, do you consider this false news: I put it to you that in the "Chicago Tribune" of February 13, 1949, reported on page 3 —

THE COURT: Show him the article, Mr. Christie. Ask him if he recognizes it.

MR. CHRISTIE: No, that's fine. Thanks very much.

Q. I am sure you wouldn't be familiar with the "Chicago Tribune" of February 13, 1949. Right?

THE COURT: Don't answer the question. Ask him a question, and then don't put it as, "Is that right?"

MR. CHRISTIE: I am cross-examining.

THE COURT: I appreciate it. And I am presiding over the Court, and I appreciate you doing as I say when I say it.

MR. CHRISTIE: Yes, I will, sir.

Q. You know about Samuel Untermyer, who he was or what he was?

A. Do you want me to repeat what I said?

Q. Just confirm yes or no.

A. Yes, whatever I said, I will confirm.

Q. You will agree that he was the President of the World Jewish Economic Federation, or you just don't know that?

A. There are lots and lots of Jewish organizations, some of which last a very short time. I am not familiar with this one, and what it did or didn't do, at the moment. {1026|1027}

Q. Would you agree that many of the famous people of the era of the Nuremberg war trials regarded them as a travesty of justice?

A. Many famous people?

Q. Yes.

A. How many is many — two, three?

Q. Well, perhaps I should put it more correctly that, in regards to the Nuremberg War Trials, certainly the gentleman I mentioned earlier, Forrestal, who was somewhat prominent, regarded them as very unfair. Would you agree?

A. Mr. Forrestal, who was Secretary of the Navy and subsequently Secretary of Defence, and whose business was military, may well have had this opinion; but of course, as I pointed out, his area of responsibility was defence.

Q. You seem to take the view that if anyone publishes an article such as, "Did Six Million Really Die?", for which you say they derived their news or source of information from anything other than official documents, that it isn't quite right somehow.

A. No.

Q. No. Well, when I asked you whether the statements on that page under "Confessions Under Torture" were true or false, you said fanciful; and when I produced items which tended to demonstrate that there was a reason to believe them from articles such as the newspapers and the Congressional Record of the United States, you seem to maintain that that doesn't satisfy you as to their truth. Right?

A. And most especially it doesn't {1027|1028} satisfy me as to the whole trend of the argument which you implied in one of your questions, or actually stated that what happened before the Malmedy trial, or before the Dachau trial, is also indicative of the atmosphere of Nuremberg, and I could not agree with that.

Q. Are you familiar with the book entitled, "The Review of the War Crimes Trial" by Adolf Aikenauer?

A. The German defence attorney?

Q. That's right.

A. Yes, I have perused that book once. I have not read it thoroughly.

Q. Do you consider it false news?

A. My goodness. I could not comment about all of it because, although [although] I perused through it, reading it was worthwhile and my decision was contrary.

Q. Because it does not agree with your belief.

A. Not at all. I welcome, I welcome, look for, search for materials that do not agree with my conclusions or my assumptions, provided that they contain a basis upon which I can look.

Q. All right. Would you agree that the basis from which you could work such as you've described the criterion for looking further might include such remarks as those of, for example, President Kennedy? Do you consider him someone you might look at in terms of credibility?

A. The President as President, or the President long before he was

President?

Q. Well, the President who wrote the {1028|1029} book, "Profiles in Courage".

A. Yes. And how old was he when he wrote that?

Q. Well, I don't really know.

A. Well, quite young.

Q. That makes a difference, does it?

A. It makes some difference.

Q. He was complimentary to Senator Robert Taft in that booklet.

A. That's right.

Q. Because he had taken issue with the Nuremberg War Trial even though it was unpopular at the time; isn't that true?

A. That's correct. The President of the United States, Mr. Kennedy, had one favourite word, it was "courage", that he used frequently. He sought out and wrote about figures that, in his eyes, were worthy of emulation.

Senator Taft was not the most popular figure in the United States. He was a presidential candidate, but Senator Taft was a person who spoke his mind, and he spoke his mind in regard to Nuremberg. He didn't like it, particularly, once again, with respect to the charge of aggression.

With Kennedy, what I take to have admired in Taft, was Taft's willingness to stand up and voice an unpopular and unaccepted opinion.

Q. Are you familiar with what Senator Taft said about the Nuremberg Trials.

A. I can't quote verbatim what he may or may not have said, but he did utter some statements {1029|1030} which were critical of the trial, the first trial.

Q. Would you agree that he said:

My objections to the Nuremberg Trial was that while clothed in the form of justice, they were, in fact, an instrument of government policy determined once before at Tehran and Yalta.

A. Well, he said that. He wasn't entirely accurate in this matter, but he said that.

Q. You, of course, know when the objectives of the Nuremberg Trials were established, of course.

A. Well, in fact I do. I don't wish to appear to be the all-knowing witness who knows better than U.S. Senators, but I have devoted a great deal of time to studying the documents leading up to the Nuremberg Trials. The decision to hold the trial was a late decision of much debate.

Q. It is my understanding, sir, that you are familiar with the learned author, Nahum Goldman.

A. I would not describe him as you just did. Go ahead.

Q. Well, are you aware of the fact that he says how the Nuremberg concept was created, and he attributes it to jurists Jacob and Nehemiah Robinson?

A. One of these gentlemen, to my knowledge, was a lawyer.

Q. Well, I would like to put to you a part of a book and ask you to comment on its truth or falsity, if I may.

MR. GRIFFITHS: What book is this, excuse me? {1030|1031}

MR. CHRISTIE: "The Jewish Paradox", by Nahum Goldman.

Q. Quoting from page 122:

"During the war the WJC ..."

What's that?

A. World Jewish Congress.

Q. "... had created an Institute of Jewish Affairs in New York (its headquarters are now in London). The directors were two great Lithuanian Jewish jurists, Jacob and Nehemiah Robinson. Thanks to them, the Institute worked out two completely revolutionary ideas: the Nuremberg tribunal and German reparations. The importance of the tribunal which sat at Nuremberg has not been reckoned at its true worth. According to international law it was in fact impossible to punish soldiers who had been obeying orders. It was Jacob Robinson who had this extravagant, sensational idea. When he began to canvass it among the jurists of the American Supreme Court they took him for a fool. 'What did these Nazi officers 'do that was so unprecedented?' they asked. 'You can imagine Hitler standing trial, or maybe even Goering, but these are simple sol-

diers who carried out their orders and behaved as loyal soldiers.' We therefore had the utmost trouble in persuading the Allies; the British were fairly opposed, the French barely interested, {1031|1032} and although they took part later they did not play any great part. The success came from Robinson managing to convince the Supreme Court judge, Robert Jackson."

Now, do you believe that to be a statement of the true origin of the establishment of the International Military Tribunal?

A. It is obviously untrue, preposterous, and were it not for the age of the person who wrote the book, I would have said naive.

Q. Well, he's a fairly important person, isn't he, sir?

A. Indeed he is important in the political realm, and he is given to all kinds of statements. I do not credit him with being an authority in matters of history. He is an axe man – in other words, a politician.

Q. Have you heard of Justice William O. Douglas of the Supreme Court of the United States?

A. Yes.

Q. Was he, in your view, a fairly significant jurist?

A. He was, with a reputation for, as a former Chairman of the Securities and Exchange Commission, very knowledgeable about matters of finance and regularly wrote opinions in financial cases in the Supreme Court., He wrote other opinions as well.

Q. Would you credit him with moral judgment?

A. Yes.

Q. Would you consider him an honourable man? {1032|1033}

A. Yes.

Q. I would like to quote from a letter of William O. Douglas referred to in the book, "Doenitz at Nuremberg: A Reappraisal. War Crimes and the Military Profession" prefaced by Justice William Hart of the Supreme Court of Ohio, edited by H.K. Thompson, Jr., and Henry Strutz, and I'd like to ask you if these words, in your opinion, are true —

MR. GRIFFITHS: Excuse me, is this a book that the Doctor is familiar with?

Q. MR. CHRISTIE: I suppose you are not familiar with that book?

A. "Doenitz at Nuremberg". Is this a brand new book?

A. I don't think it's that new. It looks like —

A. '83

Q. '83.

A. No, I am not familiar with this.

MR. CHRISTIE: May I ask him if he agrees with the words in it?

THE COURT: You can ask him if he agrees with the statement.

MR. CHRISTIE: Of William Douglas?

THE COURT: Of a statement that you can put to him. It should not be attributable to anybody because there is no way of proving that the statement is what it says it was merely because it is in print.

Q. MR. CHRISTIE: Well:

"I thought at the time and still think {1033|1034} that the Nuremberg trials were unprincipled. Law was created ex post facto to suit the passion and clamour of the time. The concept of ex post facto law is not congenial to the Anglo-American viewpoint on law."

Do you agree with those statements?

A. I agree that the American concept of law in matters of criminal behaviour is such that it is considered an injustice if something is made a crime after the act alleged to have been committed had already occurred, but these particular concepts are confined to American constitutional law; they are not incorporated in the international criminal law; and in this case, as well as the many other comments, the question of retroactivity pertains to the count of aggression.

Now, I will be perfectly honest with you. I, personally, speaking for myself — this has no value —

THE COURT: Well, just a moment. You are here, to testify as an expert. I don't know that your opinions, Doctor, and I say this with respect, are germane to the issues this jury must try.

THE WITNESS: Fine.

Q. MR. CHRISTIE: Would you agree with the statement:

"Scholars have searched frantically for little pieces of evidence of whether there was ever an International law and have pieced together

*fragments that in their minds justify the conclusion that aggressive war is an international crime — but the reasoning in those cases is shaped to the urgent necessity to find an ex post facto justification for what was done”.*

A. Yes, I understand.

Q. Do you agree with the truth of those words, or do you consider them true, I should say?

A. As to whether they were made or not, or whether —

Q. No. Do you agree with the statement, and did you consider —

A. I agree. Let me put it this way. I agree that the count of aggression caused anguish, anxiety and trouble in the legal community, and with that I agree. And I was going to say, although I am not a member of the legal community other than a member of the American Society of International Law, which is not the same thing, that I, personally, would have been just as happy without this count in the indictment about which we are talking so much this afternoon.

Q. Well, it does seem to have been part of the proceedings at Nuremberg, doesn't it?

A. Yes.

Q. And it was criticized in this article, “Did Six Million Really Die?”, in that Nuremberg is referred to as a totally unjustified exercise. Would you agree?

A. Yes. But there were several counts in the indictment.

Q. Yes. {1035|1036}

A. And the count of aggression is one thing, and the count of war crimes is something else.

Q. The article seems to indicate the basic argument that the Nuremberg Trials were unjustified. Would you agree with that statement?

A. I cannot agree with the statement that the Nuremberg trial was unjustified.

Q. I asked you whether you would agree with the statement, the article, this one, “Did Six Million Really Die?”, Chapter 5, “The Nuremberg Trials”, whether you like it or not, indicates that the trials were unjustified. True or false?

A. Whether this pamphlet says so.

Q. That's right.

A. Oh, yes.

Q. Did you consider that totally wrong, in your opinion?

A. I consider it wrong insofar as the crimes committed, so-called war crimes, and the sub-category of crimes against humanity is concerned. Either we do have a judicial system that can punish crimes, or we don't.

Q. Well, until Nuremberg, we didn't have a tribunal to punish war crimes of defeated nations, sir.

A. We had tribunals.

Q. I know. We have one here. We have one in the Supreme Court of Canada. But I suggest we did not have —

A. But there were war crimes trials.

Q. There were war crimes trials imposed {1036|1037} by national courts against their own nationals. Correct?

A. Yes, but —

Q. I asked you this question: Was there ever before Nuremberg an International Military Tribunal set up of the victor nations to judge the nationals of the defeated nations?

A. I am not aware of an international tribunal.

Q. All right. Now, I put it to you —

A. In the criminal sphere.

Q. Now, I put it to you it wasn't international; it was of the Allies, in fact.

A. Well, “international” is a definition of any two or more nations.

Q. Well, why didn't they take the invitation of some people like the Chief Justice, to some of the judiciary from India — impartial parties — to judge at Nuremberg? Why didn't they do that?

THE COURT: Mr. Christie, how can he read the mind of what was set up in 1945?

MR. CHRISTIE: Well, sir, I thought he was purporting to give his justification as an expert for the conclusion that the judgment in the book, “Did Six Million Really Die?” was a bad judgment, and I wanted to ask

him, as such an expert, why he thinks that international and impartial sources might not have sat on the tribunal, or if he has maybe considered that.

THE COURT: No. I think if you want to rephrase it, you can ask that question; you can't ask him a question which, in effect, would be asking the witness to read the mind of people forty years ago. {1037|1038}

MR. CHRISTIE: Yes. Thank you very much.

Q. Would you accept the proposition, sir, that it does appear to us who are less informed than you about the distinction between aggressive war and crimes against humanity that Nuremberg appeared to be a tribunal of the victors? Would you agree that laymen might think that?

A. I have no quarrel with that.

Q. Yes. And perhaps the man who wrote this booklet, Mr. Harwood, didn't have your expertise. Right?

A. Well, if you want me to agree, I will.

Q. Yes. Because he doesn't have the background and knowledge that you have, apparently.

A. Well, apparently.

Q. Yes. So would you say that ignorant people like myself, or perhaps the author of this, if I may be so bold, he might take this book of Nahum Goldman and open it to the page I did and say, “My goodness, two Jewish jurists motivated the whole world to set up this tribunal.” He might, as a naive human being, be able to conclude that from the book; would you agree?

A. Well, I wouldn't include you in that group.

Q. Well, you are very complimentary, sir. Thank you. Would you agree that, in looking at some of the documents, it certainly leads one to the conclusion that there were some unfair things going on {1038|1039} at that time?

THE COURT: What documents?

Q. MR. CHRISTIE: All right. Looking at — I should be more precise — for example, the affidavit of Hans Marsalek, which we have discussed, it certainly appears like a very suspect kind of evidence, would you agree, on the surface, at least?

A. Well, suspect to whom? In other words, to me it was a document to be used very carefully, and I am not entirely sure that I used it more than once with reference to a minor matter, but — it's rather obvious that a layman confronted with a fragment of history in the form of a document should be careful in using it, because the document does not explain itself.

Q. Well, that's your view of the document, sir; but a layman looking at it would form the opinion, first of all, the man was dying; second of all, they interrogated him for six to eight hours after he had been shot; and thirdly, they take the statement and they kind of put it in the policeman's handwriting and he swears the guy said it. Right?

A. Yes.

Q. It does look suspicious, doesn't it, to —

A. You mean as a forgery, or as an unfair thing to do to a wounded man?

Q. Unfair thing to do.

A. Well, as I said, I have difficulty reconstructing what is fair or unfair in these circumstances. I don't know how badly wounded he was, what kind of care he had, whether physicians were consulted. It {1039|1040} it hard to say this. I, personally, would be reluctant to say the least question of anybody who was in a state of discomfort, but that is, you know ...

Q. Well, in respect to the major trial, the International Military Tribunal, you maintain that there was no suggestion that there was torture there, or was there?

A. I don't believe that there was torture in the course of the Nuremberg Trials.

Q. Okay. Was there an allegation of torture in the course of the Nuremberg trials?

A. Now you are asking me who alleged what. I can't answer that, because there could be all sorts of allegations.

Q. Well, I suggest to you that there was a major accused by the name of Streicher who certainly alleged that he had been tortured.

A. A major?

Q. Yes. He was one of the major war criminals.

A. Oh, you mean, Gauleiter Streicher?

Q. I don't think he was. I don't think he was anything at the time.

A. I don't know to whom you refer, then.

Q. Streicher.

A. Gauleiter Streicher?

Q. Well, in the tribunal proceedings he certainly alleged torture, did he not?

A. I don't recall the allegation. I am not saying it wasn't there, but there are twenty-two {1040|1041} volumes, and I don't remember every single word.

Q. Would it assist you to refer to some of the allegations, perhaps —

A. Are you going to read from a transcript?

Q. Well, I probably could. Maybe I should, but I was going to read from "The Times" article of London, Saturday, April 27, 1946, and see if it refreshed your memory of the transcript.

A. All right. Go ahead.

Q. Let me ask you if you would be able to say this is true or untrue, from your expert knowledge of the transcript. In the article he says that::

*"... he was kept four days in a cell without clothes. 'I was made to kiss negroes' feet. I was whipped. I had to drink saliva.' ... 'My mouth was forced open with a piece of wood and then I was spat on. When I asked for a drink of water I was taken to a latrine and told, 'Drink.' These are the sort of things the Gestapo has been blamed for.'"*

Do you recall those allegations being made in the course of the trial?

A. No.

Q. Would you be prepared to deny that they were made?

A. I cannot deny, because as I said, I might overlook something that if that allegation had been made, and if anything were to it, I dare say I would {1041|1042} have found that particular passage and discussion of it, but I don't know — I certainly do not recall any such passage in the transcript of the trial, and I do believe I read every word, and if the allegation was made out of court, if it was made out of some context that is outside Nuremberg after his capture by unknown assailants and captors, I cannot comment.

Q. It's my information that it was made in the course of the trial, but perhaps you overlooked it. Would that be possible?

A. It is conceivable that I overlooked it, but I do wish that you could show me the trial record, if it was, indeed, an allegation made before competent judges.

Q. All right. I am going to show you part of the transcript of the IMT referable [sic] to Fritz Sauckel, which occurred on the 13th of December, 1945, and it's an exchange between Mr. Dodd and the President of the Court.

A. Yes.

Q. He was asked if he concluded, and he said, "Yes, I have concluded."

THE COURT: Let the witness read it, please. And let us know, Doctor, whether you have knowledge of its content.

THE WITNESS: Yes.

THE COURT: You do have knowledge of its contents.

THE WITNESS: I have read this one time, yes.

Q. MR. CHRISTIE: Would you agree {1042|1043} with me, sir, that it indicates that where there is allegation of torture in respect to a document, then it was withdrawn?

A. No. The word used is "coerced", not "tortured"

Q. All right. Thank you.

A. And inasmuch as there was a question about the nature of this coercion and what it was, Mr. Dodd simply, in all fairness, wasn't going to use the document.

Q. Right.

A. But there is no allegation of torture, here. None whatsoever.

Q. I see.

A. "Coercion" could be all kinds of things.

Q. Was it, in your knowledge, true that if certain people did not say

certain things to the interrogators at Nuremberg, they could be turned over to the Russians?

A. I have read a number of interrogations, since these are matters of record. I have not run across that particular type of threat. It might have occurred. It's an open question whether this is a permissible or impermissible technique. It's common knowledge that many of the witnesses, the German witnesses, were given what was in their mind a choice of testifying for the prosecution or, in the case of refusal to testify for the prosecution, being turned over to the Russians for crimes they committed inside Russian territory.

Now, whether this was pointed out {1043|1044} to them in some way, whether this was the nature of coercion which factored their decision to co-operate or not, I can't say, but I can conceive of it.

Q. That, to me, is rather unclear as an answer, sir: I'm sorry, but do you mean yes, or do you mean no?

A. Well, you are a criminal lawyer. There is a witness that you want. You want someone to testify for the prosecution, let us say, and this person would, perhaps, not like to do that for a variety of reasons. You point out to him the consequences of not co-operating. It might be extradition; it might be that he, himself, was betrayed right here; it might mean a number of consequences. I don't know that I would characterize that as coercion, certainly not torture, although a person might be tortured by having to make a choice, as I was tortured yesterday as to whether to continue testifying or go home and meet my classes; but surely I was not coerced.

Q. So you define the choices by this witness in Nuremberg to your difficulty of having to testify or not?

A. Surely my dilemma was much smaller, but all the same, real.

Q. I show you what purports to be a transcript of the IMT trial, May 1946. Do you know who Sauckel was?

A. Yes.

Q. He was one of those charged at Nuremberg with being one of the major war criminals.

A. Correct. {1044|1045}

Q. Yes. Now, I suggest that you look at the arrow on that document, you being able to read German, and me having an English translation, and confirm to me that I am reading correctly up to the next arrow.

THE COURT: Before you read it, ask him if he recognizes it, please.

MR. CHRISTIE: Yes, sir.

THE WITNESS: Yes.

Q. MR. CHRISTIE: You recognize it?

A. Yes.

Q. Does it say:

*I herewith confirm that my signature is under this document. I request the Court to be allowed to state how the signature has come about. This document was submitted to me during this interrogation. I thereupon requested to be permitted to read this document through in my cell in Oberersul and to consider whether or not I should sign it. This was refused me. I was told during this conversation in the presence of an officer who is said to be a member of the Russian or Polish army that should I hesitate too long to sign this document, I should be handed over to the Russian authorities. Subsequently, this Polish or Russian came in again and said, 'Where is Sauckel's family? We know Sauckel and we shall, of {1045|1046} course, take him with us, but the family must also come with us and will likewise be transferred to the Russian zone.' I am a father of two children, so I did no longer consider this matter of signing this piece of paper in consideration of my family. Upon returning to my cell I contacted the commanding officer of the camp in writing and asked him to be heard by him alone in this matter. This was no longer possible because I was taken to Nuremberg shortly after this incident.*

And it goes on. Am I correct in my understanding of its meaning, sir?

A. In other words, there is something that is alleged to have happened prior to his transfer to Nuremberg for trial.

Q. Right.

A. Well, he made that statement, yes.

Q. Yes. So at least that is an accurate account of an allegation at Nu-

remberg.

A. Yes. He was alleging that if he would — evidently, somebody talked to him, being a member of the Polish or Soviet army, that if he were too long, he would be extradited.

Q. Is that what you testified in other Courts and the United States with respect to people going to the Soviet Union and other countries?

A. You mean the attorneys going there? {1046|1047}

Q. No. The people who were being extradited going there.

A. No. There's been no one, to my knowledge, who went to the Soviet Union following any denaturalization procedures in the United States, and certainly none involved in the proceedings that I have been involved in.

Q. Oh. None?

A. None.

Q. To a communist country?

A. I have not been informed of anyone going to any communist country at any other proceedings I was involved in.

Q. Are you aware of what would happen to a German officer such as Sauckel if he was sent to the Soviet Union, as Hoess was?

A. Well, you see, Hoess was accused of multiple murder and multiple hangings at Auschwitz, meaning the recruitment of forced labour in Russia and Europe and all over Europe with many deaths occurring might very well have suffered, in anyone's custody, the penalty of death; on the other hand, many people convicted in the Soviet Union of war crimes were released and returned to Germany in the nineteen fifties. So not everybody was executed.

Q. So your position is that it really didn't matter whether you were tried by the Russians or tried by the British or tried by the Americans?

A. I would say that for certain individuals, the expected penalty, given the fact that the death penalty was in use, would have been death by hanging {1047|1048} or something like it, no matter where they had been tried, because the evidence was so overwhelming.

Q. Because the public opinion was so overwhelming, sir; would you agree?

A. Well, I am still of the view, which is strange for me, to express to you that a judge is a judge and resists public opinion. I speak, at least, for American and British and French judges.

THE COURT: With that, we will take an adjournment. Fifteen minutes, please.

— The jury retires. 3:40 p.m.

— The witness stands down.

— Short adjournment.

— Upon resuming.

— The jury returns. 4:00 p.m.

— The witness returns to the stand.

THE COURT: Go ahead, Mr. Christie.

MR. CHRISTIE: Thank you.

Q. I think the last thing we were discussing, you were making some rather complimentary remarks about the judiciary, right?

A. Well, I hope they are accurate.

Q. Would you take the same view about Mr. Justice Wenersturm of the Nuremberg Military Tribunal?

A. I'm sure that he did his job as he saw fit. Remarks have been attributed to him. {1048|1049}

Q. Are you familiar with those remarks?

A. I am familiar with the attributions, yes, which, not of a judicial temperament —

Q. Do you consider the remarks not of a judicial temperament?

A. Well, a layman's opinion.

Q. Right. Do you agree that, as an expert in the history of the Nuremberg trials, he did say, publicly —

Mr. GRIFFITHS: Excuse me, Your Honour. Maybe we should hear whether he is an expert in the history of the Nuremberg trials first.

MR. CHRISTIE: Sorry. I thought he was. I have been asking questions on that basis for quite some time.

MR. GRIFFITHS: I'm sorry. You are . talking about Judge Wen[n]er-

strum, or Dr. Hilberg?

MR. CHRISTIE: This witness, Dr. Hilberg.

MR. GRIFFITHS: I see. Excuse me.

THE COURT: Let me have the point again.

MR. GRIFFITHS: That's all right, Your Honour. I had my answer. Thank you.

THE COURT: Go ahead.

MR. CHRISTIE: Thank you

Q. Whether you agree with the remarks or not, and perhaps you don't, probably you don't, he did say some things at the time, didn't he?

A. I recall that such remarks were attributed to him, yes. {1049|1050}

Q. Well, he was quoted in the "Chicago Tribune" as saying, on February 23rd, 1948:

*"Obviously the victor in any war is not the best judge of the war crime guilt. Try as you will it is impossible to convey to the defense, their counsel, and their people that the court is trying to represent all mankind rather than the country which appointed its members."*

Do you recall those remarks?

A. Well, they are remarks, but they are in keeping and may well have been made.

Q. He also said, did he not, that:

*"The initial war crimes trial here was judged and prosecuted by Americans, Russians, British, and French with much of the time, effort, and high expenses devoted to whitewashing the allies and placing the sole blame for World War II upon Germany."*

Do you recall those facts?

A. No. Again, you are reading from a different source than the one I am familiar with, so I am not familiar with this remark. He made quite a few remarks.

Q. You are familiar with his interview, famous interview, and that the reply to the interview was published before the interview because —

A. I don't know that story.

Q. And you know that he said: {1050|1051}

*"What I have said of the nationalist character of the tribunals applies to the prosecution. The high ideals announced as the motives for creating these tribunals has not been evident."*

A. Yes.

Q. Okay.

*"The prosecution has failed to maintain objectivity aloof from vindictiveness, aloof from personal ambitions for convictions. It has failed to strive to lay down precedents which might help the world to avoid future wars."*

Now, that's consistent with the general tenor of his remarks.

A. Yes.

Q. And he said:

*"The entire atmosphere here is unwholesome. Linguists were needed. The Americans are notably poor linguists. Lawyers, clerks, interpreters, and researchers were employed who became Americans only in recent years, whose backgrounds were imbedded in Europe's hatreds and prejudices."*

A. Yes.

Q. And he was implying that there were a large number of Jewish persons on the prosecution.

A. Absolutely. That was the implication and the attribution, and it was, in fact, somewhat largely false. {1051|1052}

Q. Largely false in your opinion, but he was making these remarks?

A. Yes, but he was assuming things of people being Jewish by things of this kind. People do not go around in the United States, and people do not go around in the Armed Forces, and people do not go around in the prosecution with yellow stars identifying them.

Q. But it was his opinion and he expressed it publicly that he felt that a large number of Jewish persons were involved in the prosecution?

A. That was his wrong opinion.

Q. That was his opinion, whether you agree with it.

A. Yes.

Q. He said:

*"The trials were to have convinced the Germans of the guilt of their*

leaders. They convinced the Germans merely that their leaders lost the War to tough conquerors."

Would you agree that was his remark?

A. I don't remember this particular one, but it is certainly in keeping with the man.

Q. Yeah. He also said, I suggest:

*"Most of the evidence in the trials was documentary, selected from the large tonnage of captured records."*

The records taken from Alexandria, Virginia. Correct?

A. No. Long before those documents {1052|1053} were at Alexandria, Virginia, they were in other depositories — London, Paris, Berlin — and the documents were there. It was later that they were shipped to Alexandria.

Q. This statement that the selection was made by the prosecution, is that true?

A. The selection was made by the prosecution, and the defence did also make the selection.

Q. I suggest to you that the defence could not have access without permission from the prosecution [prosecution].

A. Surely. But they had permission.

Q. They did. Were there not complaints that they couldn't get access?

A. Yes, there always are complaints. I've heard them in courts often enough during the process of discovery.

Q. Mm-hmmm. He also said, "The defence had access only to those documents which the prosecution considered material to the case."

Now, those were Wenersturm's words, right?

A. Well, that is a possibility, yes.

Q. Mm-hmmm.

*"Our tribunal introduced a rule of procedure that when the prosecution introduced an excerpt from a document, the entire document should be made available to the defense for presentation as evidence. The prosecution protested vigorously."*

Those, again, were some of the criticisms {1053|1054} he made of what was going on.

A. Yes.

Q. And he was assailed for making those remarks at the time, was he not?

A. He was assailed for making several of these remarks. I would not assail him for all of the remarks, especially the last one. If I am being shown a document which is truncated, I would like to see the whole document. You showed me a truncated Stroop report. Well, I would like to see the whole report, and I completely sympathize with this criticism; but the business of imputing the prosecution, saying that they are Jews — Schrer, who was not Jewish, was thought of as a Jew, and things like this — does not speak of judicious temperament, even though these remarks were made out of court to a variety of people.

Q. It seems to me you formed this opinion after the fact.

A. Well, he did not make the remarks to me, nor to you. We are both relying on newspaper reports, books and the like; but obviously, these particular remarks are numerous enough so one might give credence to him.

Q. But they are quoted in the book, "Did Six Million Really Die?", too, are they not?

A. I don't, offhand, recall. If you say they are, I would accept that.

Q. I notice on page 8 [12 handwritten] it seems to attribute remarks to Justice Wenersturm, on the lefthand column:

*"The real background of the Nuremberg {1054|1055} Trials was exposed by the American judge, Justice Wenersturm, President of one of (the) Tribunals. He was so disgusted by the proceedings that he resigned his appointment and flew home to America, leaving behind a statement to the "Chicago Tribune" which enumerated [enumerated] point by point his objections to the Trials."*

Would you agree that it appears that he made remarks in the "Chicago Tribune"; that would be true?

A. I have not seen them in the "Chicago Tribune", but I don't dispute the fact that they appeared there.

Q. And what I said was your recollection, anyway, of his unfounded

opinion.

A. No. The general tenor of the remarks seems to be in keeping with the man, from every source that I've seen.

Q. I see. So that part of it, anyway, is not a fabrication; the part of the "Did Six Million Really Die?" booklet that refers to those remarks is actually —

A. Actually, I haven't found — you say page 8?

Q. My mistake. I didn't mean to say "8". I meant to say "12". And it's just on the left of the page. I tried to follow from the evidence in-chief. Where it says, "3, 4, 5, 6, 7, 8", and it's my understanding that he did say: {1055|1056}

*"Had I known seven months earlier what was happening at Nuremberg, I would never have gone there."*

Now, would you disagree those were his remarks?

A. No, I have no disagreement.

Q. You do disagree?

A. No, I have no disagreement.

Q. Now, in your evidence you said that you enquired [enquired] as to how there was an extermination programme for Jews; that's your general procedure.

A. Yes.

Q. Have you, in the course of finding out how, ever visited an American gas chamber where they use hydrocyanide gas for executions in some states to find out how difficult it is, how time-consuming, how dangerous? Have you made such enquiries?

A. I've seen one of these, but I have made no enquiries. I have made no studies of either the difficulties or the preparations or the chemistry that is involved.

Q. Now, earlier on you made a remark that in the book, "Documents of Destruction", there was a reference to something, somebody called Greisler, that showed something about gassing Jews. Am I mistaken in understanding that?

A. Are you referring to Greiser?

Q. Yes, I guess I am. I didn't hear very well.

A. Yes. That's in the big book.

Q. In the big book. Okay. It isn't {1056|1057} in the "Documents of Destruction".

A. No. I think it's in the big one.

Q. Oh, could you just point that out to me?

A. I will have to go through the index.

Q. All right.

A. It is mentioned twice. Yes. It's — you will find it on page 642 on the right column.

Q. Okay. And what does it say there?

A. *"One year later, on May 1942, Gauleiter Greiser of the incorporated Wartheland reported to Himmler that the 'special treatment' of 100,000 Jews in his Gau would be completed in another two or three months. Greiser then proceeded in the same paragraph to request Himmler's permission for the use of the experienced (eingearbeiteten) Sonderkommando at Kulmhof in order to liberate the Gau from still another danger which threatened 'with each passing week to assume catastrophic proportions.' Greiser had in his province 35,000 tubercular Poles. He wanted to kill them."*

Footnote to a letter Greiser to Himmler, May 1st, 1942, Nuremberg document No. 246. Then the discussion goes on to see what happens to the suggestion.

Q. Okay. May I see that for a moment, {1057|1058} please? It doesn't seem to indicate anything in the document about killing anyone, or gassing anyone, does it?

A. What it indicates is that at the moment, when Greiser wrote his letter, there was a Kommando —

THE COURT: There was a what?

THE WITNESS: A Kommando, which is simply a detachment, working in Kulmhof, a killing centre, a death camp —

Q. MR. CHRISTIE: Oh, did he say that, or is that your word?

A. I am trying to describe the document. I am trying to differentiate between his interpretations and his words. Now, I am trying to explain

what he meant. He had a Kommando at that very moment killing Jews, and he had — while he had the gas masks, he had another problem on his hands — not only Jews, but thirty-five thousand tubercular Poles who might infect the German resident population. At this point, because of the fortuitous point of having the killing centre at hand, he asked for permission to kill these thirty-five thousand Poles.

Q. Well, I, with the greatest respect, don't see any reference to the killing of thirty-five thousand Poles, or the killing of anyone from the document itself that appears here. Would you agree?

A. Well, of course, this particular item appears at a late stage of the book in the context of a description of everything that transpired there, and all I could say to you is that one cannot, in such {1058|1059} a book, repeat the basics on every page.

Q. Well, if you could quote the document at all to say where this was an order to kill anyone, or a suggestion that there was an intention to kill any one, why not do it?

A. I am not speaking of orders. I am saying that Greiser makes reference to a Kommando, an experienced group of people. Now, at the moment of his writing this letter they are working in Kulmhof, and while they were still there, because they weren't going to be there forever, there wasn't an inexhaustible supply of Jews in this town, he wanted Himmler's permission to also subject to the same treatment, meaning of course gassing, thirty-five thousand tubercular Poles. This was not a hospital.

Q. Well, I gather you are giving us an interpretation of the document from what you gather is the context of it. Is that your position?

A. Yes. And it's my further statement to you, sir, that Kulmhof, a little village, does not have a major hospital accommodating thirty-five thousand patients.

Q. Well, where in the document at all did it say anything about taking thirty-five thousand tubercular Poles to Kulmhof? Do you have that anywhere reported?

A. May I read it again?

Q. Yes.

A. He was making reference to his "experienced Sunderkommando in Kulmhof in order to liberate the Gau from still another danger", and that danger was {1059|1060} that of infection by thirty-five thousand tubercular Poles. He wanted this danger to be eliminated.

Q. Can I just understand very clearly what you say the document said itself?

A. What the document says itself is that —

Q. Let me just get it down very clearly. Okay. Now, the document said what?

A. The document said he was completing the "special treatment", in German "Sonderbehandlung", of one hundred thousand Jews. He expected that this particular operation would be completed two or three months from the moment of his writing the letter. In the same paragraph he then states —

Q. He then states —

THE COURT: Let him complete the answer.

MR. CHRISTIE: I want to make sure he does it properly, Your Honour.

THE COURT: Please go slowly, witness.

THE WITNESS: In the same paragraph he suggests that while this Kommando was there, his experienced Kommando, the thirty-five thousand tubercular Poles should also be conveyed there.

Q. The thirty-five thousand tubercular Poles should also be conveyed there.

A. Well, that's my summary from memory of the verbatim text.

Q. Okay. That is a summary from memory of the verbatim text.

A. Yes. In English. {1060|1061}

Q. Yes. So the words "special treatment", then, that you defined as "killing", the "Sonderbehandlung".

A. Yes. That is the direct quote special treatment.

Q. That is the German word "Sonderbehandlung".

A. Yes.

Q. And that is the word you interpreted to mean "killing".

A. Right.

Q. Okay. I understand. Is the word "Sonderbehandlung" always to be defined as "killing", or is it just sometimes to be defined as "killing"?

A. It was used in German correspondence as a synonym for killing, not only for Jews, but also for certain other categories of persons who, in the context, within the meaning of the communications that were sent, were intended to be killed. It was a euphemism.

Q. Well, then, it isn't always?

A. No, of course not. One could go to a hospital and get special treatment. One could go to a hotel and get special treatment. It is a word.

Q. So we can get the meaning from the context?

A. All meanings are from the context, of course.

Q. The words don't mean anything without the context; is that correct?

A. I suggest to you, sir, that it should have in a document. {1061|1062}

Q. But the context of the document, surely, must have to be provided by the writer to some extent.

A. Yes.

Q. In this case did you consult the writer, or did you have access to other things he wrote?

A. Well, of course, the correspondence goes on.

Q. Do you have other letters that define the situation as you have described it?

A. Well, the words "special treatment" recur and recur in documentation. I have already made reference to the use of it by Kohrerr in his report, and the fact of the matter is that Himmler thought it was used too much. It had lost its utility as a euphemism and he didn't want it used any more.

Q. Isn't it true that in the Nuremberg trials certain people were asked for the meaning of Sonderbehandlung — in fact, for example, Kaltenbrunner was asked for the meaning of "Sonderbehandlung", wasn't he?

A. Well, I believe a lot of defendants were asked that question. I would not exclude him.

Q. Well, I suggest he was asked and gave an answer and he didn't agree with your answer.

A. I am quite sure he didn't.

Q. I now produce and show to you a transcript, or a copy of the transcript of the 12th of April, 1945, and I ask you whether that indicates that the question was asked of Kaltenbrunner and he gave an answer. {1062|1063}

THE COURT: Perhaps the jury should know who Kaltenbrunner was.

MR. CHRISTIE: He was one of the accused at the International Military Tribunal.

Q. Is that not so?

A. Yes.

Q. And if you could just give us his answer, what was it?

A. Did you want me to read it? It is extremely difficult to summarize this answer.

Q. All right. But let's put it this way. Clearly, it doesn't indicate anything to do with killing, does it?

A. No. He is certainly trying, in this answer, to deflect all possible imputations to be drawn from this expression about his own role and responsibilities.

Q. So this, to you, is just someone trying to avoid the world knowing that six million Jews were killed by anything he had anything to do with. Is that it?

A. No. This was not, in fact, in the context of the Jews. This was a different matter which was here being discussed. It was not the Jewish Holocaust. The word, as I said, was used repeatedly, "special treatment" — Poles, Commissars, [Commissars] anybody including even mental patients, could be conveyed to special treatment.

He said it was a humorous expression, or something of this sort. I don't really want to summarize it. If you want me to read it, I'll be glad. The man {1063|1064} was on trial for his life because he was the chief of the Reich Security Main Office.

Q. Well; Dr. Richard Kohrerr wasn't in that category as was Kaltenbrunner, was he?

A. No. Kohrerr was not tried, and certainly was not of that high rank.

Q. Well, I put it to you that he endeavoured to find the meaning of the word "Sonderbehandlung", and it was explained to him by those in authority who were helping him to prepare the report that he did prepare that it meant "resettlement".

A. You are referring, no doubt, to the letter that he wrote to the newspaper in the nineteen seventies?

Q. That's right.

A. And I indicated to you before that I had seen four statements that Kohrerr had made much earlier describing in detail the exact usage of terminology in his report.

Q. Could you show us one of those?

A. Well, I did not bring them with me. I would have been very happy if I had known that you wanted to see them.

Q. Well, you didn't think at the outset that it would be necessary for you to back up anything you said with a document?

A. The problem of document selection is not mine. It is for the Crown to decide. I could not bring a railroad car full of documents with me, nor would I have had the time to invest a half year or a year to explain them all. {1064|1065}

Q. Well, I guess it's true to say that you didn't bring one document at all, then?

A. I was not asked to bring any documents, sir.

Q. Would you agree that the President of the International Military Tribunal, or certainly one of the three major parties, was I.T. Nikitchenko?

A. You say he was a prisoner? He was one of the four judges.

Q. Yes. Do you agree?

A. He was one of the four judges, yes.

Q. He was also the chief, or one of the three judges at the Moscow trials in the thirties, right?

A. Oh, yes. He was engaged in purges. He was Procurator General of the Soviet Union.

Q. And that fact doesn't lead you to think that the process at Nuremberg was questionable?

A. No. When we read the judgment we find out very clearly that, whereas Nikitchenko had altogether different conceptions of the law, he also dissented when the majority, meaning the British, American and French judges, decided not to convict one of the defendants, or not to impose a death sentence. He and he alone felt that just going to trial meant that these people were convicted anyway. I suppose that this is a Soviet view.

I don't mean to be disrespectful here, even to the Soviet Union, but fact is fact. This is not the sort of judge that we like to see judging people if we can help it, but the Soviet Union was a party to {1065|1066} the treaty. He had one out of four votes, and his vote did not prevail.

Q. Would you say that anywhere in the Kohrerr report there is any reference to killing anyone?

A. As I said before, there was no such use of the word "kill". It would not have been accepted. It would have been proscribed. If even "special treatment" was not acceptable, how could the man use the word "kill"?

There is, however, no ambiguity to what happened to certain numbers of people as specified in the Kohrerr report. When he says "dragged through", ... (German phrase) there is no question as to what that means.

Q. Dragged through?

A. Yes. Certain camps.

Q. Transit camps. Isn't that what it means?

A. Not transit camps. Certain camps in the Gouvernement-General.

Q. Wasn't there reference in the Kohrerr report that the death camps were transit camps?

A. No. There is no usage there of the transit camps.

Q. What is the German word for "transit camps"?

A. "Durchgangslager", abbreviated "Dulag", by the way.

Q. I think you are familiar with the booklet, "Six Million Did Die", published in South Africa by certain people that you are familiar with, I {1066|1067} would suggest. Is that right?

A. Mm-hmmm.

Q. Do you agree with this depiction as set out on page 74, that they chose the camps in question and described them on the one hand as concentration camps, on the other hand as extermination camps?

A. By and large I would not include Stutthoff as a death camp, although one may do so. This is a matter of definition.

Q. Right. Now, that is Stutthoff, the same map as is in "Did Six Million Really Die?"

A. Which map are you referring to now?

Q. Well, I think there is only one like it in there.

THE COURT: Page 17, Doctor.

THE WITNESS: Yes.

Q. MR. CHRISTIE: So you don't think the map is anything false because it's in the book you agree with.

A. I may have testified about this before. Now, my recollection is no longer so firm as it might be, and I said then that the map as depicted here is, by and large, subject to certain amendments I would make in it, more or less a correct depiction. I would not involve Stutthoff.

Q. But other than that you wouldn't argue with it.

A. No, other than that I wouldn't argue with it substantially, no.

Q. If I could capsize the thesis of this book, "Did Six Million Really Die?" in a few words, {1067|1068} it would be this, sir, and then I will ask you if you agree with it, that that map is the position that most authorities take today, including yourself, and that that map, at one time, would have been portrayed a little differently with death camps in Germany, too. Would you agree?

A. Well, of course, there have been all kinds of maps and all kinds of depictions and all kinds of errors. You know, I have seen labellings this way and that. I have made my own definition of a death camp as a facility the primary purpose of which is conveying people to their deaths. There were camps in which, this happened, but that may not have been the primary purpose of the camp.

One can still argue whether this or that camp did have this or that primary purpose. One can also argue as to whether some small camp with such a purpose should or should not be included. I have simplified the matter somewhat as one must, and I have said I shall concentrate on certain camps. I concentrated on six. I would not include Stutthoff.

Q. Well, to get it to a simple point, what I suggest to you is the difference between the camps on the right in that map and the camps on the left is the existence in the ones on the right of what are called gas chambers for killing people. Would you agree?

A. Gas chambers or gas vans.

Q. Yeah. Okay. So the allegation that you accept and maintain here and have testified to is that the camps on the right exist as a different kind of camp from the camps on the left. {1068|1069}

A. Yes.

Q. Right? And the camps on the left are in what we now know as West Germany, or Germany proper.

A. Well, yes, more or less. One in French territory, one in Dutch territory, one in Austrian territory.

Q. But they were liberated by the Allies.

A. Most of them. Some were liberated by the Soviets, too, since they invaded Germany.

Q. But all the ones on the right are in territory captured by the Soviet Union. Correct?

A. Correct.

Q. Okay. Do you agree that the Soviet Union is more, or was then more capable of atrocity propaganda than were the Allies?

A. What do you mean by atrocity propaganda?

Q. Well, I suggest to you that the Polish Government, for some reason, has chosen to put a monument at Auschwitz to —

A. Oh, that sort of thing. Yes.

Q. Now, that is a false statement, isn't it? You've seen the monument, sir.

A. I have seen this monument, and —

Q. It's false.

A. As to number it is certainly not correct.

Q. Right. What I mean by that is that they — that is the Soviet Govern-



ment, or shall we say those governments that have sympathizers towards the {1069|1070} communist position – tended to have a deeper and more, shall we say, violent anger and hatred against the Nazis than, apparently, the Allies on this side of what we now know as the Iron Curtain seemed to have.

A. Well, you know, that is for everyone a matter of conjecture. I would say this much. The occupation forces, military and civilian, in the occupied territories of the Soviet Union, did a frightful amount of damage and caused many deaths. They did not invade the United States or Canada. They did not even invade Britain, and although they bombed it, and it is natural to expect that people who suffered acutely from loss of many deaths in ways that there seemed to be wanton and unnecessary brutality should develop feelings towards the occupation forces of the enemy that had been there, to that extent I can readily agree that there was at the bottom a different feeling and a more violent one against the Germans; and yet I would not say that the number in Auschwitz or the other numbers that have been stated, such as still is being stated by the Soviet Union about the total losses is a propagandistic number.

It could be incompetence. It could be that they could not understand the circumstances at the beginning, or did not count adequately, and they evidently didn't.

Q. I suggest to you that the thing that makes the Eastern camps attributed to extermination, and the Western camps attributed to simple concentration camps with dire consequences and bad conditions was that the objective observers that observed the Western Camps at the time could not go into Auschwitz, Treblinka, Sobibor and Stutthoff. {1070|1071}

A. Well, that's – no, I can't [cannot] agree with that because obviously it is the West rather than the Soviet Union that captured the bulk of the German records, even though the Soviet Union and its satellites does have a substantial number of interesting and even indispensable documents. I do believe that much that was known from the beginning about at least some of these camps derives from Western sources. Moreover, I think most of what we know about Treblinka, Belzec and Sobibor at this stage of the game derives from West German sources, that is to say, the findings and trials conducted in West Germany in the nineteen sixties.

So I would not say that we rely upon what Soviet propaganda may have said or issued in order to make the determination as to where the killings took place.

Q. Well, I suggest to you that the documentary evidence surrounding the camps and in the camps was captured by the Soviet Union and nobody else.

Do you agree?

A. No. No. A certain number of documents were captured by the West, and a certain number of documents, as I said, were captured by the Soviet Union. It's not a matter of one country having everything.

Q. Would you please address yourself to my question?

A. Yes. I deny it. I said no.

Q. Well, did you hear me when I said in the camps and surrounding the camps, any documents were captured by the Soviet Union?

A. You mean found inside the camps? {1071|1072}

Q. Yes. Physically inside —

A. I'm sorry. I misunderstood.

Q. I thought you misunderstood. But listen to me and you will understand me.

A. One gets tired.

Q. The documents on the site, the scene itself and all the people on the place were captured by the Russians. Right?

A. Well, I would not say it about the people, because, of course, the personnel were evacuated and they were not captured by the Soviet Union. I mean the personnel of the camps.

Q. All the camps were evacuated; is that your position?

A. I am talking about, well, Treblinka, Belzec and Sobibor, were obliterated before the Soviets got there, but the other, Lublin, only a small portion were captured; but in the case of Auschwitz, to my knowledge,

the Soviet Union did not capture any German personnel – they all went west.

Q. The whole site was within the Soviet sphere of control, and nobody from the west was allowed into those camps to investigate; isn't that right?

A. Well, I don't know of any requests made to investigate.

Q. Well, let's just address the question.

A. When you say no one was allowed, it implies some request.

Q. I don't know whether it does or not. Just tell me — {1072|1073}

A. All I could say is, I know of no Western investigators early on in Auschwitz, or any of —

Q. Treblinka?

A. Well, there was no more Treblinka in 1945.

Q. Sobibor?

A. That was no more.

Q. Maidanek?

A. Maidanek is another matter.

Q. Was there anybody from the West that went to Maidanek?

A. Not to my knowledge.

Q. Belzec?

A. Belzec was the first camp to have been obliterated.

Q. Chelmno or Stutthoff?

A. No, sir.

Q. All right. Auschwitz or Birkenau?

A. No.

Q. All right. So isn't it the case that all the physical objects in those camps were in the control of the Soviet Union and nobody else, for some time after the War?

A. Poland, yes.

Q. Mm-hmmm. Would you agree that, in fact, the Soviets have indicated, at least by their publications, that sixty thousand people a day were exterminated in Birkenau?

A. Well, I don't recall any publication with that particular number. It is not impossible that {1073|1074} they said that.

Q. You would agree that it's possible, but you don't know about it.

A. Yes. I mean, since they came to the conclusion that there was something like two and a half million dead in Auschwitz, that would easily lead them to the supposition that there were sixty thousand a day; but there was no such capacity, and that could not have happened.

Q. Would you agree with me that all of the Allied observations of concentration camps in the West could not produce the evidence of a single gas chamber as such at all?

A. Well, I do think I excepted Natzweiler and another camp, since they were both in Allied hands, and they used very small chambers with which to eliminate, kill small numbers of people – these are not part of the Holocaust complex – and they were, indeed, in the custody of the Allies, and I have already testified, so I would be repeating myself, about findings in them.

Q. It's quite obvious, isn't it, Dr. Hilberg, that what you or I could see in any of those camps would not indicate the existence of any gassings such as you might consider existed in Auschwitz or Birkenau.

A. I do not, myself, rely upon on-site visits to make determinations about what happened in particular localities.

Q. Right.

A. I don't deny the possibility that {1074|1075} somebody with a different kind of training might engage in such an endeavour, but I am not that person. I am, as I testified repeatedly, looking at documents. I am looking at testimony to the extent that the documents are not self-explanatory, and upon this ground primarily I have to make my conclusions of what transpired.

Q. How can you explain to me that in the Hoess confession, which was tendered in evidence at Nuremberg, he wrote the confession in the English language, that there is no evidence that he understood it?

A. Well, you know, the man made quite a few statements, and the one to which I believe you refer, which may be the very same one in which there was an allegation that he did not quite know what he was doing

or signing because he may have been beaten —

Q. Later.

A. — but that particular one I would put aside. I would not rely upon that for the information of numbers or things of that sort, because there are so very many statements by Hoess. That is not to say that even this statement is false in its entirety.

Q. Could we identify that as the one made on the 15th of April of '45?

A. Well, I do not know from memory on what date it was made.

Q. Well, I put it to you that the one that was introduced was, in fact, the same wording as that document.

A. You mean the one introduced in evidence.

Q. Right. {1075|1076}

A. Yes. I don't dispute what you are saying. I am talking about my utilization of sources and my reliance on them.

Q. How do you explain to me that he repeatedly mentioned a camp Wolsek, that he repeatedly mentioned a camp that didn't exist?

A. Yes, I have seen that garbled reference. It may have been Belzec. It's very hard, if the man did not write anything, if he said things, if he was tired, if he was misunderstood, if he misspoke himself

Q. Well, what makes it even more difficult for me to understand is that he referred to Belzec, at one place, Treblinka, and then Wolsek. I suggest to you that there is a reason to believe that this man was not only being obliged to sign a confession in a language he didn't understand, but things were being put into a statement for him that are patently absurd, again like Gerstein.

A. There was obvious confusion in this one statement.

Q. I put it to you that that's document PS-3868, and there it is. Have you seen that document?

A. Oh, yes.

Q. Second page over, I think you will find the Wolsek reference.

A. Yes, I've seen that reference. It's terrible.

Q. It's obvious that something wasn't quite right about that individual; would you agree?

A. No, I wouldn't say that something {1076|1077} wasn't quite right about the individual. I would say that something wasn't quite right about the circumstances under which this was made as an affidavit. The individual, Hoess, subsequently made any number of statements, some of them as a witness in open court at Nuremberg, some of them in the form of depositions, and last but not least the memoir. So we have a lot of verbiage from Mr. Hoess.

Q. It is my understanding that in his testimony at Nuremberg in person it was obvious that he had been burnt on the face. Do you agree?

A. No, I'm sorry. Where do you get this idea?

THE COURT: Well, do you know, witness, or not?

THE WITNESS: Hoess? Yes. Hoess was Commander of Auschwitz.

THE COURT: Do you know about him being burned on the face?

THE WITNESS: No. That is something that is new to me.

Q. MR. CHRISTIE: What do you know about the existence of a staff evidence and analysis of June 22nd, 1945, which indicates the existence —

Mr. GRIFFITHS: Perhaps —

Mr. CHRISTIE: I will show it to him.

THE COURT: I think it is now ten minutes to five. You can show that to him tomorrow morning.

MR. CHRISTIE: Thank you.

THE COURT: Members of the jury, just before I excuse you for the evening, would you please {1077|1078} indicate by holding up your hands whether or not you have completed reading those exhibits? I gather, then, that you have read them all. Then thank you. We will collect them. You are excused now until tomorrow morning at ten o'clock. Thank you.

— The jury retires. 4:55 p.m.

— The witness stands down.

— Whereupon the hearing is adjourned to January 18, 1985.

## JANUARY 18, 1985

— Upon the hearing resuming.

— The jury enters. 10:20 a.m.

### RAUL HILBERG, previously sworn

#### CONTINUED CROSS-EXAMINATION BY MR. CHRISTIE:

Q. I want to carry on, Dr. Hilberg, with the question of Hoess, and to put it in perspective as to its real importance to your book and research, would you agree with me, and I put it to you, that you quoted Hoess forty-two times in your book?

A. Well, here we go with the numbers, which I have not counted, of course, since I do not carry in my head the numbers of citations of thousands of people mentioned by name in the book. So when I am disputing the precise number, I would say that he was {1078|1079} mentioned repeatedly, and especially in one chapter; and the sources are repeatedly not only his statements, but also correspondence that involves him.

Q. Yes. In your research you are familiar with the book that he wrote about his life, and especially his treatment in Nuremberg, called, "The Commandant of Auschwitz" by Rudolf Hoess?

A. Yes.

Q. And I dealt with a small part of that book yesterday where you acknowledge reading this book.

A. I have read it, yes, in German.

Q. Do you think that my translation or statements about the book were somehow erroneous when I said that he indicated that: "At my first interrogation, evidence was obtained by beating me. I do not know what is in the record, although I signed it. Alcohol and the whip were too much for me. The whip was my own, which by chance had got into my wife's luggage. It had hardly ever touched my horse, far less the prisoners. Nevertheless, one of my interrogators was convinced that I had perpetually used it for flogging the prisoners."

Do you say there is anything inaccurate about that statement from Hoess' memoirs?

A. Well, you are quoting it, and the translation, as far as I remember, is adequate enough. There is no clarity in my mind or, for that matter, in the context of the book, as to when or where this occurred. It was clearly not in the Nuremberg prison.

Q. No. I put it to you that in the book he says he was maltreated by the field security police {1079|1080} which occurred upon his capture.

A. Well, the United States does not have anything like "field security police".

Q. No. He was captured by the British, sir; didn't you know that?

A. Yes, but I don't know what the British have by way of field security police. You are now asking me to comment about situations I am not familiar with.

Q. You are an expert. You have read this book and you are familiar with what he said.

A. Yes.

Q. All right. Now, I put it to you that he said further — and this book, I suggest to you, was written when he was in Polish custody after he had finished giving his testimony at Nuremberg ...

A. Yes.

Q. Right. You know, don't you, that he was first captured by the British.

A. Yes.

Q. He was turned over to the Americans. Then he testified at Nuremberg.

A. Yes.

Q. Then he was turned over to the Poles.

A. Correct.

Q. Then he wrote his book.

A. Yes.

Q. Then he was hanged.

A. Correct.

Q. Right. I put it to you that he said:

"After some days I was taken to Minden-on-the-Weser, the {1080|1081} main interrogation centre in the British zone. There received further

rough treatment at the hands of the English public prosecutor, a major." Right?

A. Well, you are reading. I presume you are reading correctly.

Q. Well, I want to make sure.

A. No, I can dispense with that. I trust you.

Q. I just want to get out what he said in his book, and then ask you questions. So if you think in any way that I am misrepresenting what the book said, or what he said, please tell me. Would you do that?

A. Yes.

Q. So for the sake of brevity, I am going to read the entire part. He said: "The conditions in the prison accorded with this behaviour. After three weeks, to my surprise, I was shaved and had my hair cut and I was allowed to wash. My handcuffs had not previously been removed since my arrest. On the next day I was taken by lorry to Nuremberg, together with a prisoner of war who had been brought over from London as a witness in Fritzsche's defence. My imprisonment by the International Military Tribunal was a rest-cure compared to what I had been through before."

He goes on to say – and I am skipping over some here if you think that I am taking it out of context ...

A. Yes, go ahead.

Q. He said: "Although the conditions in prison were in every respect good, – I read whenever I {1081|1082} had the time, and there was a well stocked library available – the interrogations were extremely unpleasant, not so much physically, but far more because of their strong psychological effect. I cannot really blame the interrogators – they were almost all Jews. Psychologically I was cut in pieces. They wanted to know all about everything, and this was also done by Jews. They left me in no doubt whatever as to the fate that was in store for me."

Now, I put it to you, that is what he said after he was released and after he had testified. Correct?

A. Yes.

Q. In the forty-two times you mention Hoess in your book I suggest to you not once do you raise the issue of torture. Would you agree?

A. Of Hoess?

Q. Of Hoess.

A. No.

Q. It is never mentioned.

A. Not at all.

Q. Right. So reading your book, one never get any indication that Hoess was tortured, or suggested that he was tortured.

A. I did not consider relevant the question of torture in any matter, if it was torture. All we have is his statement, his allegation. That's all we have. Just as he says, he was interrogated by Jews. He just assumed everybody was Jewish, as did that American judge.

Q. Are you telling me what he assumed? {1082|1083}

A. Obviously he assumed. Did he ask the interrogator, "Are you a Jew?"

Q. He might have.

A. Oh, please.

Q. He was there in the interrogation and you were not.

A. No, but I have been an interrogator and I was never asked what I was.

Q. But you are Jewish.

A. Now you are asking.

Q. Yes.

A. Do you want the answer?

Q. Yes, please.

A. Yes.

Q. All right. Thank you.

A. The Germans did not ask me that I question. You are asking me.

Q. But you think that Commandant Hoess was ignorant, mistaken or lying when he said that?

A. He certainly made assumptions about interrogators, and anyone speaking the German language without an accent in German was presumed to have been a Jew who emigrated from Germany and thus, in

the uniform of the American Armed Forces or some other armed force, was asking the questions. That was the basic presumption, I notwithstanding the fact that there were non-jewish immigrants as well, notwithstanding the fact that some Americans speak good German, notwithstanding the fact that there were Professors and teachers of German who were also interrogators.

Q. Yes. Now, sir, can you tell me if {1083|1084} it is correct that in his initial statement taken at two thirty in the morning he made certain statements that you and I would agree are totally false? Would you agree?

A. I'm sorry. What is false?

Q. Certain statements that he made —

A. About the number, yes.

Q. The number was totally false.

A. Yes. He signed — now, please, let me underscore that I did not use this number.

Q. No. I realize —

A. I only used Hoess information obtained under the nice conditions, relatively nice as he describes them, at Nuremberg. His testimony or the correspondence prior to the end of the War — in other words, if I were to have used information that was obtained under torture that he alleged to have been tortured, then I would be under some obligation to explain by way of qualification; but I didn't use it.

Q. You have explained that you only used the Nuremberg testimony. Right?

A. The Nuremberg testimony, statements made under conditions free of torture, and above all, correspondence by Hoess.

Q. Yeah. That is where he referred to the military imprisonment at the International Military Tribunal as a rest cure compared to what he had been through

A. That's correct. Yes. The rest cure statements I did use.

Q. You used the rest cure statements, right; but you didn't use the part about what had {1084|1085} happened before in his interrogation.

A. No, I didn't use the number, did I?

Q. No, because the number was ridiculous; wasn't it?

A. Of course.

Q. So the part that is ridiculous you leave out of your book; right?

A. Wouldn't you?

Q. No. If I was trying to present the whole picture and tell the whole world what actually happened or what he said happened — you asked me a question and I am going to give you an answer — I suggest to you it is the right thing to do: The fact that he gave an absolutely ridiculous figure, and the fact that his statement was taken at two-thirty in the morning, he invented a concentration camp that didn't exist called Wolsec, and it couldn't have been Belzec because that was also used in the statement; is that true, sir?

THE COURT: No, just a moment. Any more than that and you will have to take off your gown, won't you?

MR. CHRISTIE: I apologize. I will try and rephrase the question.

THE COURT: No, don't rephrase the question. You will answer questions, do you understand, Doctor? You don't make statements and you don't ask counsel questions. That gives counsel the opportunity to make speeches. We don't want that. Proceed.

MR. CHRISTIE: Thank you.

Q. I put it to you, witness, that he invented the name Wolsec in a statement taken at two-{1085|1086}thirty in the morning.

A. No, I don't really think that he invented it. I can only state my general knowledge of that situation, which is that he was being interrogated; he may have been given a drink ...

Q. I see.

A. It was late in the day

Q. Mm-hmmm.

A. He was under psychological pressure; the whip may have been taken out, whether it touched his body or not I cannot say. He says it did.

A statement based, presumably, on what he was saying, and he may not have articulated things very well. It was written down, presented to

him for signature. He signed it. I never used any of that statement.

Q. Pardon?

A. And I never made use of that statement.

Q. May I suggest to you, sir, that —

A. Therefore —

Q. — that that statement was put to him at Nuremberg, read to him, and he was — once in a while the prosecutor paused a minute and said, "Isn't that right?" And he said, "Yes, sir. And then more was read. Let me finish. And he was asked, "Is that right?" and he said, "Yes, sir."

A. Yes.

Q. That's the way it was, wasn't it, sir?

A. But I — {1086|1087}

Q. Can you answer that question?

A. That's the way it was.

Q. That's the way it was. Thank you. I have another question, so let's deal with it one at a time. Now, in respect to Wolsec, it is not a word that describes a camp that ever existed; right?

A. That's correct.

Q. All right. He used that word; isn't that true?

A. Well, it appeared in the affidavit.

Q. Yes. And it also appeared in the statement that was given in the circumstances he described where the whip and alcohol were used. Right?

A. Yes. That's the one, yes.

Q. Right. He also, in fact, gave that information in a statement that you used part of, but you eliminated that information in your book.

A. No. I eliminated an obviously unverified, totally exaggerated number, one which may well have been known or circulated as a result of some faulty initial findings by a Soviet Polish investigation commission in Auschwitz.

Q. Now, sir — thank you. You have made an important admission in that. You made an admission that some of the statements of Hoess may have come from the Soviet authorities and been incorporated into his statement, haven't you?

A. Please don't characterize what say as an admission.

Q. I put it to you that way.

A. I am simply speculating that the {1087|1088} number may have come from an initial faulty finding of a Soviet Polish investigation commission.

Q. Well, may I suggest to you that there is no reason why a Soviet finding should end up in Hoess' statement unless there is some pressure on Hoess to incorporate it.

A. I quite agree, and I have not used that number.

Q. Yes. That also, I suppose — is that your explanation for the incorporation of the mythical name Wolsec, or do you have another explanation?

A. I have no idea how that particular word entered into the statement, and I have not made use of it.

Q. Are you aware of the fact that upon his initial capture a statement was written for him in English, in handwriting, by a person other than him, and he signed it?

A. Now, that I don't know.

THE COURT: I'm sorry, you said no?

THE WITNESS: No, I, don't know of that episode.

THE COURT: Before you answer, witness, when you are shown a document, don't answer until I give you the word.

Q. MR. CHRISTIE: I now produce and show to you what purports to be a photocopy of a handwritten document. Do you recognize the document? That's the bottom half, not the part referable [sic] to Kramer

THE COURT: Just a moment. What does that pertain to, Mr. Christie? {1088|1089}

MR. CHRISTIE: It's a —

THE COURT: Does it pertain to the question you just asked him where the witness said he was not aware?

MR. CHRISTIE: Yes.

THE COURT: Well, then, how can he answer it?

MR. CHRISTIE: Sometimes he can recognize the document that he

cannot remember. That's all.

THE COURT: All right. You can answer whether you recognize the document or not, witness.

THE WITNESS: I do not recognize the document. I do not recognize the handwriting.

Q. MR. CHRISTIE: Do you recognize the signature?

A. Not even that, because I am not a handwriting analysis person, and it's —

Q. That's fine. I will withdraw the question. Thank you very much. Are you familiar with this book, sir?

A. I have seen this. This seems to be a German translation of an English book. Is that correct?

Q. Well, I am just asking if you are familiar with it.

A. Well, I can't answer that question without knowing the title of the book, because Lord Russell of Liverpool. I know a book by him and this may be a translation of the book that I know.

Q. You are not familiar with that book?

A. I am not familiar with the German {1089|1090} translation of the English original. I am familiar with the English original book. If this is the same book, just a translation of the English, fine.

Q. I just asked you if you are familiar with that book, and I gather the answer is no.

A. All I can say to you is, I am familiar with a book written by Lord Russell of Liverpool in the English language, and this may be a translation of the book I am familiar with; but I have never seen a German translation of it, and you are showing me a German translation.

Q. Thank you very much. You are not familiar with that, then.

A. I am not familiar with the German translation.

Q. Now, in view of the fact that the statement of Hoess was initially taken in his interrogation in English and signed by him — will you agree with that statement, sir?

A. Well, I'm sorry, but I don't know what exactly transpired in the situation you seem to be describing. I am not even quite sure what you are describing.

Q. I am describing the situation that prevailed in April of 1945. I think there was —

A. It must have been later than that.

Q. The first statement of Hoess.

A. Yes. Was that, you said, April?

Q. Yes.

A. I don't think he was captured before May, but anyhow, that's immaterial.

Q. The statement I referred to is the {1090|1091} one that was signed by him. I suggest to you it was in the English language, as he says in his book.

A. Does he say it was in the English language?

THE COURT: Do you know, witness?

THE WITNESS: No. That's the first time I heard of that. Maybe it is a misreading of what he said.

Q. MR. CHRISTIE: Well, he said: do not know what is in the report, although I signed it.

A. Well, he doesn't say it was in English, does he?

Q. No. Actually that's true. He doesn't say it was in English.

A. That's right.

Q. Do you know whether it was or not?

A. No. I can only make assumptions, and that is, that one would not present, even in a broken state, an affidavit to be signed by somebody in a language that one knows the signer is not familiar with.

Q. So you don't know whether the statement was in English or German, but you assume it was in German, I gather.

A. I would assume so. He certainly doesn't say it was in English.

Q. Not in this book. But you don't know any better than what I suggested to you as to whether it was in English or German?

A. Look, if you say it was in Chinese, I would say probably not.

Q. I want to know from the expert {1091|1092} that you are.

A. Just as I wouldn't swear that it wasn't in Chinese, I wouldn't swear that it was in English.

Q. Now, did you suggest in your book that some of what Hoess said was obviously fabricated?

A. Did I suggest that in my work?

Q. Yeah.

A. Well, let me simply say that if state something that I doubt whether it's fabricated, I would certainly indicate that my belief is that the particular statement herein recorded may be fabricated, or is fabricated, but I made no use of that statement. My book wasn't about Hoess; it was about the destruction of European Jews.

Q. But sir, the belief that in Auschwitz 2.5 million Jews were gassed comes from the Hoess statement.

A. That may have been the belief in Nuremberg, but it is not my belief, it is not my statement.

Q. But you quoted extensively from Hoess in your book, about forty-two times.

A. Well, you keep on saying forty-two times. I doubt I quoted from Hoess at Nuremberg forty-two times.

Q. Would you like to go through your book?

A. Oh, in any case, the quotations are a compound of correspondence signed by Hoess in 1942, in 1943, in 1944, of his testimony, of his various statements made at various times, and some in testimony.

Q. I put it to you, sir, that at no {1092|1093} time before his testimony in Nuremberg did he make the statement publicly that you have attributed to him in your book.

A. Are you saying that —

Q. I am putting that to you.

A. I may not follow your question.

Q. That at no time before his statements in his testimony given at Nuremberg did he publicly state what you have attributed to him in your book.

A. Well, I think most of his statements, by far the greatest number of his post-war statements, were made after his arrival in Nuremberg. He made a number of statements.

Q. If you would like to address yourself to my question, and I will repeat it again, at no time did he make publicly the statements that you attributed to him in your book before his testimony at Nuremberg.

A. That's probably correct, yes.

Q. Right. So when you refer to all sorts of wartime correspondence, you are not referring to 2.5 million Jews gassed at Auschwitz, or —

A. No, I never referred to that.

Q. No. So all of what I suggest to you you attributed to him in your book about confessing to those figures comes as a result of what he said at Nuremberg.

MR. GRIFFITHS: The Doctor repeatedly testified he didn't use those figures, and my friend insists in putting those words into his mouth. He said it over and over.

THE COURT: Yes, I know. {1093|1094}

Q. MR. CHRISTIE: Well, do you deny that you attributed to Hoess a confession at Nuremberg for the gassing of Jews at Auschwitz?

A. Oh, yes.

Q. The figure 2.5 million you left out of your book. Right?

A. That's correct.

Q. You say the figure actually was one million. Right?

A. Roughly. A little bit over, perhaps, but that's the range.

Q. I think it is right when he says seven hundred thousand.

A. Well, he is very conservative, too much so.

Q. And other people have said many larger figures. Right?

A. Lots of people have said different things, true.

Q. There's a person by the name of Sehn that you quoted repeatedly in your book. Are you familiar with that person?

A. How would you spell that name?

Q. S-E-H-N.

A. Oh, that is a Polish judge.

Q. Yeah. And he refers to far, far larger figures than yours.

A. No doubt.

Q. He refers to sixty thousand a day.

A. He was making his statements on the basis of the Polish Soviet

investigation commission which {1094|1095} I've already described as faulty findings of numbers.

Q. Yes. They, of course, were the occupation force at Auschwitz.

A. They made their best efforts at estimating very early in the game, and they were not correct.

Q. So in respect to Hoess, you haven't at any time in your book indicated any accusation of torture; is that correct?

A. I can only repeat that I have not discussed the treatment of prisoners with regard to statements made that I did not use.

Q. But I suggest to you that what happened at Nuremberg was very clearly just the repetition of his earlier statement in testimony; would you agree?

A. I did not use the repetition.

Q. Well, let me suggest that you really did in that you quoted from what Hoess is supposed to have said at Nuremberg in your book on a number of occasions.

A. About two and a half million victims?

Q. Not about that. You left that out, we all agree, because that was a ridiculous figure and you left that out. Right?

A. Yeah.

Q. You left the statement of Streim because you didn't quote his figure.

A. That's correct.

Q. You also left out parts of Gerstein about Hitler being in these camps, which you acknowledged {1095|1096} was ridiculous; you left that out.

A. Well, incorrect, certainly.

Q. So you leave out parts of testimony that you consider ridiculous, and you keep what you consider credible. Right?

A. I plead guilty.

Q. Well, that process of selective perception was inclined to convince your readers that this man, Hoess, was a credible witness, wasn't it?

A. He was credible in some respects. In fact, in most respects, under most circumstances in which he made statements.

Q. Yes. I am suggesting to you that the cross-examination of Hoess, or the examination before, in fact, by — he was called as a defence witness, wasn't he?

A. Yes.

Q. He was called as a defence witness, and then the prosecution, Colonel Amen — do you pronounce it Amen?

A. I don't know how to pronounce it. I don't know the gentleman.

Q. Well, you tell me, and he then cross-examined the witness and he put to him a totally new statement that he had not made in his evidence in-chief.

A. Please go ahead. I can't answer that partial question.

Q. Let me put it to you the cross-examination went something like this —

THE COURT: No. Have you got the cross-examination there? {1096|1097}

MR. CHRISTIE: Yes.

THE COURT: All of it?

MR. CHRISTIE: Well, I can read the whole thing. It went on for a long time. I am going to refer to the part where the statement was put to him, and the manner in which he was asked questions, and the manner in which he gave answers, is what I want to get at.

THE COURT: Well, you had better get at it, but you had better ask the witness whether he knows anything about it and whether he is familiar with it, otherwise you will be giving evidence from the court.

Q. MR. CHRISTIE: Well, I put it to you, witness —

THE COURT: Without reading it all, ask him, please, what I asked you to ask him.

Q. MR. CHRISTIE: Can you tell me, on the 15th of April, 1946, whether you are familiar with his testimony?

A. I have read through this entire series, including the one you mentioned.

Q. Yes. That was the day on which he first testified at Nuremberg; would you agree?

A. If you say so. I am agreeing because I cannot precisely recall whether that was the first date of testimony.

Q. I put it to you that that was the day that world headlines were made, and he was the most important witness to testify at Nuremberg. Would you agree?

A. Well, when the world headlines were made, I was still in uniform, so I cannot confirm that. {1097|1098}

Q. But you are an expert talking about what you now know.

A. I don't know what you mean by world headlines, but I really —

Q. Then I will withdraw that part of the question. Do you agree that he was considered, and do you consider him the most important witness at Nuremberg?

A. No, I would not consider him the most important witness at Nuremberg, but I would say that he was the most important witness at Nuremberg with respect to happenings in Auschwitz.

Q. Thank you. Would you agree that Colonel Amen was putting to him the affidavit that had been signed in the circumstances I described and related from his book?

A. I believe so.

Q. All right.

MR. CHRISTIE: Now, may I go on, then, to deal with that?

THE COURT: Yes.

MR. CHRISTIE: Thank you.

Q. Now, I put it to you that Colonel Amen began to introduce that affidavit obtained in the circumstances described in this book in the following manner:

*"COLONEL AMEN: If the Tribunal please, we have in four languages (turning to the witness) some of the matters covered in this affidavit you have already told us about in part, so I {1098|1099} will admit some parts of the affidavit. If you will follow along with me as I read, please. Do you have a copy of the affidavit in front of you?"*

HOESS: Yes.

*COLONEL AMEN: I will omit the first paragraph and start with the second paragraph. 'I have been constantly associated with the administration of concentration camps since 1934; serving at Dachau until 1938, ..."*

He then went on to describe the background of the witness. Right?

A. Mm-hmmm.

Q. In the affidavit.

A. Yes.

Q. And then he said:

*"Is that true, witness?"*

HOESS: Yes, it is."

*"COLONEL AMEN: Now, I read the first few lines of paragraph 3 and start in the middle. 'Prior to establishment of the RSHA, Secret. State police Office (Gestapo).'"*

And he reads on down to the discussion about Kaltenbrunner.

For the sake of accuracy the President said:

*"The last date of paragraph 2 is 1943 or 1944?"*

There was a correction. Colonel Amen then read on. He said:

*"COLONEL AMEN: Right."*

And the statement was read further for a full page, and {1099|1100} then he came to paragraph 6, the final solution, and that was read, out of the affidavit. Right?

A. I don't precisely recall the precise wording.

Q. And then he was asked:

*"Is that all true and correct, witness?"*

HOESS: Yes."

And then Colonel Amen said:

*"Incidentally, what was done with the gold teeth which were taken from the corpses, do you know?"*

HOESS: Yes."

*"COLONEL AMEN: Will you tell the Tribunal?"*

*"HOESS: The gold teeth were melted down and brought to the Chief Medical Officer of the S.S. at Berlin."*

Colonel Amen then read paragraph 7, which was about forty-five lines, and he said:

*"Is that all true and correct, witness?"*

HOESS: Yes."

And then Colonel Amen read paragraphs 8 and 9 and 10, and he said: *"Now, I ask you, witness, is everything which I read to you true to your knowledge?"*

HOESS: Yes."

*"COLONEL AMEN: That concludes the cross-examination, except for one exhibit that our British Allies would like to have in which the summary of {1100|1101} exhibits I have introduced in the cross-examination ..."*

etcetera. The President then turned to General Rudenko, and he was given another chance to cross-examine, and Colonel Paprovski also made certain comments. The witness was then Dr. Kaufmann, the man who called him for the defence, had then been asked to re-examine. He declined and there was one more answer from Hoess that said, "Yes", and two more answers which discussed crematoria, and he then, Hoess then said one "No", and on page 41 he said:

*"Yes, the visiting party was shown through the camp inspecting the quarters' hospital, then, above all, the work-shops where the inmates were employed."*

He then was asked another question and he said:

*"No, not at that time. They were normally filed."*

He said he couldn't give exact figures, and then the witness left the stand.

Would that be a fair summary of what happened?

A. It seems to me, most especially the last comment where he couldn't give exact figures.

Q. I see. Now, is it not the case that there was a psychiatric examination of the Nuremberg accused by a psychiatrist whose name was Gilbert?

A. I think that Gilbert was not a psychiatrist, that he was a psychologist and, well, there is some distinction in the mind of some people, and that he was not making, as I understand it, a psychiatric {1101|1102} examination for the purpose of determining whether these people were able to stand trial, but that he was allowed to talk to them at length for other purposes.

Q. Mm-hmmm.

A. That is what I gathered from his book.

Q. You've read his book.

A. Oh, yes.

Q. May I show you his book and make sure we are talking about the same Gilbert in the same book.

A. That's right. Yes.

Q. You are familiar with his opinion of the mental condition of Hoess?

A. I don't offhand recall it.

Q. May I suggest to you that he said he was suffering from what is known as schizoid apathy, insensitivity and lack of empathy that could hardly be more extreme? Would you agree with that?

A. That he said that?

Q. Yes.

A. Yes.

Q. Have you referred to that in your book anywhere?

A. No, because number one, as I pointed out, Mr. Gilbert is a psychologist not a medical doctor; number two, if he says a man lacks empathy, which has been said about him not only by Gilbert but by Eichmann and other people, then what is there to refer to? It merely means that he cannot feel for other people. He cannot put himself into the place of the victim. {1102|1103}

Q. Did you think, or did you consider the meaning of the word schizoid apathy?

A. As far as apathy is concerned, it is a rather general word. As far as schizophrenia or schizoid is concerned, I asked my psychiatric friends, and they sort of look at me and say, "You don't understand. You are not a doctor." Now, here is a word used as an adjective by someone who is not a medical doctor, and you are asking me about it.

Q. Well, in summation, you wrote about what he alleged in the way of torture about which you are aware, and having been a Commandant of Auschwitz, and you are aware of what Dr. Gilbert said about schizoid and psychotic — well, I quoted it. You are aware of that?

A. Yes.

Q. I agree that you and I are not qualified to say what being a psychotic or being schizoid means, but did you not consider it fair and proper to present a bald opinion of Hoess that you should include that in your book?

A. No. I don't consider that what a particular psychologist may say in adjective form, next to some noun, is necessarily a matter for inclusion in an account of what happened to the Jews. Hoess was my source with certain facts. Insofar as these facts were confirmed, insofar as they came from contemporaneous correspondence, insofar as they were totally credible, I used them.

Q. Insofar as they confirmed what you believed.

A. No. Insofar as they confirmed other {1103|1104} information or were confirmed by other information.

Q. Mm-hmmm. But to present a fair and balanced account of the evidence of the person, Hoess, you consider that it was right that you should have, knowing about his allegations of the whip and being in handcuffs for three weeks, and knowing about Dr. — rather, Gilbert — you called him a psychologist — his evidence, or book about his observations at Nuremberg, you didn't think that was necessary to include.

A. Obviously I didn't think it was necessary.

Q. You said that Gilbert was just a psychologist?

A. Well, I don't want to say, just a psychologist, but you characterized him as a psychiatrist, and my best recollection is that he is a psychologist, and there is a distinction.

Q. All right. I won't ask you about your book, but what I just asked you, is it not true that Gilbert was, in fact, the only so-called expert, or person with psychological or psychiatric qualifications to be allowed to speak to these people?

A. At Nuremberg, that may well be the case, yes.

Q. So he becomes more than just some other person; he is an eye witness to their mental state, isn't he?

A. Well, he talked to them, and he could certainly ascertain their "mental state" in the same way, I suppose, as other people could who were observant and knowledgeable. {1104|1105}

Q. Just for the record, we are talking about G.M. Gilbert's book, "Nuremberg Diary", are we not?

A. Yes. That's correct.

Q. So with Hoess, he is referred to, but torture is not mentioned in your book, and any evidence to indicate that there was doubt about his mental state is also not indicated, I guess.

A. No, I do not indicate some doubt. Pressed by someone in regard to a matter which does not seem to me sufficiently material and necessary, I used Hoess' statement for his upbringing, for his career, and for other factors and, you know, persons who are, if they really are, mentally afflicted, may give statements as far as some matters, as far as I am concerned.

Q. Did you, in reading "Commandant of Auschwitz" and other material from Hoess, ever consider that some of the things he said about the operation of this supposed gas chamber were nonsense?

A. I'm sorry, I do not have the vaguest idea what you may be referring to.

Q. All right. I will be more specific. He does say, in some of his statements, that very shortly after these alleged gassings occurred people went in to haul out the bodies, eating and smoking; doesn't he? You are not aware of that?

A. Well, obviously they were not eating and smoking inside the gas chamber, while they had their gas masks on.

Q. Well, I suggest to you that is what he says.

A. I don't recall him saying that they {1105|1106} were in there eating food and smoking.

Q. Now, I am going to quote to you from — well, maybe I had better show you this. Having read the book, "Commandant of Auschwitz", are you familiar with this page, 198 ...

A. Mm-hmmm.

Q. ... where he says something that, I suggest, is kind of silly; he is describing the gas chambers and he says:

*"The door was opened half an hour after the induction of the gas, and the ventilation switched on. Work was immediately begun on removing the corpses."*

A. Mm-hmmm.

Q. Are you familiar with that?

A. Absolutely.

Q. You maintain that is possible?

A. Well, of course.

Q. You are saying they were wearing gas masks.

A. Yes, of course.

Q. All right. I refer to page 152, where he says:

*"Then the bodies had to be taken from the gas-chambers, and after the gold teeth had been extracted, and the hair cut off, they had to be dragged to the pits or to the crematoria. Then the fires in the pits had to be stoked, the surplus fat drained off, and the {1106|1107} mountain of burning corpses constantly turned over so that the draught might fan the flames."*

Did you consider that?

A. Yes.

Q. *"They carried out all these tasks with a callous indifference as though it were all part of an ordinary day's work. While they dragged the corpses about, they ate or they smoked."*

A. While they were dragging the corpses to the pits.

Q. He doesn't say that.

A. It is rather obvious, isn't it?

Q. You are adding words.

A. No, no. Look at the sequence, please.

Q. It doesn't say anything about dragging corpses to the pits, does it?

A. Well, look. In the preceding paragraph there is mention of the corpses being taken from the gas chambers. Then the gold teeth had to be extracted, the hair had to be cut off, and then they had to be dragged to the pits. Your statement as to what people did while they were dragging refers to dragging to the pits. It's in proper sequence.

THE COURT: The word "pits" and "dragging" appear?

MR. CHRISTIE: No, they are not —

THE WITNESS: Well —

THE COURT: Do the words appear any-{1107|1108}where on that page — "dragging" and "pits"?

THE WITNESS: No, they don't, not together. They appear on the page, but not together.

THE COURT: That is what I asked you. Do they appear on the page?

MR. CHRISTIE: Yes, they do.

THE COURT: All right. Then I think the jury may be interested in that passage.

MR. CHRISTIE: I will file the whole page if Your Honour wants.

THE COURT: No, I don't think you should file it, but the total should be read to the jury.

MR. CHRISTIE: I will read the whole page if Your Honour directs.

THE COURT: Well, if it refers to that — you are asking the questions.

MR. CHRISTIE: I am, Your Honour.

THE COURT: He is giving the answers. I think the jury should have the whole picture, not just the part that you select. Go ahead, read the whole thing.

MR. CHRISTIE: That's right, Your Honour. Thank you.

Q. I am reading this part which you've said refers to dragging to pits. It says:

*"They carried out all these tasks with a callous indifference as though it were all part of an ordinary day's work. While they dragged corpses about, they ate or they smoked. They did not stop eating even when engaged on the grisly job of burning corpses {1108|1109} which had been lying for some time in "mass graves."*

Is that right?

A. Yes.

Q. Now, sir, are you familiar with the gas Zyklon-B?

A. I have handled it myself.

Q. I'm sure. I asked you as an expert who testified in the case.

A. I read all the correspondence about it, and there was quite a bit of it.

Q. Do you agree that the gas Zyklon-B clings to bodies and wet surfaces?

A. Well, the gas, as I understand it, is produced when a canister of pellets in the solid state are introduced into a chamber, and when, at high temperature inside that chamber, the gas pellets are released, they turn by a process that the chemist refers to as sublimation into a gas, without passing through the liquid stage. However, if there is much humidity, then gas pellets may remain on the floor. There may be some liquid there and things of this sort.

Now, what I am testifying to is not the testimony of a chemist. It is simply the description supplied by chemists and by witnesses who have handled these things.

Q. That's in the same category as a lot of your evidence – it comes from other sources.

A. I do not say it is in the same category. I qualify my statements here as secondhand. If you were to ask the question of a chemist, he might {1109|1110} most certainly, I am sure he would be able to give a more precise and satisfactory answer.

MR. CHRISTIE: Could I file the pages that I have referred to as an exhibit, please, Your Honour?

THE COURT: Yes. A straight exhibit.

THE REGISTRAR: Exhibit No. 9.

— EXHIBIT NO. 9: Photocopied pages 152, 153, 198, 199 from "The Commandant of Auschwitz".

Q. MR. CHRISTIE: Do you have a copy of the book that you wrote, Doctor? Is it in front of you? Thank you very much. Could you turn to page 571?

A. Yes.

Q. Second column, middle of the page, it says, this footnote, "Interrogation of Hoess, May 14, 1946", refers to "Exhibit "NI-36". Is that right?

A. Yes.

Q. Did you read that exhibit which you refer to as a footnote?

A. NI-36?

Q. NI-36, yes. I,

A. Yes. Yes, of course.

Q. You are familiar with that exhibit, then.

A. Yes.

Q. I now produce and show to you, Exhibit NI-36 from the office of the U.S. Chief Counsel for War Crimes. Do you recognize that as a photocopy of the {1110|1111} exhibit you are familiar with?

A. No. It is, at least, a xerox.

Q. Are you familiar with that?

A. Yes.

Q. All right. Could you turn to page 3?

A. That was the English version, I suppose, yes.

Q. Do you find the part where it says, referring to Zyklon-B, and I am quoting, and please correct me if I misquote – the exhibit is now in your hand.

A. Yes.

Q. It says: At the time when the gassing begun, it was on supply of large quantities. Mainly it was on supply as gassing vermin, protection against vermin in buildings and barracks which, formerly, were Polish artillery barracks. There were two employees of the firm Tesch & Stabenow, Hamburg, who operated the gassing in the premises. Important measures were taken there every time. Everything was secluded and nobody was allowed to enter the buildings. In the same way, everything was ventilated to prevent casualties.

Is that right?

A. Yes.

Q. Now, you are familiar with that?

A. Yes.

Q. And I have read that correctly from the exhibits?

A. Yes.

Q. And you have used that as an exhibit {1111|1112} for Footnote 74 about Zyklon-B.

A. Yes. We are talking about Zyklon-B. Well, the question was Zyklon-B, and he answered it. Whether it was B or some other thing is not

specified here, but we may assume it was Zyklon-B. It may have been something other than Zyklon-B, but most people don't know anything except B.

Q. Well, I suggest that is what is referred to in NI-36; is that correct?

A. Yes.

Q. So we are talking about Zyklon-B.

A. Yes.

Q. Now, that clearly indicates that the important security measures necessary for this substance was that when it was used for exterminating vermin, the building had to be ventilated for two days to prevent casualties. Right? That's what it says right there.

A. Yes, it may well have been that, because, again, if clothing were being disinfected, this being the clothing of inmates that was distributed to others, it had to be disinfected, and if there were no people with gas masks to take out the clothing, one would have to ventilate for two days.

Q. Yes.

A. Especially if — you must remember that there is nothing here about special powerful ventilators being installed. You know, it's just technical.

Q. Do you have some knowledge of special powerful ventilators being installed in the crematoria or area of Auschwitz II — Birkenau?

A. Yeah. For the four installations {1112|1113} very powerful ventilators were installed.

Q. Were they?

A. They are not in this work. I did not then have that information.

Q. I suggest to you that the only information that you could have then or now would come from the plans that are in Auschwitz.

A. No, no. There is correspondence. There is correspondence about that.

Q. You mean there is correspondence which contradicts the plans that are displayed in Birkenau?

A. No, there is no contradiction.

Q. All right. Will you then say that the plans in Birkenau are the plans for what you call the gas chambers?

A. Yes, but the plans don't show ventilators

Q. No, I know. But did you say that the correspondence contradicted the plans?

A. Not at all. Not at all.

Q. All right. Thank you.

A. Any more than, you know, the plans don't show hooks for hanging up clothing. Plans don't show everything. It is not a contradiction to say that there was a hook.

Q. No, I'm sure. But you say there were some four full ventilators not shown on the plan.

A. That's right. That is the motor, and I am not competent to discuss — motors would not, of course, be on a building plan. {1113|1114}

Q. Okay. Now, you were saying earlier that these people who were dragging the bodies out of the gas chambers. were wearing gas masks; is that right?

A. As they entered the gas chambers to drag out the bodies, yes.

Q. And then, did they take the gas masks off to drag the bodies while they were eating and smoking?

A. Now, now. You just read the passage. So let me repeat, because I need not go any further than the passage you, yourself, brought up.

People wearing gas masks went into the gas chamber to drag out the bodies. The teeth were extracted. The gold teeth were extracted for the purpose of melting them down so that it could be budgeted to the Reich, to the German Government. Hair, insofar as necessary, may have also been shorn at this point, although there were different procedures at different times with regard to that.

Q. Gas masks, while —

A. No. Different people were cutting the hair, and different people were taking the teeth. Thereafter, when people were being burned in pits, they were being dragged out. They were not being dragged out from the gas chambers, but an area near the gas chambers where the teeth were being extracted. They were dragged to the pits and the pits were



obviously in the open. So there were no gas masks in the open.  
 Q. Now, what I am asking you is, were they dragging the bodies out of the gas chambers with gas masks on? {1114|1115}  
 A. Surely.  
 Q. Then they take the gas masks off and drag them to the pits; is that it?  
 A. Yes. On the outside they don't wear the gas masks.  
 Q. So when they take them to the crematorium they wear the gas masks.  
 A. No. There were two methods of body-disposal. One was by burning in crematoria; since the capacity of the crematoria was limited on days and at times when transports were coming in with numbers to be gassed in excess of the capacity of the crematoria, at that point pits were dug. In fact, pits were dug at the arrival of the Hungarian Jewish transports, and then people were simply burned in pits, outside, not inside the building.  
 Q. If you could address your mind to the question that I want to have you answer, how do you explain that from the time they leave the gas chamber to the time they get to the pits, or to the crematoria, Hoess is saying they are cutting off hair, taking out gold teeth, and then they are also eating and smoking?  
 A. He is referring to one element of disposal. I just said to you that there were two kinds of body-disposal. One was in the crematoria, the other in the pits. He is obviously talking about the pits. He has two very short paragraphs. In the first paragraph he talks about dragging into the pits. In the second paragraph he describes people who were doing this nonchalantly or whatever phraseology he used in the original German, while even smoking and eating. {1115|1116}  
 Q. Do you know that Zyklon-B is explosive and burns?  
 A. Under what conditions?  
 Q. When it comes in contact with an open flame.  
 A. Well, are we talking about open flames in gas chambers? Are we talking about people smoking in gas chambers?  
 Q. We are talking about smoking when people are brought out of the gas chamber.  
 A. These people were hosed down.  
 Q. Hosed down?  
 A. Yes, obviously.  
 Q. Who hosed them down?  
 A. The same kommando who dragged out the bodies was required to hose down the entire gas chamber.  
 Q. And the bodies?  
 A. Yes.  
 Q. Is hydrocyanic acid known as HCN?  
 A. I believe so from my very limited knowledge of, chemistry, yes.  
 Q. I now produce and show to you a document that refers to HCN made by Degesch. Now, Degesch were the people who made Zyklon-B.  
 A. Degesch were involved in the making and distribution of the gas.  
 THE COURT: please identify the document to the witness.  
 MR. CHRISTIE: Thank you.  
 Q. Do you recognize that document in the middle, the whole thing? {1116|1117}  
 A. This is an American firm in Virginia.  
 Q. Degesch Incorporated, they are still in business, making HCN products, which is hydrocyanic acid; they still sell it as a poison for insecticide.  
 A. Why not if they make money.  
 Q. And in fact —  
 Mr. GRIFFITHS: Objection, Your Honour.  
 THE COURT: Mr. Christie, he doesn't recognize the document. You can't give evidence.  
 MR. CHRISTIE: I can ask questions.  
 THE COURT: Yes, you can, but you cannot give evidence.  
 MR. CHRISTIE: I can put things to a witness.  
 THE COURT: Not if he does not recognize the document. You had

better ask him whether he recognizes it first before you give evidence through the mouth of this witness.  
 MR. CHRISTIE: I suggest in the course of cross-examination I can put a fact to him and he can dispute it.  
 THE COURT: Then put a fact to him and see if he can.  
 MR. CHRISTIE: Thank you.  
 Q. Do you disagree that even today, with the sale of hydrocyanic acid products, that they are indicated to be extremely flammable?  
 A. I have no doubt that they may so be {1117|1118} indicated by any company making them for any purpose whatsoever.  
 Q. Can you explain to me why in the very document you quoted, NI-36, it says that it takes two days to ventilate a building before you can enter without casualties, and you are telling me that people can haul bodies — let me put it this way. Hoess, in the part I've quoted, said they hauled the bodies out in half an hour, and then they are pulling teeth out of these bodies that have been in close contact in lethal amounts with the same hydrocyanic acid.  
 A. But he is saying nothing about gas masks. He is saying nothing about ventilators.  
 Q. No. He doesn't say anything about gas masks or ventilators.  
 A. He is talking about the same buildings.  
 Q. But he would have to be talking about the same substance, Zyklon-B.  
 A. Yes.  
 Q. And about the kind of bodies we all have.  
 A. Yes, but there is a reference to clothing and bodies.  
 Q. So there is a difference whether hydrocyanic acid may cling to bodies or clothing, in your opinion?  
 A. I am not saying what hydrocyanic acid may cling to. I am saying that from the passage you showed me, which obviously deals with clothing, lots and lots of clothing which was being collected from the victims {1118|1119} and which was subject to disinfection —  
 Q. Let me — you mean The Commandant of Auschwitz?  
 A. In the document NI-36. This is the passage that I make mention. Now, in here, in this one passage he speaks of two days. He does not say who entered the gas chamber, whether they, were wearing gas masks or there was obviously no hurry in removing the clothing from the building. It was not the same building in which the human bodies were gassed. It was a different structure. And so all he is saying is, it took two days, and they had to be very careful. He is not referring to when this process was taking place.  
 Q. Now, how do you explain the stories that say these gas chambers held how many people — how many people?  
 A. I must really say they are not simply stories.  
 Q. All right. Tell me how many people they held.  
 A. Well, there were different gas chambers, as I testified before, with different capacities.  
 Q. All right. Let's deal with one. We will call it Krema II, which you understand, you know what I mean.  
 A. Well, unfortunately, because these numbers changed, I can't be certain, but I could simply say that there were two large ones, two not so large, two small ones, in addition to the one in Auschwitz I which was a smaller one.  
 Q. All right. We will go through that {1119|1120} again, then. There is Auschwitz I, which is a small one.  
 A. Yes.  
 Q. Then we go to Birkenau, which is a different camp than Auschwitz. There's four there.  
 A. First we have two huts. Then they are being discontinued. Then, by 1943, four large, massive structures are erected. Two of them were larger gas chambers, two others were what might be called medium gas chambers.  
 Q. Okay. Now, tell me how many, then, would you say would be gassed at a time in Krema II, Crematorium II?  
 A. Are you referring to the larger one there? Because you see, the numbers changed.  
 Q. Let me show you a map, and I will show you what I mean. Then we

will not be confused, I hope.

THE COURT: We are now referring to —

MR. CHRISTIE: There's two maps that have been filed, Your Honour. They are exhibits. I am not sure of the number, sorry. They are both numbered as —

THE REGISTRAR: They have different numbers.

MR. CHRISTIE: Okay. The one I am referring to, then, has no number. It says, "Subject to Further Identification". Oh, is that a number?

THE REGISTRAR: "H".

MR. CHRISTIE: "H", I'm sorry.

Q. I now produce and show to you what I suggest is a map of Birkenau.

A. Yes. Okay. So that is one of the {1120|1121} larger ones. Okay.

Q. Krema II and Krema III are identical, aren't they, sir?

A. That's correct.

Q. All right. So that's the one we are talking about.

A. Okay.

Q. How many do you say were gassed in that at a time?

A. You are referring to theoretical capacity, or actual gassings, or —

Q. Whichever you prefer. At one time, actually. What do you say?

A. I have to think, because that is there is a number of theoretical capacity that is mentioned in Hoess' book, and I am trying to remember what he said.

Q. Mm-hmmm. Well, let me, rather —

A. Maybe around fourteen hundred. It may be, but I don't want to be pinned down to that precise number, because it is —

Q. You are saying that fourteen hundred people were gassed in there at one time?

A. If I remember correctly, he made mention of some theoretical capacity to that extent.

Q. And this is all part of the sixty thousand a day that Sehn refers to, and your figure is what, sir?

A., Now, wait a minute —

Q. For the daily capacity of the whole camp of Birkenau.

A. The daily capacity is not sixty {1121|1122} thousand, that is obvious. The daily maximum capacity was probably under twenty thousand, but even that is an arguable figure, because one could not run these gas chambers twenty-four hours a day.

Q. Could I refresh your memory from your book at page 629 where you said twelve thousand bodies a day? Would that be more accurate?

A. Well, that is a high figure.

Q. Well, I refer to page 629, lefthand column, bottom paragraph:

*"By 1942-43, the liquidation of graves in all killing centers was in progress. Auschwitz transferred the corpses to the five new crematoriums, which could burn about 12,000 bodies a day."*

Were you referring to Auschwitz II, Birkenau?

A. Yes.

Q. All right.

A. Of course, August 1944 was a time when more than these four gas chambers were used.

Q. Mm-hmmm.

A. And —

Q. Well, you refer to five gas chambers in Birkenau.

A. Yes, but they opened yet another emergency gas chamber. We were talking about August 1944, and this is a peak period. And you are referring to a peak period, but twenty thousand is obviously a rounded figure, which is a maximum for one timeframe, namely August 1944, which was the peak. {1122|1123}

Q. Now, can you explain to me how, with Zyklon-B, defined in Exhibit NI-36, it required two days of ventilation in an ordinary building, which was referred to there as a barracks — right? That's what that was about, wasn't it?

A. Yes.

Q. And you can tell me that you could, in an installation like you described, deal with twelve thousand bodies which are imbued with lethal quantities of Zyklon-B, they can be handled so rapidly by those who at one point take off gas masks and smoke and eat? Can you explain all that to me?

A. No. You are referring to what was called in the vernacular of the camp, in the ordinary language, a Sonderkommando. This was mostly Jewish. These people worked in shifts. The maximum number in the middle of 1944, in this Sonderkommando, was around six hundred. So they were not all working all of the time. There were those that dragged the bodies out. There were those that dragged the bodies to the pits. There were those —

Q. You misunderstand me, sir. I am not concerned with whether six hundred people were Jewish or whether they weren't, whether they could handle the corpses. I am interested in whether you can explain to me — unless Jewish people have an immunity to Zyklon-B how they could handle those corpses that so soon came into contact with Zyklon-B, put them into pits, smoking and eating, without having gas masks on.

A. No. They had gas masks on as they took the corpses to the gas chamber. As to smoking and {1123|1124} eating, which is Hoess' characterization, I have not found that statement confirmed by anyone whatsoever.

Q. So it is incredible?

A. It is one of Hoess' contentions of the type of people that did this kind of work. Now, he may have seen somebody smoking at one time; he may have seen somebody eating at one time while carrying corpses; that is possible, and his observation may have been accurate; but I have not seen it repeated anywhere.

Q. It creates a somewhat unusual situation, doesn't it?

A. No, it does not. People live amongst corpses and eat.

Q. I am sure what people do within the physical realm is something else, but I suggest to you that it is not physically possible for an ordinary person to handle any corpse that's coming up with that close a contact with Zyklon-B within half an hour and eat and drink or smoke; would you agree?

A. In the same half hour, certainly not. I am not even saying that these were the same people. I just said that there were several shifts. These were working parties. There were people that dragged people out of the gas chambers, and there were people that dragged those bodies, after processing for gold and whatnot, into the pits.

Q. Now, you seem to have indicated earlier that there was a distinction between Zyklon and Zyklon-B.

A. Zyklon is the generic trade name.

Q. Zyklon-B was used for disinfection. {1124|1125}

A. No. There may be a misunderstanding. Hoess states that they had quantities of Zyklon on hand for disinfection purposes, and it is these quantities that were tapped when the first experiment was made, he said. As it happened, people who wanted to find out what would happen, how long they would take to die and the like — obviously, these quantities were not used for mass gassings of Jews; they were deliveries for a special purpose.

Q. Let me understand you. So the Zyklon is not used for — Zyklon is used for insects, and the Zyklon-B is used for humans; is that right?

A. No. He said he had Zyklon on hand. Now, it may be that what he had on hand was Zyklon-B. It is generally assumed that it was Zyklon-B. When you look at photographs of these cans they do not, in actual fact, have "B" on them. It just says, "Zyklon". Now, that's just a trade name.

As it happened, there were various strengths. "B" was a low strength.

Q. And was it for killing people?

A. Yes.

Q. So we now have it clearly that PS-1553 is for killing people; right?

A. You are referring to a number here. What —

Q. I'm sorry. We now have it from you that Zyklon-B is for killing people.

A. Yes. Zyklon-B was the agent used in Auschwitz to kill people.

Q. No doubt about that.

A. No doubt about it. {1125|1126}

Q. And it was not used for other purposes.

A. I am not saying it was not used for other purposes, because Hoess states that he had some quantities on hand, obviously for disinfection.

That's back in 1941. But there was such a thing as Zyklon-C and Zyklon-D and even Zyklon-E.

Q. Were they for killing people?

A. No.

Q. So Zyklon-B is only for killing people?

A. Well, they certainly would not use Zyklon-D or E, which was much more expensive.

Q. But Zyklon-B, you say, was used not only for killing people but also for insects?

A. It may very well have been used for insects, although it was not recommended. I have seen a letter from Dr. Tesch of the firm of Tesch & Stabenow, which you have mentioned, indicating the strengths and the purposes for which these various strengths were intended.

Q. Could you turn to page 567 of your book? You refer to, on the Footnote 56, you refer to – NI-9098 as authority for your proposition. Right?

A. Yes.

Q. And I have now – you've read NI-9098, obviously, because you use it in your book; right?

A. Yes.

Q. I now produce and show to you what I suggest is that document – NI-9098.

A. Yes. {1126|1127}

Q. I always have trouble with numbers, but that is the right number, isn't it?

A. Well —

Q. Do you recognize it?

A. That's correct.

Q. Okay. I notice that under qualities of Zyklon, down at the bottom, No. 7, it says, "Lufbarkeit" [Lüftbarkeit]. What does that mean?

A. Well, in the context I cannot —

Q. It's properties, is't it?

A. It is a property, yes.

Q. Yeah. I notice that it says in the highlighted portion: Ventilation difficult, and long to ventilate, since it adheres strongly to surfaces.

Would you agree?

A. You say that the gas — yes, the description of the quality of this particular gas is that. As for other properties listed here, one is that there are certain adhesive qualities to it.

Q. Yeah. Am I right in understanding that it says, ventilation is difficult and it adheres strongly to surfaces?

A. That's correct.

Q. So that's the property of Zyklon.

A. Yes.

Q. And you are aware of that because you referred to that document.

A. Yes. It even recommends five hours.

Q. Five hours.

A. Under normal circumstances.

Q. Five hours of ventilation? {1127|1128}

A. Under normal circumstances.

Q. The other document referred to twenty-four hours of ventilation, didn't it?

A. Or even two days. You see, everything depends on a variety of factors — humidity, how well sealed the building was, how much gas was used. All of these factors matter. Now, of course, if one has strong ventilating systems and the like, the process takes less time.

Q. But we have agreed that on the plans of the crematorium at Auschwitz-Birkenau, there is no indication of any high-powered ventilation fans.

A. Well, it's your plan, and there is no indication on it.

Q. Well, you've seen the plan, haven't you, sir?

A. Yes.

Q. Have you ever seen any indication of high-powered ventilation on it?

A. Not on it.

Q. So would you agree that Oranienburg was not a concentration camp where people were executed?

A. I said Oranienberg [sic] was a concentration camp. It was also the headquarters of the Economic Administrative Main Office of the S.S.,

which administered twenty camps, including Auschwitz.

THE COURT: We are going to take an adjournment.

— The jury retires. 11:35 a.m.

— The witness stands down.

— Short adjournment.

—— {1128|1129}

— Upon resuming.

— The jury returns. 12:00 p.m.

— The witness returns to the stand.

THE COURT: Go ahead, Mr. Christie.

MR. CHRISTIE: Thank you, Your Honour.

Q. Witness, you have told us that in order to explain the ability to deal with the bodies in question within some half-hour or so after gassing, they were hosed down. Is that your evidence?

A. Yes, that is the evidence, yes.

Q. I suggest to you in your book you don't refer to any such statement.

A. No. No, I do not; but as I indicated, I do credit Mr. Faurisson and other critics with making me include evidence that, at first, I considered so self-evident as not to require notation in my second edition, and it will be in my second edition. Indeed, you may look forward to it there.

Q. So from your first to your second edition Dr. Faurisson has pointed out that you cannot touch a human body until several hours later without hosing it down, because even touching a body is poisonous; is that correct?

A. I can't tell you how much a person would be poisoned if he touched the bodies, but to my knowledge, these bodies were hosed down and dragged with hooks. I am not sure how much touching was necessary or took place. I would, however, point out that the handlers of these corpses were Jews, and one or the other of them became ill and died. That did not matter to the German camp administration. {1129|1130}

Q. I suggest to you if each or any of them was handling ten bodies a day that would have come in close contact with hydrocyanic acid, they would die unless they handled them with rubber masks — wore rubber masks, and covered the moist parts of their body; would you agree?

A. Well, I am not a chemist, but all I could tell you is, to the best of my knowledge, they were always wearing gas masks, and they dragged out bodies with hooks, at least until they were out in the open.

Q. Okay. And I think you will acknowledge that Dr. Faurisson raised this question and made it known to you in some way.

A. Oh, other people have, and it was just a matter of whether certain details should or should not be included; and you know, one deals with publishing eight hundred pages, and I said, "Well, all right. We must stop sometime. We must cut it off here. We must cut it off there."

Q. Now, can you turn to page 570 of your book, "The Destruction of European Jews"?

A. Yes.

Q. I am concerned with the paragraph at the top righthand part of the page 570 where it says:

"... Dessau Works, which produced the gas, shipments were not sent directly to Auschwitz Extermination and Fumigation Division (Abteilung Entwesung und Entseuchung)."

Is that right?

A. Yes. {1130|1131}

Q. What is the translation for "Entwesung"?

A. To deprive something of life — that is extermination. There is no very accurate translation which doesn't carry connotations, but I think you will find that that's an acceptable translation of the German term.

Q. I put it to you that it means "delousing", and it refers specifically to vermin.

A. No.

Q. That word —

A. No. The term "Wesen" is a live thing; anything alive. The prefix "Ent" is to negate life, to deprive it of life. The suffix "ung" in "Entwesung", and having been deprived of life, or depriving something of life.

Q. I now produce and show to you an English-German Dictionary. Are you familiar with this?

A. No, I don't use that one.

Q. Okay. It refers to "Wesen", to disinfect, to sterilize, to exterminate vermin, to delouse, extermination of vermin, delousing, disinfection. Right?

A. Yes.

Q. So you mean it just refers to anything? It doesn't refer to lice.

A. What is the date of this dictionary, sir?

Q. I'm sorry, I don't know. Do the meaning of the words change that much?

A. Well, actually they do, but without going into that, I would simply say that in ordinary {1131|1132} circumstances, including Germany today, extermination is confined to vermin. When we say "extermination" in Canada or in the United States, we generally mean that it is not human beings who are exterminated by commonly styled extermination terms.

Q. You agree that "Entwesung" is a term meaning to use just disinsecticidization.

A. It refers to any killing, any deprivation of the quality of life of something that is alive.

Q. I see. So it could refer to anything, according to you.

A. Well, "Entwesen" is anything that walks, anything that has life.

Q. Okay. Are you familiar with this book on the subject of — that's referred to in your book — it deals with sterilization, disinfection and the word "Entwesung"; right?

A. The book is not referred to —

Q. I am not saying you quoted the book. Are you familiar with that book?

A. No. No. This is a — not a book. This is a —

Q. Well, it is a photocopy of the front page of a book. So I don't misdescribe it, it is a journal.

Q. It is a scientific journal; right?

A. Yes.

Q. And it was printed, I gather, in 1943 in Berlin. It appears to refer to the three subjects of what, sir? Would you say the translation is "sterilization", {1132|1133} right, for "Entkeimmen" [Entkeimen]?

A. Yes.

Q. "Entwesung", which is "disinfection", and it says, "Entwesung".

A. Mm-hmmm.

Q. And the reason I suggest it is relevant is that Gerstein, who was a disinfection officer, is given credit in that book, Obersturmführer Gerstein.

A. Yes. They say that here.

Q. And it is a journal dealing with those three subjects that you've described, would you agree — sterilization, disinfection, and I suggest —

A. That is the title.

Q. — delousing.

A. Are we going to argue about the translation?

Q. Well, we were, but I am not any more. I am just going to leave it with you. What I am suggesting is that the subject of sterilization and disinfection is what Gerstein was responsible for in his job.

A. Obviously, yes, that was his job.

Q. And that pamphlet or scientific brochure was published in the war, and he was given credit for his input into that publication; would you agree?

A. Yes, it certainly appears that way. Yes.

Q. All right. That's fine. I'd like to move from the subject of — just one other point. You recall the document 1553 which was an invoice for Zyklon, {1133|1134} PS-1553, referred to at Nuremberg as such?

A. Well, there are so many invoices, couldn't identify just that.

Q. I was just going to show you the document PS-1553 and suggest to you that it actually — refers to Zyklon-B and gives the same amount on the same days to Oranienburg as it does to Auschwitz, would you agree?

A. Now, wait a minute.

Q. Just have a look and tell me if that's correct.

A. Yes.

Q. Thank you. And although you say Oranienburg was not a concentration camp for killing people, you said it was an administrative centre.

A. It was a concentration camp and an administrative centre.

Q. I see. Thanks very much; but nobody was gassed in Oranienburg that you know of.

A. Not to my knowledge, no.

Q. No. Now, are you familiar with a document tendered at the Nuremberg Military Tribunal known as the International Military Tribunal, a document called "The War Refugee Board Report"?

A. "The War Refugee Board Report"?

Q. Yes.

A. Yes.

Q. And you are familiar with the document of which I speak?

A. It is the one authored by Pehle? There are several reports. I want to make sure we are {1134|1135} referring to the same one.

Q. I'd like to ask you whether you are familiar with the fact that that document alleged that there was over a million people killed at Auschwitz. In fact, I think, 1,700,000.

A. There is some such figure there, yes.

Q. It was obviously, according to you, it was a false figure.

A. Well, not quite as false or inaccurate as the one that the Polish Soviet Investigation Commission produced, but it's still a little high, yeah.

Q. Yeah. Well, they produced the four million figure.

A. Yeah. This one is within reason.

Q. Hoess produced the 2.5 million figure.

A. Yes.

Q. The War Refugee Board produced the 1.7 million figure.

A. Yeah. I think that was written while the camp was still in existence. I am not sure whether —

Q. It was towards the end of the War; but that figure is correct?

A. No. The figure is a little high, I said. One million seven is too high.

Q. That's the figure they produced?

A. I'm sorry, yes.

Q. They said this is a careful account of —

A. Careful, surely, in terms of the {1135|1136} best they could do.

Q. And you produced a million.

A. Oh, yes, but with much more information than was at their disposal.

Q. These reports were produced by people who claimed to be there, though. The War Refugee Board Report, who gave the 1.7 million figure, was prepared in conjunction with Mr. Vrba. Correct?

A. No, no. I asked you for the precise date of it because it is important. But you see, this report, which was in the nature of a preliminary description

Q. All I was interested in was the figure.

A. Well, I am saying that it is based upon information obtained in part based upon information, but in large and important part obtained on the basis of information which was brought by two escapees from Auschwitz to Slovakia, which was then under German control, and which was relayed by those escapees to the remnant Jewish community. There was still a remnant Jewish community.

Q. Before we leave our field —

A. Well, you said in conjunction, and I could not agree there.

Q. I'm sorry, let me put it more clearly if I was in any way misleading you. It was prepared by two escapees, Wetzler and Vrba.

A. Right.

Q. So now we know who we are talking about; and they went to Slovakia and ended up giving {1136|1137} their information in New York.

A. No. They gave their information in Slovakia, who then related it to a variety of channels until it reached the United States, until it reached Washington.

Q. All right. Thank you. So that report gave what you now know to be a figure out by seven hundred thousand.

A. Oh, at least, yes, because that report was made at a time before the gassings were completed.

MR. GRIFFITHS: Excuse me, Your Honour. We are also — we have been talking of a million Jews dead that Dr. Hilberg has talked about. He said there were other people other than Jews who died in that camp. The report referred to 1.7 million people. I think we are talking about apples and oranges in terms of numbers.

MR. CHRISTIE: I assume that is a form of an objection to a question. I

am not sure.

MR. GRIFFITHS: Yes, it is.

THE COURT: I think it is an objection to the words employed.

MR. CHRISTIE: So far the witness hasn't objected, and I haven't distinguished between Jews and people.

Q. The War Refugee Board Report referred to 1.7 million and some people, not just Jews.

A. Even if it said people, the figure would be a bit high.

Q. And if it said Jews, it is {1137|1138} obviously that much more high and erroneous.

A. Yes, it certainly is.

Q. I'd like to deal now with the eye witness account you referred to of someone who was there and in the Sonderkommando, Phillip Mueller. Are you familiar with that?

A. I am familiar with his book.

Q. Yeah. His book — may I see his book, please? Here it is. Thank you. The Phillip Mueller book is called "Eye Witness Auschwitz – Three Years in the Gas Chambers".

A. Yes.

Q. Do you regard this as a serious historical work?

A. No, it is not a historical work. It is a recollection of a person, his own recollection and his own experiences.

Q. Do you regard it as accurate?

A. I regard it as rather accurate, yes. I have been through this book page by page, and I am hard-put to find any error, any material significant error in this book. It is remarkable.

Q. I put it to you that it is more of a novel than a book; would you agree?

A. No, I do not agree at all.

Q. You consider this an accurate historical account of an eye witness.

A. Yes.

Q. Okay. You've read the book page by page.

A. Yes. {1138|1139}

Q. So if I read here you will be able to tell me if I am misquoting.

A. I didn't say I memorized the book, and please read.

Q. Can you tell me if this is the general tenor of some of the things in this book? At page 87, and I quote:

*It was obvious that the S.S. felt ..... once more would be masters of the situation.*

*..... in front of the humiliated crowd with a self important swag-ger. Suddenly they stopped in their tracks by a ..... with blue-black hair who was taking off her right shoe. The woman, as soon as ..... ogling her haunches ..... titillating and seductive ..... she shifted her ..... to allow [allow] a glimpse of thigh and suspender. Slowly she undid her stockings and peeled it off her foot. From out of the corner of her eye she carefully observed what was going on around her ..... and paid attention to anything else. They were standing there with their arms akimbo ..... and their eyes firmly glued on the woman."*

Is that accurate? Do you consider this an accurate historical account?

A. I consider this more seriously than {1139|1140} other accounts about the same incident. There are several accounts of the manner in which, at the time when the victims were being prepared for gassing, a woman seized a weapon and was able to mortally wound an S.S. man who was stabbed, and whose name was Schillinger. The Schillinger episode is recorded in a number of accounts. The only — and I said this is a very accurate description of what transpired — the only question one might have is whether the detail as described here is exactly the same as might have occurred; but I would say that there are other accounts that are substantially in accord with what this account has to state.

Q. Yes. Thank you. So if I may capsule your answer, the short answer is that you regard this as a serious historical account.

A. Moreover, this passage is substantially correct.

Q. Now, I am going to refer to another part of this book at page 110 and ask you some questions about this. To put it in context, I will suggest to you that this is the situation as the people are in the gas cham-

ber being gassed, and you'll tell me if I am reading it — if it is out of context in that regard

*Suddenly a voice began to sing. Others joined in and the sound swelled into a mighty choir. They sang the Czechoslovakina [Czechoslovakian] National Anthem, and then the Hebrew song ..... It was as if they regarded the scene as a last kind of protest {1140|1141} which they determined to stifle if they could to ..... comfort left to these people. Singing their national anthem they were saying farewell to their brief but flagging past which had enabled them to live twenty years in a democratic state, a respected minority in joke, [in-joke] and when they sang the ..... they were glancing into the future, but it was a future which they would not be allowed to see."*

Now, am I correct in saying that this a description of what the author alleges occurred inside the gas chamber from your recollection?

A. In the anteroom?

Q. No. I suggest that they are in the area where they are ultimately going to be gassed.

A. Well, in this area, yes.

Q. They are not in the crematorium and they are not in the area of anything but the room where the gas, the crystal is supposed to be dropped through the roof — right, in this story?

A. My recollection is that this is in the process of preparation.

Q. Well, it's in the same room where they are supposed —

A. In the same building. I am not quite sure about the room. Okay. All right.

Q. Do you consider that an accurate historical account, or — {1141|1142}

A. I cannot, on my own, confirm the particular incident. That's why we read books. But it is a matter of record that on more than one occasion — there is another occasion when French deportees were conveyed to the gas chamber, who were Jewish, who sang the Marseillaise. So the act of singing in a moment of anticipated death is a protest, a gesture, the only gesture possible.

THE COURT: What is the Marseillaise?

THE WITNESS: The national anthem of France.

Q. MR. CHRISTIE: I suggest to you that — am I interrupting?

THE COURT: No.

THE WITNESS: That happened, and this is a plausible account.

Q. MR. CHRISTIE: All right. I suggest to you that other books that were written previous to this book that I have quoted, Phillip Mueller's book, gave a somewhat similar incident in other circumstances. Now, your explanation of that would be what, sir?

A. You mean the singing, or the Schillinger incident?

Q. The singing incident. As a matter of fact, a very similar incident inside the anteroom, you called it, to the gas chamber.

A. Well, I don't doubt that — I said I don't recall another account of the singing of the Czechoslovakian national anthem, but I do recall something about the French national anthem — obviously a different episode. {1142|1143}

Q. Yes. I now produce and show to you a book, "Verbrechens Handschriften". [*Inmitten des grauenvollen Verbrechens: Handschriften von Mitgliedern des Sonderkommandos*]

Do you recognize the book?

A. I have seen this in another edition. If this is the book originally published in Poland, I have seen it in another edition. I have seen it in an English edition, in fact.

Q. It is published in 1972.

A. But yes, it is the book that I have seen in a different language.

Q. Mr. Phillip Mueller published his book in 1979, right?

A. Yes. That's the English translation of a book that was published earlier.

Q. Do you know when Phillip Mueller's book was first published?

A. It may say in the English edition. I am not quite sure. I think the original edition is German, and there is a translation into English, and a translation into French.

THE COURT: The book is by Mueller, is it?

THE WITNESS: Yes, the book is by Mueller.

Q. MR. CHRISTIE: The author that you referred to, the eyewitness account, originally authored the book under the title, "Sonderbehandlung", and that was also first published in 1979; would you agree?

A. I don't know. I haven't seen the date. {1143|1144}

Q. Okay. So Phillip Mueller's book is one called, "Sonderbehandlung" in German, and one called "Eye Witness Auschwitz – Three Years in the Gas Chamber", and they were both published in 1979; is that right?

A. Well, they were both published in the same calendar year.

Q. 1979.

A. Yes.

Q. This book whose title I have difficulty with, "Verbrechens Hand-schriften", that was published in 1972; right?

A. This edition must have come out then, yes.

Q. I think so. It comes [comes] with some recognition of the Auschwitz Museum, right?

A. Yes. It is published by the Museum at Auschwitz.

Q. Now, in this account, on page 121, I suggest to you we find something that is, I suggest, strictly similar to the Mueller book in a different situation, and I will ask you to read along with me as it is in German, and I'll read you what I suggest is the English translation on page 121, and correct me if I am wrong if it doesn't say this:

*Inside the gas chamber a certain young Polish woman made a short fiery speech in front of all persons present who were stripped naked in which she stigmatized the Nazi crimes, and the impression which she concluded with {1144|1145} the following words: 'We shall not die. Now the history of our people will make us eternal. Our desire and our people will live and come into bloom. The German people will pay so dearly for our blood as a form of barbarism with Nazi Germany. Long live Poland. .... of the Sondercommando. Be aware that the holy obligation of vengeance for us innocents rests upon you. Tell our people that we face death consciously and full of pride. There-upon the Poles knelt down on the floor and solemnly said a prayer in ..... which made a tremendous impression. They then got back to their feet and sang in a choir the Polish national anthem. The Jews sang the Hativa. The common brutal fate blended at this out of the way cursed place. The lyrics sound of various hymns into one entity. The deeply heart moving cordiality they expressed in this manner, their last sentiments and their hope. They finished by jointly singing The International. While they were singing the Red Cross arrived. The gas was thrown in the chamber and all gave up their ghost in song and ecstasy and ..... {1145|1146} improvement of this world.*

Did I read that correctly, sir?

A. Yes. That's a translation.

Q. Would you agree that it seems as if Mueller recounts such a strikingly similar situation in the "anteroom" with the exception of the suppression of the word "The International"?

A. Why the suppression?

Q. Shall we say elimination.

A. Why elimination? I don't understand, sir, what you are asking me, because these are two separate incidents. Here is a selection process going on; There are communists involved. There are Jews involved. The Communists sing "The International". The Jews don't sing "The International"; the Jews are not communists. Why should Jews about to go into the gas chamber sing "The International"?

Q. What I am suggesting is that, very clearly, Mueller seems to have plagiarized an incident from that book.

A. No. You seem to assume, sir, that anything that seems to be a similar event that strikes people similarly is plagiarism. If I held this view, sir, I would be in court twenty times accusing people of plagiarizing from my work. They can have an independent idea of my own. They can describe the same thing in words similar to mine.

Q. You are saying that this is one event that two different people described from their own observation; is that it?

A. It appears that way to me. {1146|1147}

Q. May I suggest that if we look at the context, we don't find the surrounding circumstances in any way the same.

A. No. The surrounding circumstances are not the same. I said so. They are two victims.

Q. Are you suggesting that two different groups of victims sang — A. They can sing.

Q. Sang the Hativa and The International, or alternatively, sang the Polish national anthem and the Hativa.

A. It is absolutely likely, because there are repeated accounts of people singing a national anthem. I said to you that I remember an account of someone singing the French national anthem. Now here we have an account of someone singing the Polish national anthem. We also have an account of someone in this group, the Jews only, singing the Hativa, which turned out to be the national anthem of Israel but which was not, obviously, then. Now, in addition to that they are singing The International, so all we are saying is that there was some singing.

Q. Yes. Could you explain to me how, on these two separate occasions, people would get out of the anteroom to the gas chamber to recount what had happened?

A. Well, I think such a — if there is a survivor — incidentally, these are not necessarily, survivors. These particular accounts were written, some of them, in a clandestine way by people who did not survive. I want to emphasize that from the book that you {1147|1148} are reading, but in any case, such an event, such a sight — I was not there; I am not the person who could properly state things about it, but I can imagine how impressive it would be.

THE COURT: Just a moment, witness. Don't imagine, witness, please.

THE WITNESS: All right.

Q. MR. CHRISTIE: I suggest that is what the author did, is imagine those events.

A. I cannot share that suggestion, because the authors, unlike me, were there.

Q. But the authors created, I suggest, literary exercises and alleged that they were fact, and you regard those authors as factual history.

A. I said that I do not regard them as historians, employing the style that the historian or a political scientist or, for that matter, a lawyer would use. These are people who record what they see and what they feel.

Q. How could either of those — Phillip Mueller or that author — see or hear the things he alleged he saw or heard without being in the gas chambers himself?

A. Or be in the anteroom.

Q. Let me understand you clearly. Now, are you suggesting that there is anteroom to the gas chamber and then there is a gas chamber?

A. Of course.

Q. I see. Okay. Thank you. Now, I suggest to you that what we are looking at are not historical accounts, not serious history at all, but novelistic {1148|1149} interpretations. Would you agree?

A. No, I don't agree.

Q. Thank you. I want to quote from page 113 of Phillip Mueller's work, and I want to ask you if you consider this an accurate factual account.

THE COURT: Same book.

MR. CHRISTIE: Yes, sir.

Q. This is the book to which you referred as one of the eye witnesses that you regard as credible, right?

A. Yes.

Q. Thank you. I quote page 113, and I suggest he is talking about his own experiences here.

THE COURT: Is it 113 or 133?

MR. CHRISTIE: It is 113.

THE COURT: Thank you.

Q. MR. CHRISTIE: "The atmosphere in the dimly lit gas chamber was tense and depressing. Death had come menacingly close. It was only minutes away. No memory to trace. No trace of any of us would remain. Once more people embraced, people were hugging their children so violently that it almost broke my heart.

Suddenly a few girls, naked and in the full bloom of youth, came up to me. They stood in front of me without a word, gazing at me deep in

thought and shaking their heads uncomprehendingly.

At last one of them plucked up {1149|1150} courage and spoke to me. 'We understand that you have chosen to die with us of your own free will, and we have come to tell you that we think your decision is pointless for it helps no one.' She went on, 'We must die, but you still have a chance to save your life. You have to return to the camp and tell everybody about our last hours,' she commanded. 'You have to explain to them that they must free themselves from any illusions. They ought to fight. That's better than dying here helplessly. It will be easier for them since they have no children. As for you, perhaps you'll survive this terrible tragedy and then you must tell everybody what happened to you. One more thing,' she went on. 'You can do me one last favour. This gold chain around my neck, when I am dead take it off and give it to my boy friend, Sacha. He works in the bakery. Remind me to him. Say love from Jana. When it's over you'll find me here.' She pointed at a place northbound to the coffee pillar [?] where I was standing. Those were her last words. I was surprised and strangely moved by her cool, calm {1150|1151} detachment in the face of death and also by her sweetness. Before I could make an answer to her spirited speech, the girls took hold of me and dragged me protesting to the door of the gas chamber. There they gave me a last push which made me land bang in the middle of the group of S.S. men. .... was the first to recognize me, and at once set about me with his truncheon. I fell to the door and stood up and was knocked down by a blow from his fist. As I stood up on my feet for the third or fourth time, .... yelled, 'You bloody shit. Get it into your stupid head. We decide how long you stay alive and when you die and not you. Now piss off to the ovens.' Then he socked me viciously on the face so that I reeled against the lift door.

Now, do you regard that as an accurate eye witness account of a plausible event?

A. This is probably one of the most moving passages in the book, and when I read it I paused.

Obviously it is incredible, but not incredible in the sense that one uses the word to describe something that is unlikely to have happened. It is incredible that a man who worked dragging out corpses was shoving people in, should want to die in his early twenties. He was talked out of it by a young woman about to die. {1151|1152}

Q. Inside the gas chamber, right?

A. Near the door.

Q. And she pushed him out of the gas chamber through the door.

A. That is his description. I think the passage is substantially correct.

Q. Okay.

A. I cannot imagine such a passage being invented.

Q. You cannot imagine such a passage being invented.

A. No.

Q. You, therefore, because you think it couldn't be invented, you can't imagine it being invented.

A. No.

Q. You therefore believe it to be true?

A. I believe it to be true in substance.

Q. Is there a difference between it being true in substance and true in fact?

A. There is a difference if two feet matters, if a gesture matters. The man is writing years afterwards.

Q. Do you believe that people in the gas chamber, if that is described here, could push people out and the S.S. would be standing there and the door would fly open?

A. It would be possible that when the gassing took place, as in this case, not of an entire transport having come in from the outside but people {1152|1153} selected from the inside, that this large room was not filled, that indeed it was possible for room to be inside the gas chamber to stand around and, indeed, for space to exist between a person there and the door.

Q. I am going to suggest to you another instance of something in Phillip Mueller's book that is plagiarized from the other book. I am going to read to you a passage from Phillip Mueller's book at page 161, then I am going to read you a passage from the other book, another eye wit-

ness in Auschwitz who wrote the book, or is alleged to have written the book,

"Auschwitz, an Eye Witness Account". Then I am going to ask you to comment on this and ask you if these are historical accounts. Reading first from Phillip Mueller, who you quoted as a historical accurate source, at page 161, I read as follows – there again is a description of something going on inside a what you call anteroom, or whether that is the anteroom or gas chamber – right? I suggest to you this is what it says:

"Suddenly, from out of the ranks of doomed prisoners, stepped a young rabbinical student who had worked in the hair dyeing team. He turned to Obersturnführer ..... and with sublime courage told him to be quiet."

Now, Obersturnführer [Obersturmführer], that would be an S.S man?

A. Yes, a corporal, something like that.

Q. "He then began to speak to the crowd. 'Mothers,' he cried, 'it is God's unfathomable will that we are {1153|1154} to lay down our lives. A cruel and accursed fate has compelled us to take part in the extermination of our people, and now we are, ourselves, become dust and ashes. No miracle has happened. Heaven has sent no avenging bolt of lightning. No rain has fallen strong enough to extinguish the funeral pyres built by the hand of man. We must submit to the inevitable with Jewish resignation. It will be the last trial sent to us by Heaven. It is not for us to question the reasons, for we are nothing before Almighty God. Be not afraid. Even if we could, by some chance, save our lives, what use would that be to us now? In vain we would search for our murdered relatives. We should be alone without a family, without relatives, without friends, without a place we might call our own, condemned to roam the world aimlessly. For us there would be neither rest nor peace of mind until one day we would die in some corner lonely and forsaken. Therefore, brothers, let us now go to meet our death bravely and with dignity.'"

I suggest to you that was on page 162 of Phillip Mueller's book, and a speech again made in the {1154|1155} anteroom; is that right?

A. Somewhere there, yes.

Q. All right. I now produce and show to you the book attributed to Dr. Miklos Nyiszli; at page 144, and I read a passage that describes an event which I will suggest is plagiarized in the book of Phillip Mueller. Now, reading at the bottom of page 143, I read:

"This was where the Dayan worked."

Now, can you tell us what a Dayan is?"

A. I think that question should be put to someone who is familiar with Jewish religion.

Q. Well; I put it to you that that is a Rabbinical student. Would you agree?

A. Good enough.

Q. All right.

"... or rather, where he did not work, for all he did was watch the fires burn. Even so, he was dissatisfied, for his religious beliefs forbade him from burning or [our] prayer books or holy objects. I felt sorry for him, but could do nothing further to help him. It was impossible to obtain an easier job, for we were all only members of the Sonderkommando, the kommando of the living dead. This then was the man who began to speak: 'Fellow Jews, an inscrutable will has sent our people to its death. Fate has allotted us the cruelest task, that is, of participating in our own destruction, of witnessing our own disappearance down to the very ashes to which we are reducing. In no instance have the Heavens opened to send ashes and put out the funeral pyre flame. We, as sons of Israel, should know this is the way things must be. God has so ordained it. Why? It is not for us miserable humans to seek the answer. This is the fate that has befallen us. Do not be afraid of death. What is life worth even if by some strange miracle we should manage to remain alive, to find cold and pillaged homes. In every room and every corner the memory of those who have disappeared ..... We would wander through life like the restless ..... of our former selves, of our past, finding no peace or rest.'"

Now, have I read that passage correctly

A. Yes.

Q. Do you see any similarity with the words?

A. Very similar.

Q. In the case of Mueller, he is the Rabbinical student; in the case of Nyiszli it was a Dayan, which I suggest was a Rabbinical student. Right? {1156|1157}

A. Well, go ahead.

Q. In the case of Mueller the man is inside the anteroom or gas chamber; in the case of Nyiszli, the words are attributed to him as part of the kommando. Right?

A. Yes. It is not clear what kommando.

Q. Mm-hmmm. Do you consider that it is possible that these, shall we say, emotionally-filled parts of one book might find themselves, by accident, into Phillip Mueller's book?

A. No, I don't think there are accidents in this life, but I do think that it is possible for two people to have heard the same thing. It is also possible for someone to have heard a repetition of it.

Q. Yes.

A. It is even possible for two people to have made substantially the same statements, because the nature of the language employed is rather typical of what religious Jews would say in these circumstances, the language of resignation.

Q. How do you explain the fact that both these eye witnesses describe the situation to which they say the other eye witness is not present?

A. I'm sorry, the other eye witnesses?

Q. Yes. Nyiszli doesn't say that, "Phillip Mueller is by my side", or anywhere nearby.

A. Of course, I don't know who was present and who was not present. I cannot rule out, if you are suggesting that years after the event, when a book is being written of accounts, a person may mix something he recollects with something that he had read {1157|1158} about, the same thing, of course this is possible.

Q. I suggest that Nyiszli published his book in 1960 —

A. Earlier, yes.

Q. And that the substance of that event was published by Mueller and attributed to a totally different situation in 1979.

A. I don't know whether it is a totally different situation at all, nor would I jump to the conclusion that it is any more than a very similar language of a very similar account. I do not rule out the fact that someone writing decades after the event about something, having in the meantime read about an event or the same event somewhere else, will resort to language — he may think that he had heard it; he may, indeed, have read it instead. That is not to be ruled out. I don't think that a particular speech was not made. I don't think that it didn't occur at some point because it is common enough.

Q. It's common in the literature of the eye witnesses in different situations; is that right?

A. It is common enough in different situations, and even in different camps, for religious Jews to have made speeches of resignation much, if not exactly, with language such as that which you have read;

Q. And this is why, then, and the only reason why it finds its way into very much of the eye witness literature in various situations. That is the explanation?

A. I would be speculating as to the reason for the similarity of the language in the two accounts. {1158|1159}

Q. Yeah. Would you agree with me that they do appear to be rather elaborate literary accounts of events?

A. Well, I don't want to qualify myself as a person in literature, but no, I don't think this is what I would call literary.

Q. Would you agree with me that your quoting selectively from Gerstein and Hoess was similar in kind to the sort of selection of stories prepared by Phillip Mueller in his book?

A. Well, I'd say that Phillip Mueller as a witness, is a remarkable, accurate, reliable person; not one who is learned, so far as I know — an ordinary individual. I think that in any account written many years after an event, with intervening years, with other books having been published, there is always the possibility that somebody is influenced, not

only by what he recollects but by what he may have read in the meantime. I would not deprive Mueller of his honesty.

Q. You believe that —

A. Plagiarism is a strong word.

Q. Yes, it is, but I suggest to you there is no other explanation for finding the same words in exactly the same form in two different books in different circumstances, unless there is something fishy.

A. Well, I don't know whether the particular rendition in Mueller's book owes something or does not owe something to the Nyiszli description. It may very well owe something to it; but to say that he sat down and simply copied is something else.

Q. At page 626 of your book, the {1159|1160} first column in the middle of the page, is there a sentence which says:

*"Most of the Birkenau arrivals saw great flames belching from the chimneys ..."*

A. Yes.

Q. Do you believe that is true?

A. Yes. As a matter of fact, in my second edition —

Q. Please forgive me for not asking.

A. Well, perhaps I should let you ask another question.

Q. I suggest to you that it cannot reasonably be true, in that crematorium chimneys do not belch flame. In fact, no chimney can belch flames without burning up very quickly. Did you consider that?

A. Let me simply say that there are many accounts of substantially similar nature of the same phenomenon, not only by survivors, but by persons and in the vicinity of Auschwitz.

Q. Yes.

A. I cannot characterize the nature of what they saw myself, because I have not seen it myself.

Q. Do you believe those accounts?

A. They are mentioned by several survivors. They were mentioned by railway personnel. They were mentioned by German personnel associated with the industrial complex not very close to Birkenau.

Q. Could you, name the names, any names?

A. Well, today Wiesel is another survivor, making a similar description in his book. {1160|1161}

Q. Now, Eli Wiesel, he is the President of what — the Holocaust?

A. Memorial Council, yes.

Q. He is appointed to a position in relation to the Holocaust by the President, as you were.

A. Yes.

Q. Do you want to name any others who saw the flames belching from the chimneys?

A. Well, there are a number of people. Now I would be hard-put to give you their names, but there are a number of people, as I said, belonging to the railway organization.

Q. Well, I am interested in the name. Generalities are of no value to me.

A. Yes. But I did not come prepared with all of the names, there being thousands of them.

Q. Yes. Thousands.

A. Some of which, however, are in print. If you have the German edition of my work, I will show them to you.

Q. The German edition?

A. Yes.

Q. We will make an effort to get that, sir. In page 623 of your book, second column, you say and I quote: According to Morgen young Jewesses were murdered and the corpses were cut into small pieces, mixed with horsemeat and boiled into soap.

Do you believe that to be the truth, the soap story?

A. No. As a matter of fact the rumour —

Q. Well, I really would appreciate a {1161|1162} short answer.

A. The answer is no.

THE COURT: No, just a moment. Whether you appreciate a short answer or not, I will

decide whether or not the answer is going on. I will permit the witness to answer the question.



Go ahead, witness, and answer the question.

THE WITNESS: The short answer is that I do not believe that, on a regular basis, soap was

made from human fat, but that the rumour of such soap was so widespread within German-occupied Europe during the War that I attempted to discover the origin of this rumour. How did it come about? Why is it mentioned in Slovakia, why is it mentioned in the German railway organization, why is it mentioned in so many different places?

Q. Indeed, why was it mentioned in the First World War about German soldiers there?

A. Possibly —

Q. May I suggest —

THE COURT: Just a moment. You asked a question. Please answer.

MR. CHRISTIE: Well, I am asking another one.

THE COURT: You are not going to ask another one until he has answered the first one.

MR. CHRISTIE: I thought he did.

THE COURT: He hadn't. He was about to when you interrupted him.

THE WITNESS: My answer is that I {1162|1163} regarded the soap story as a rumour. I was interested in its origin. The passage to which you refer is in the nature of an attempt to find out the origin, there being several possible reasons why the rumour may have been circulated.

Q. MR. CHRISTIE: So you were interested in rumours circulating to determine their origin.

A. Well, I was interested in this particular rumour.

Q. Did you ever find any evidence of its reality or truth?

A. No. I do not believe that, on a regular basis, in Auschwitz or someplace other than Auschwitz where human beings were killed, as it were, on an assembly line, soap was made from the fat of the corpses. I said that and I want to underscore it. I don't believe it.

Q. Do you have any evidence of that at all?

A. Of what?

Q. The use of soap, or making soap from —

A. No. I do not believe it. The problem is in a very tiny forum such as yours of proving it didn't happen.

Q. Well, because there were rumours you tried to find if there were facts behind them?

A. Yes. I tried to find if there, was an origin, something, anything.

Q. And you found out there was no {1163|1164} proof for the origin of this rumour.

A. No. I do say that there were reported occurrences, and I do speculate that these may well have been the reason for the circulation of the rumour, but a rumour it remains in my book, not a fact.

Q. Mm-hmmm. The rumour of twenty-five million from Gerstein is in your book.

A. The twenty-five million?

Q. No. Excuse me. You eliminated that from your book.

A. Yes.

Q. Are you familiar with other occasions upon which inmates of these camps have made ridiculous statements under oath in a court of law in West Germany, for example?

A. Well, I am not able to produce a ridiculous statement and characterize it as a statement.

Q. Well, would you consider that a ridiculous rumour, that camp inmates regularly carried out bicycle races around gas chambers in the concentration camp Auschwitz-Birkenau; in this manner they kept themselves physically fit while the S.S. had interposed a big break between murders? Do you consider that a credible statement.

A. No.

Q. I suggest to you, in fact, it was sworn to by a former inmate, and it's reported in the Nuremberg paper that I show you now, 11th of September, 1978. (sic) Would you agree that the translation above is accurate for the content of the article here?

THE COURT: Just a moment, before you {1164|1165} answer. Mr. Christie, you know the rules.

MR. CHRISTIE: Yes, sir. I do.

THE COURT: Ask the witness, please, whether he knows anything

about what you've shown him.

MR. GRIFFITHS: Is this a newspaper article, or a report of the testimony that we are seeing here, not the testimony itself?

MR. CHRISTIE: That's right. We are also in the position of dealing with all sorts of opinion.

THE WITNESS: All I can say is that you have shown me a newspaper report which I see for the first time of what is alleged to have been said by a former political prisoner who was a German, not a Jew.

Q. MR. CHRISTIE: No, I am not suggesting it was a Jewish person, but he was a concentration camp inmate, swore that to be true.

A. According to this newspaper.

MR. CHRISTIE: May I file that?

THE COURT: No.

MR. CHRISTIE: Thank you, Your Honour.

THE COURT: We are not going to have this Court cluttered with newspaper reports thirdhand.

Two-thirty, members of the jury.

— The jury retires. 1:00 p.m.

THE COURT: Everybody can be seated for a moment, please. Mr. Christie, let me say this to you, that I have tried to be as polite as I can under the circumstances, and I have done the best I can to let you know that I want you to show pieces of paper that you constantly {1165|1166} produce to the witness in a certain way.

You have, for reasons best known to yourself, apparently violated that order. You certainly did a little while ago. If you do it again, I will cite you for contempt. You know precisely what I mean. You will say nothing now. If you try it once more, I am going to cite you for contempt. It is the first time I have had to make a threat like that in nine years on the bench. Two-thirty.

— The witness stands down.

— Luncheon adjournment.

(VOLUME VI follows){1166|1167}

## Volume VI

— Upon the hearing resuming.

— The jury enters. 2:35 p.m.

— The witness returns to the stand.

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: Thank you, Your Honour.

Q. Dr. Hilberg, could I ask you if you are familiar with a person by the name of Luther?

A. Which Luther?

Q. I can appreciate — I am concerned about the Luther who was in the Foreign Ministry of the German government.

A. Yes.

Q. I think he was a person, I believe, who — well, you could tell me his position, could you not, sir?

A. Yes. He was in charge within the German Foreign Office of a division labelled Division Germany.

Q. So are you familiar with a document which I would like to now produce and show to you which was a purported exhibit at the NMT, the American Military Tribunal, referred to as the Luther Memorandum?

A. Yes.

Q. I want to leave that with you, sir, and I think I will refer to my copy. Would you agree that that's after the time when you are positive that gassings began at Auschwitz?

A. Yes.

Q. On a massive scale.

A. Yes. {1167|1168}

Q. Now, this memorandum was from a — would you call him a secretary, or a deputy of the Foreign Office responsible for domestic matters?

A. Well, of course, that almost sounds like a contradiction in terms, since the Foreign Office is supposedly only concerned with foreign affairs. There was, however, a Division in pre-war Germany which was very small. It was concerned with elements of foreign affairs as a prestigious [prestigious] matter. It expanded during the War because many problems arising within the occupied territories were within this particular part of the Foreign Office.

Q. Yes. Now, this concerns me, sir, because as it says on the document, I believe, it deals with the further – and I quote on the top, on the title, “Further measures connected to the ‘Final Solution’ of the Jewish question”. Is that right, sir?

A. Well, that is the description of the document by the people who compiled this document.

Q. And it’s seven pages long, is that right, sir?

A. In print, yes.

Q. Of course, this is a translation of a German document; we would agree on that.

A. Not a long memorandum.

THE COURT: Is that in English?

MR. CHRISTIE: It is an English translation, yes.

Q. Could you agree with me, sir, that it does say, and I quote the last paragraph and you can correct me if you feel this is out of context, but am I {1168|1169} quoting correctly when I say the last paragraph says: *“The intended deportations are a further step forward on the way of the total solution and are in respect to other countries (Hungary) very important. The deportation to the Government General is a temporary measure. The Jews will be moved on further to the Occupied Eastern Territories as soon as the technical conditions for it are given. I therefore request approval for the continuation of the negotiations and measures under these terms and according to the arrangement made. Signed: LUTHER”*.

Have I correctly at least read that part, sir?

A. Yes.

Q. Is it true that Auschwitz and — well, Auschwitz was in the Government General?

A. No, it was not.

Q. Was it in the Eastern Territories?

A. No, it was not. It was an incorporated territory of Germany.

Q. Yes. Would you agree that the occupied Eastern Territories would have been regarded as, say, Latvia, Lithuania, Estonia, The Ukraine — that sort of area?

A. That’s correct.

Q. Would you agree that whether — that {1169|1170} this memorandum clearly indicates that the intention on that occasion, according to the author, was to deport the Jews further into the occupied Eastern Territories, as this document indicates?

A. No. There are several aspects to this particular document which do require some explanations. First of all, it is a history. It’s not a memorandum of a situation at a given date but, rather, a recapitulation of policy from 1939 to 1942. That’s the first important qualification one must make.

Q. Mm-hmmm.

A. There was a phase in which Jews were deported from Germany to the so-called Government General, into ghettos, prior to the establishment of killing centres, prior to the establishment of death camps.

Now, as he is writing this memorandum, these death camps had begun operation, in the case of one of them a month earlier, in the case of the other two, several months earlier; but he is writing a memorandum — we don’t know the exact date on which it was drafted — in which he is recapitulating history.

One aspect of this history was the temporary lodging of Jews from Germany in ghettos of Poland until such time as gas chambers were erected in order to receive them for gassing.

Q. May I suggest, though, Doctor, that the memorandum is dated the 21st of August, 1942; it’s dated so at Berlin; it’s marked, “Most Urgent”. Although it does give historicity and refers to the previous Madagascar Plan, as far as the portion I have read I suggest {1170|1171} to you

that it deals with what further steps and future intentions were, at least, expressed by the author.

A. No. The author, as you pointed out, was in the Foreign Office. As such, his information, at times, was a couple of times behind the information available to the S.S.

Q. I see.

A. He did take part in the Final Solution Conference of January 20, 1942. His information was reasonably up-to-date up to that point.

Q. The Wannsee conference.

A. That’s correct. But there are several respects in which the information may have reached him late, and as I say, this is a think-piece. This is a memorandum.

Q. Okay. Could I, with your leave, get your agreement that that is an accurate representation of the Luther memorandum?

A. Yes. There are — I might add that there are omissions in this memorandum immediately prior to the paragraph you quoted. I don’t think that the substance is much affected by that, but I want to point out this is not the complete document.

Q. From your professional experience that is the way it is reported ...

A. Yes. I have a translation.

Q. I haven’t deleted that at all.

A. No. The deletion is in the printed part of the memorandum.

Q. So that this is all we have from the trial transcript of what the Luther memorandum was in {1171|1172} the reports that are available [available] to us all: is that right?

A. Well, available to you in print, yes.

Q. And you don’t feel that the portion deleted of which I am not aware changes the context any, does it?

A. I don’t think it does.

MR. CHRISTIE: May I ask that this be filed, please?

THE COURT: Yes.

THE REGISTRAR: Exhibit 10.

— EXHIBIT NO. 10: English translation of Luther memorandum — 31 July 1942.

Q. MR. CHRISTIE: So from that piece of information do you feel, perhaps, that the author was misinformed about the circumstances?

A. No, no. It’s simply one of these documents that are not self-explanatory. As you stated, it is several pages long. As I stated, it is a recapitulation, and it utilizes a certain number of euphemisms, as do most of these documents. It turns out that relocation across the border, meaning the border of the Government General and the Eastern Territories was a euphemism for Belzec and Treblinka, which were on that border.

Q. Thank you, Doctor. Are you familiar with the publication of the daily conversations of Adolf Hitler which were transcribed?

A. Are you referring to his “Table Talk”?

Q. Yes.

A. Yes. {1172|1173}

Q. And am I correct in saying, sir, that the “Table Talk” was the result of two stenographers who, for some reason or another, took down everything he said at his meals?

A. Yes.

Q. Have you read the transcripts of those conversations?

A. Yes.

Q. Yes. And are you familiar with the transcript prepared by Henry Picker called, “Hitler’s Table Talk”?

A. That is all that it is. This is a peculiar document, because the German original is no longer extant. We only have the English translation in what appears to be in the German title in the retranslation of the English.

Q. Would you doubt its authenticity?

A. Well, subject to the qualification just mentioned, it does appear to me to be reasonably authentic. Obviously, in a retranslation, one must be careful, because one cannot be certain, this being recorded table talk and then translated and retranslated, whether these were the actual words or just the approximate words of Adolf Hitler.

Q. I see. I wonder if I could ask you if you are familiar with this passage — and I am afraid I only have a photocopy of a page — this particular

passage, which is really, I am told, page 471 of the Hitler's "Table Talk", and its date, I am told, is – and I am subject to having to prove this, of course, is the 24th of July, 1942. It says on the top of the page, {1173|1174} "24-7-42 Abends".

A. Evening.

Q. First of all, are you familiar with this kind of transcript that I have referred to here?

A. Yes. This is, it would appear from the book, as in the retranslation.

Q. Yes. And we now have here some German words, and I am afraid I can't translate them, but would you agree that – I have a translation prepared, and I would like to read it, and you can tell me if I am right. I will just detach it now, if I may.

A. Yeah.

Q. It looks like the last, really, the last sentence of that day's conversation, apparently.

I have a translation. It says:

*"After the war he would be rigorously holding the point of view that he would destroy one town after the other unless the 'Dreckigjuden' [Drecksjuden]..."*

– filthy Jews –

*"... get out and wander off to Madagascar or some other Jewish National State, Hitler said."*

Is that an accurate translation?

A. Not quite.

Q. Not quite?

A. I will give you my free translation. After the War he was going to be representing rigorously the point of view that he is going to demolish city after city if these lousy Jews don't get out, either to Madagascar or some Jewish National State. That is what he is quoted {1174|1175} here as saying.

MR. CHRISTIE: In view of this identification, could I file this as an exhibit, please?

THE COURT: For identification. It may be filed for that purpose.

MR. CHRISTIE: In view of the fact that I read the translation, could I fix the translation, although the witness has testified as to his correction of it?

THE COURT: Yes. It will not become an exhibit until proven. Yes, that can be fixed.

THE REGISTRAR: Exhibit "J".

— EXHIBIT "J" (For Identification): English translation of Picker document.

Q. MR. CHRISTIE: My question is, if Hitler ordered the extermination of the Jews in 1941, according to your book, page 177, why did he speak about Jewish emigration after the War?

A. You have to ask yourself to whom he was speaking at the table.

Q. I see. Well, did he forget, or was he making up some pretense for those at the table?

A. I don't believe that Adolf Hitler forgot. I do believe, however, that he spoke differently to different people. And he obviously knew that it was important to keep secret what was happening. Here I present a conclusion, but one which I think is reasonable. Thus, what he was quoted at the table talk with unknown persons present [present] in translation, retranslation and back and forward, may have been just a comment which one need {1175|1176} not take terribly seriously.

Q. Are you familiar with a person called Lammers? Was he what might be called the head of the Civil Service at that time?

A. No. He was the chief of what was called the Reich Chancellery.

Q. And did he testify at the Nuremberg Trials on the subject of any plans for the Jews, to your knowledge?

A. Yes. He gave testimony to that effect, yes.

Q. Yes. Could I show you a copy of his testimony at what I suggest is the 9th of April, 1946, on the very subject of what we are discussing, any plan for extermination of Jews? Would you – am I showing you a document with which you are familiar? That is, really, a transcript of the IMT trial.

A. I, offhand, don't know what the document is which is referred to here as 686-PS. This is a resettlement matter for Germans.

THE COURT: Just answer his questions, please. Are you familiar with the document? If you are, say so; if not, please say that.

THE WITNESS: I don't recall the document exactly. I have a feeling that I know what it is, but I do not recall it exactly.

THE COURT: Mr. Christie, you can put your questions in such a way that you don't quote from it, but you can ask him questions that you can get information from as far as that document is concerned.

MR. CHRISTIE: Thank you, sir. All right. {1176|1177}

Q. Would you agree that Lammers, in his testimony, indicated that there was no knowledge that he had of any plan to exterminate the Jews?

A. He so testified, and ...

Q. Did he indicate that he knew of no word of Hitler to that effect?

A. He said that.

Q. Was there a questionnaire sent around to all of the persons who were political figures in Germany after the War —

THE COURT: Just a moment, please.

— Discussion concerning electronic disturbance in the Courtroom.

THE COURT: Sorry, Mr. Christie. Go I ahead.

MR. CHRISTIE: Thank you very much, Your Honour.

Q. Dr. Hilberg, are you familiar with this document? I am showing you a document. I don't see the number on it.

A. Well, it's a defence document for political leaders of the Nazi party, essentially.

Q. Are you familiar with it at all?

A. I have seen this document, yes.

Q. Okay. Would you agree with me that it was the result of a survey of 26,674 statements?

A. Yes.

Q. And would you agree that it was the form of a questionnaire sent to 26,674 political leaders in Germany? {1177|1178}

A. It, in the context, means leaders of the Nazi party.

Q. Yes, I appreciate that. And are you aware that this document has indicated that they had, until after the War, no knowledge of any extermination camps?

A. That is; indeed, what they said on this questionnaire.

Q. And you would probably say that that was really because they were Nazis.

A. I would say that a good many of them would choose to say that they had no knowledge, even if they had varying degrees of knowledge, because obviously they were on the spot, and having knowledge might be the first step towards some prosecution.

Q. Yes. But isn't it also true, Doctor, that many of the Nazis who were at various times accused were very useful witnesses for the prosecution in order to get them out of trouble?

A. True.

Q. I wonder if you are familiar with the Staff Evidence Analysis I am now going to show you, which was in connection with a document 4055-PS.

A. Yes.

Q. I notice that one of the documents – let's understand what a Staff Evidence Analysis was for the benefit of the jury. This was, I suggest, a form of capsulated summary of the documents that were attached to this Staff Evidence Analysis. Right?

A. The Staff Evidence Analysis simply means that somebody on the staff of the prosecution was {1178|1179} briefing the correspondence contained in the document, sometimes adding certain identifying information about the people who were involved in this correspondence.

Q. And one of the documents indicated as being attached to this Staff Analysis was the note stating that Hitler was intending to postpone the solution of the Jewish problem until after the War, would you agree?

A. That is the Staff evidence analysis, but I would have to see the document.

Q. Yes, that is the problem. I suggest to you that – have you looked in the archives for these documents, or that particular document?

A. I recall seeing no note, and I don't know to which note, let me put it this way. It says here, "Note", undated note. There is a date with every

other item here, or next to every other item save one. This is an undated note, and it's not identified who wrote the note.

Q. Well, have you looked to see if that note exists?

A. I have not found it.

Q. No. Have you looked, though?

A. I have looked wherever I could look. I have not found it.

Q. That would be an important piece of evidence in this type of question, would it not?

A. Not necessarily. It depends on who wrote the note, when and what his impression was, and obviously, if an important person said this, let's say, in 1942, that would be important, but if it were {1179|1180} said earlier by someone not in the direct possession, or someone not recording hearsay, it might not be important.

Q. Wasn't Luther an important person?

A. Luther was, of course, important.

Q. Well, he said it in 1942, didn't he?

A. Well, he said it in something of this kind, but in a recapitulation which must be read in its entirety to get the context.

Q. Would it make it somewhat significant if it was dated March or April '42?

A. Well, it would be, absolutely.

Q. Were you aware of the existence of this Staff Evidence Analysis?

A. Well, I tried to read the document rather than the Staff Evidence Analysis, since Staff Evidence Analysis is just a way of finding the document and a way of telling the casual reader whether he wants to go on reading.

Q. I suggest to you that that document, even though it is referred to and identified in the Staff Evidence Analysis, has disappeared from the archives. Is that a possibility to you?

A. Yes, it is, although the question should really be put to an archivist, because documents were sometimes pulled out of their context and may not have been replaced. The so-called disappearance may be a so-called misplacement of the document, and until all of them are microfilmed and the computer goes through all the names, which may take another twenty years, a missing document may, in fact, not be located. {1180|1181}

Q. It appears, then, that even today some of the relevant documents to give us a clear understanding of this massive situation are still missing. Would you agree?

A. Oh, yes.

Q. And some of them might very clearly contradict some of our firmly-fixed views.

A. I can never exclude the possibility of contradiction. After all, there are people who maintain at Stuttgart that Hitler did not give any orders.

Q. Yes. So in fact people questioning these types of situations can be of use to you and to others in stimulating further research.

A. Obviously. And if I could live another fifty years, I think I might invest another thirty-six of them in further research.

Q. Because this is a very important question, isn't it?

A. No doubt it is.

Q. And we are all learning in this life, even yourself, sir.

A. We never stop.

Q. That's right. I was interested in something, sir, I wanted to ask you. Do you think it's possible that when defendants made complaints at the Nuremberg trials, they wiped it out of the record?

A. Are you suggesting that complaints were wiped out of the record if they were made in open Court?

Q. Yes.

A. No. I have never heard of anything {1181|1182} like it.

Q. I now produce and show to you a piece of paper marked 30 April 46. Are you familiar with that?

A. Oh, expunged from the record?

Q. Yes. I was going to suggest that the reason why Streicher's complaint about mistreatment didn't appear is because it was expunged, wiped out of the record.

A. Well, I have been in Court a dozen times, and I have heard judges' directions, "That particular comment should not appear on the record." I

suppose this is not unheard of.

THE COURT: The American Court, Doctor.

THE WITNESS: The American Court.

THE COURT: It does not happen in this country.

THE WITNESS: I'm sorry, it does happen in American Courts.

Q. MR. CHRISTIE: And it happened in Nuremberg, sir?

A. It might have.

Q. In respect to allegations from Streicher, at least, it happened, sir?

A. Undoubtedly, but I have no way of knowing what was expunged.

Q. I suggest it was reported in the newspapers at the time, and that is why, when I brought out the newspaper yesterday, you said, "Show me the record." {1182|1183}

A. Well, all that I see on this record is that the President of the Tribunal expunged the comments because they were "entirely irrelevant". That is what it says right here.

Q. Yes. So we do agree that parts of the Nuremberg transcript were expunged?

A. If, at the request of the President of the Tribunal, they were deemed to be entirely irrelevant ...

Q. And the person referred to in – well, maybe I should ask more accurately – this is a copy of the Nuremberg Trial transcript. And these are always dated at the top of the page, and they don't have much in the way of designation otherwise.

A. What do you mean by designation otherwise? Every speaker is identified.

Q. Pardon me, but the Mr. Justice Jackson referred to was the prosecutor, wasn't he?

A. Yes. He is referred to by his title, because he is still a judge of the Supreme Court of the United States.

Q. The Doctor is Doctor Marx? (ph)

A. Yes.

Q. He is defence lawyer for Mr. Streicher?

A. Yes.

Q. And Mr. Justice Jackson is the prosecutor.

A. That's correct.

Q. And Mr. Justice Jackson asks at this stage to strike out Streicher's testimony found on the 26th of April, and expunge it from the record. {1183|1184}

A. Yes.

Q. And that's what happens.

A. And his motion is granted.

Q. All right. Thanks. Could I file this?

THE COURT: I want to hear argument on it before you do.

MR. CHRISTIE: All right. I will leave it till a later stage.

Q. So far as the Nuremberg transcript is concerned, the fact that we don't find allegations such as torture doesn't necessarily mean they weren't made, right?

A. Well, I don't know whether I can jump to that conclusion, because I would concede that most anything is possible in this world, but I merely testified to the unlikelihood that there would be real torture inside Nuremberg.

Q. Thank you, sir. I think I should like to get down to the issue of the book, "Did Six Million Really Die?" in some particular form.

Dealing with page 4, which is just under the introduction, I just want to pick out a few points, sir. I am not going to cover the whole thing, but I just want to look at certain factual statements and analyze them for a brief second and I will move on.

You notice the sentence that says, on the very bottom of the page, it says:

*"To date, the staggering figure of six thousand million pounds has been paid out in compensation by the Federal {1184|1185} Government of West Germany, mostly to the State of Israel (which did not even exist during the Second World War) ..."*

Now, I have accurately read the book, have I, sir?

A. Well, you have not added what follows it.

Q. All right:

*"... as well as to individual Jewish claimants."*

That's the end of the sentence, is it?

A. Yes.

Q. Okay. Now, are you familiar with the function of the institutional arm of the Federal Government of West Germany called ...

MR. GRIFFITHS: If you want to finish your question, and then I will make my objection.

Q. MR. CHRISTIE: ... it is called Wiedergutmachung. That's all. End of question.

MR. GRIFFITHS: Your Honour, Dr. Hilberg has been qualified as an expert in the field of history of the Holocaust. He has testified in depth and at length for the past three days. I don't know that he was qualified as an expert on repatriations or things that come after the period of his study.

THE COURT: Thank you.

MR. GRIFFITHS: I object to that question.

THE COURT: Mr. Christie, you might ask the witness if he is knowledgeable on the subject that {1185|1186} you mentioned.

MR. CHRISTIE: Thank you, sir.

THE COURT: That is the best way of finding that out.

Q. MR. CHRISTIE: Maybe I could put it this way. In your book, sir, around page 748, I think you deal extensively with the subject of reparations; would you agree?

A. Let me look at the page.

Q. 748, 749. It starts —

A. This is technically indemnification, not to be confused with reparations.

Q. I think we say probably starting at 747, you deal under the heading, "Eligible Claimants" and "Admissible Claims", "Professional Advancement", "Loss of Life Insurance Payments and Private Pensions", "Damage to Body and Health", "Loss of Life" — is this not all connected with what I have meant to say reparations and you corrected me to say indemnifications?

A. Yes. In other words, there is one term you mentioned before, but technically there are three provinces — one is restitution, that is restitution of property insofar as it is identifiable to the rightful owner; the second is indemnification — that is different and it includes payment for loss of freedom and health to survivors; the third is reparations — that is an agreement between the West German government and Israel in the Claims Conference, which is a private organization; and pursuant to the reparations agreement, money was set forward in the agreement, but made good in the form of payments in goods to Israel to compensate Israel for the {1186|1187} absorption of survivors. So there are three different programmes under three aques, under different auspices.

Q. I have a letter which purports to come from a source identified on it. Would you be able to say that that appears consistent with your knowledge of the area we are speaking about, namely, reparations? And perhaps you could look through the documents and check and see if they are —

A. Well, I see a letter from the General Consulate of Germany addressed to someone in British Columbia in which there is an enclosure from the West German Federal Ministry of Finance.

Q. Yes. If you could just check and see if what is situated there is consistent with your knowledge of this whole subject of reparations — I'm sorry, indemnification and reparations.

A. The subject matter on the first page, as I read it, is the cover term Wiedergutmachung, and under it, here, with respect to payments to Israel —

Q. Yeah. Could you tell us — well, if I may, could you tell us what it indicates in the way the same information from substantially the same sources.

MR. GRIFFITHS: Excuse me, Dr. Hilberg. Just a moment. I think, Your Honour, I think if the witness has seen this document, then that's well and good. If he hasn't seen this document, perhaps he could have an opportunity to examine it. If he has never seen it before — {1187|1188}

THE COURT: You may look at it, Doctor.

THE WITNESS: Yes. I said substantially the same, because in this

particular document, that is a recapitulation as of January 1st, 1983. I have seen recapitulations of the same categories for different dates, but I am somewhat familiar with the categories and the number.

THE COURT: Yes. Go ahead.

Q. MR. CHRISTIE: Could I ask, sir, if you could tell me how much it indicates has been paid out in compensation by the Federal Government of West Germany overall, total, total compensation by the Federal Government of West Germany?

A. The total, as listed here, is eighty-six billion, pursuant to a number of agreements. And these are not only from the Federal Government, but in view of the Federal German structure, also from the so-called lender of the equivalent Provinces of Canada.

Q. I see. That figure got me rather confused, 'Doctor. Perhaps you can explain to me, because it almost indicates thousands of billions, which confused me, because I know there is a different numbering system in Europe than there is in Canada ...

A. Yes.

Q. What does it mean when it says thousands of billions?

A. Well, it is simply eighty-three billion, as I understand the mark — not dollars, but marks.

Q. How much marks? Is that what we call them today? {1188|1189}

A. Yes.

Q. They are worth about fifty cents?

A. No, not today. They are worth about thirty-five cents, thirty-three cents.

Q. American.

A. Yes, American.

Q. But Canadian ...

A. Yes. Maybe. Okay.

Q. So we are dealing with the figure of total compensation of about eighty-five billion Deutschmarks, or perhaps forty billion.

A. Right.

Q. Okay. And could you designate or identify the portion payable to the State of Israel?

A. Three billion four hundred fifty in Deutschmarks, a very small portion of the total.

Q. Is there other payments made to individual Holocaust survivors?

A. Yes. The bulk is to individuals, because you see at the top a figure of fifty-four billion, and this is a payment made to individuals under the law which is already referred to as the indemnification law. These individuals are Jews as well as non-Jews, and that's the total cumulatively.

Q. Would you agree that that figure has, shall we say, gone up in time?

A. It has gone up because of a variety of reasons. One is that the West German government widened the law to recognize more claimants than before, because built into the pension payments, particularly, was an escalator clause to take care of inflation. And {1189|1190} since some of these payments are still being made, one must remember that they reflect the inflation. Payments made over a period of decades reflect different values over the years.

Q. Thank you. Would you say that in 1974 the total of reparations might then reach six billion pounds for the total sum?

A. Now you've got me into pounds. You mean British?

Q. Yes. Because that is what it says in the article. It says at the bottom of the page —

A. As of when? As of 1953?

Q. No. '74. Because this is the year, I think, that it was written. I am asking you that as —

A. Well, what I am reading in the I pamphlet is something that says, "to date".

Q. There is no date.

A. I see.

Q. That is the problem. We don't know the date.

A. I see. So ...

Q. "Six thousand million pounds" —

A. What is six thousand million pounds?

Q. I think it is six billion pounds, I think, but I don't know. You are not sure about that?

A. Well, in American usage – okay. All right.

Q. Well, say it was six billion pounds.

A. Yes, all right. Six billion British pounds. {1190|1191}

Q. Would that be approximately right at that time?

A. I have to ask, like a tourist, how much is this in American dollars, or Deutschmarks, or anything. You are asking me to convert these currencies as of 1974.

Q. All right. I will withdraw the question, but let me ask the general question, that by 1974 very large amounts of reparations and compensation had been paid.

A. Well, “large” is a —

Q. It is a relative term, I’m sorry.

A. It is a relative term, because the payments may represent half a percent or less than a third of the percent of the gross produce of West Germany in any given year, and because they reflect injuries to different individuals, they have received them over a period of time, it is obvious that if someone is hurt, even in an automobile accident, and gets recognition of his claim, it is going to involve a rather large sum of money, even one individual.

Q. Thank you, sir. Let’s turn to page six for a moment. As I say, I am taking these parts at random, and I am going to just refer to — I am looking at the second column, just under the picture of Chaim Weizmann. That is a picture of Chaim Weizmann?

A. I don’t know the gentleman, but I have seen a picture of him often enough.

Q. He is a great Zionist?

A. He was the President of the Zionist Organization, yes. {1191|1192}

Q. All right. Underneath that picture, about halfway down the second paragraph, there is a word that begins:

*“He complained that thousands of Jews in the occupied regions were conducting partisan warfare, sabotage and espionage ...”*

Now, he is referring to Himmler; is that right?

A. Well, I don’t know to whom it refers.

Q. Well, maybe I should start at the beginning of the sentence, I guess. The beginning of the sentence is:

*“The first was to prevent unrest and subversion; Himmler had informed Mussolini on October 11th, 1942, that German policy towards the Jews had altered during wartime entirely for reasons of military security. He complained that thousands of Jews in the occupied regions were conducting partisan warfare, sabotage and espionage ...”*

and there is no period there, but I have stopped. Now, I’d like to just deal with that.

A. Yes.

Q. Now, not that you agree with Himmler in any way — I am not suggesting that it is true or false, but would it be an accurate statement to say that by October 11, ‘42, Himmler had formed the view that Jews were involved in sabotage in the area of Western Russia? {1192|1193}

A. No. It does not mean that at all. I have, although I have not said it in my book, I have seen, on microfilm, the record of this particular conference.

Q. Oh, excuse me —

A. So I am familiar with its contents as summarized in the official record.

Q. Oh, there was a conference between Himmler and Mussolini on October —

A. Yes, and there is a record of it in the National Archives of the United States.

Q. When you were asked to read this booklet, as you did, did you have the record of that conference, or did you check it in any way?

A. It’s one of the very many documents I have at home. Surely.

Q. Had you checked it?

A. Yes.

Q. And is that statement that Himmler indicated at that time, that Jews were involved in partisan warfare, an accurate statement of what he indicated at the time?

A. Well, as I recall the particular memorandum, there was a discussion between Himmler and Mussolini on that date in which the subject of

discussion was wide-ranging — the nature of the War and everything else.

Q. Are you suggesting that topics as situated there did not come up?

A. It did come up, and in the course of the paragraph so devoted to Jews, in this conversation, {1193|1194} Himmler said that the Jews were working, building streets and so on and so forth, and those that were obstreperous [obstreperous] or had joined the partisans would have to be shot; and it’s true he said there were large numbers of them that had to be shot.

Q. All right. That’s all I asked, really.

A. Okay.

Q. I am not arguing with whether or not —

A. I thought you asked me whether I believed him in what he was saying.

Q. I don’t think that I would ask you that question, sir, but I just asked you if that — okay. Now, so that statement, whether Himmler believed or not being aside, that statement is accurate about that meeting.

A. He was saying something of that sort. It’s close enough.

Q. All right. I just want to move along a point at the bottom of the seventh page. I am going to deal with a statement of fact which begins with the sentence, and I quote — it’s just about an inch, if you will forgive me for using that term of measurement, about the bottom of page 7, on the righthandside, it says:

*“This is acknowledged by the World Jewish Congress in its publication, Unity in Dispersion (p.377), which states that: ‘The majority of the German Jews succeeded in leaving Germany before the war broke out.’”*

Are you familiar with the World Jewish {1194|1195} Congress publication, “United in Dispersion”?

A. Well, the publication and the figures are substantially correct.

Q. All right. So that you agree that there is such a publication, and the quote attributed to it here is true and correct, or do you not?

A. I said substantially correct, because as in everything else, there are qualifications. It is true that if you measure the number of emigrants from Germany prior to September 1st, 1939, the majority of the original five hundred thousand Jews in Germany had left. This leaves out the question of where they went to and what subsequently happened to them.

Q. I appreciate that. What I am trying to check is a statement of fact, and I am trying to check the quote. Did you check that quote at all, sir?

A. Oh, yes, I have no problem with it.

Q. Okay. You wouldn’t object if showed you the publication and you could identify it?

A. Fine.

Q. Okay. Is this the publication you know as, “Unity in Dispersion”, a history of the World Jewish Congress?

A. Yes, I’ve seen it.

Q. And page 377, does it say:

*“The majority of the German Jews succeeded in leaving Germany before the war broke out and a substantial number of them settled in South American countries.”?*

A. It is not accurate that a substantial {1195|1196} number of them settled in South American countries, because a lot of them went to Latin American countries to settle; but other than that it is correct.

Q. I’d like to move along, then, to something on page 8, and I have chosen at random the statement of fact that is in the second paragraph. It happens to be the words, rather obscure:

*“In Colliers magazine, June 9th, 1945, Freiling Foster, writing of the Jews in Russia, explained that ‘2,200,000 have migrated to the Soviet Union since 1939 to escape from the Nazis.’”*

A. I still haven’t found it. Where is it?

THE COURT: It is the last sentence in the second paragraph on the top of page 8. It begins with the words, “In Colliers magazine”.

THE WITNESS: Is it under “Russian Jews Evacuated”?

MR. CHRISTIE: Yes. That’s right. No, I’m sorry. We are mistaken.

THE WITNESS: Oh, I see. It’s in the left column. I was looking in the right one. Okay.

Q. I could point it out more quickly. Here we are. It is just there, sir.

A. All right.

Q. It says:

*"In Colliers magazine, June 9th, 1945, Freiling Foster, writing of the Jews in Russia, explained that 2,200,000 have migrated to the Soviet Union {1196|1197} since 1939 to escape from the Nazis."*

Did you check that at all to find out if that was true?

A. Whether that was in Colliers magazine?

Q. That's right.

A. No. Colliers magazine is a defunct magazine. I have not checked that. You mean whether it's in the magazine, or whether the figure is true?

Q. First of all, is it a correct quotation?

A. I can't confirm that, but I can't deny it, either. It could very well have been said by anyone not familiar to me who said the name Freiling Foster.

THE COURT: You might ask him about the figures.

MR. CHRISTIE: Yes. Fair enough.

Q. Would you disagree with the figures?

A. Oh, yes.

Q. But you don't question whether or not it was accurately reported?

A. I can't confirm or deny whether it was accurately reported, but obviously, the figure, to my mind, is out of the question.

Q. Thank you. Now, I'd just like to move over to page 9, and I've picked a quotation which begins in the middle of the lefthand column just after the words, it says, "Deutsche Wochenzeitung, November 23rd, 1963", the next sentence says:

*"The reason for this high figure is {1197|1198} underlined by Albert Maisal in his article 'Our Newest Americans' (Readers Digest, January, 1957), for he reveals that 'Soon after World War II by Presidential decree, 90 per cent of all quota visas for central and eastern Europe were issued to the uprooted.'"*

Do you agree I have read correctly the paragraph there?

A. Yes. Yes.

Q. I'd like to now produce and show to you the Readers' Digest article of January 1957 and ask you if you are familiar with the article on page 162 by Albert Maisal.

A. I've not read it.

Q. Please don't answer my question until His Honour says you may, but could I ask you if you would disagree with this attributed quotation which I suggest is found there?

THE COURT: Go ahead.

Q. MR. CHRISTIE: I will then read it to you:

*"Soon after World War II, by Presidential decree, 90 per cent of all quota visas for central and eastern Europe were issued to the uprooted who dared not return to their homes behind the Iron Curtain."*

Would you agree?

A. Yes. {1198|1199}

Q. That is, then, a direct quotation; would you agree?

A. Yes.

Q. Thank you.

THE COURT: We will adjourn for fifteen minutes.

— The jury retires. 3:30 p.m.

— The witness stands down.

— Short adjournment.

— Upon resuming.

— The jury returns. 3:50 p.m.

— The witness returns to the stand.

THE COURT: Go ahead, Mr., Christie.

Q. MR. CHRISTIE: Yes. Before I go I on, there was a question that arose this morning about the Hoess affidavit, the first one dated 5th of April, 1946, as to whether it was in English or not.

A. I think there was confusion left on the matter.

Q. Yes. I'd like to, if I may, produce a document dated the 24th of April, 1946 – my birthday – and I'd like you to look and see if you can read it, sir.

A. Yes.

Q. At the back I believe is a photocopy of the document. That's what I would particularly like to ask you about. {1199|1200}

A. Mm-hmmm.

Q. And can you tell me what it is, sir?

A. The photocopy? Well, on the third page, written in English as stated above.

Q. Yes. In English.

A. It is typed in English.

Q. Yes. So I assume from your answer, you say that you identify the document as the affidavit of Hoess filed on the 24th of April, 1945, and it is typed in English and signed by him; would you agree?

A. Well, the signature, obviously, is hard for me to identify this from. It appears to be something like a signature.

MR. CHRISTIE: May I file that?

THE COURT: For further proof, yes.

Q. MR. CHRISTIE: Do you have any better knowledge of the document, or is that the Hoess I affidavit referred to in the Nuremberg Military Tribunal?

A. You mean an earlier one, or —

Q. Do you have any knowledge of an earlier affidavit?

A. No. Offhand I couldn't say an earlier one. Lots of later ones.

Q. That is, I suggest to you, the affidavit of Rudolf Hoess.

A. That could quite be the case, yes.

Q. Have you ever seen it before?

A. Oh, yes, I've seen it.

Q. Is it any different from any other time that you have seen that document? {1200|1201}

A. No.

Q. So could you say that this is the document that I suggest it is?

A. Yes.

Q. Yes. Thank you.

MR. CHRISTIE: Could that be an exhibit please?

THE COURT: Yes. For identification at this time, and I want to hear argument on a number of matters.

— EXHIBIT "K" (For Identification): Staff Evidence Analysis dated April 24, 1946.

Q. MR. CHRISTIE: Now, I'd like to just get back to what we were doing earlier. Could you turn to the booklet, page 10, under the heading, "Absence of Evidence", in the paragraph beginning:

*"According to Manvell and Frankl (Heinrich Himmler, London, 1965), the policy of genocide 'seems to have been arrived at' after 'secret discussions' between Hitler and Himmler (p.118), ..."*

Are you familiar with that book, "Heinrich Himmler", by those authors?

A. Yes.

Q. And it really exists?

A. The book?

Q. Yes.

A. Oh, yes. {1201|1202}

Q. And I'd like to now produce and show to you what purports to be the photocopy of the front page of the book, the title and the picture associated with it. Would that be correct?

A. Yes.

Q. It was published in '65.

A. Yes.

Q. Looking at page 118, would you agree with me that it indicates the decision to practise I mass extermination on a national policy of genocide seems to have been arrived at only after secret discussions which were inevitably dominated by Hitler?

A. Yes.

Q. Okay. Now, I will just leave that there, because I think there are a couple of more quotes from that. Would you agree with me that that appears to be an accurate summary of the present situation, namely, that any discussions seem to have been arrived at in secret, according to that book, and maybe according to you, too?

A. Oh, yes. It is obviously not a public discussion of the matter.

Q. Right. Going on, I think it refers a little further down to "William Shir-

er, in his generally wild and irresponsible book *The Rise and Fall of the Third Reich*, is similarly muted on the subject of documentary proof. Now, leaving aside the judgmental words "wild and irresponsible book", would you agree that he is silent on the subject of documentary proof?

A. It's a journalistic book, frankly, {1202|1203} based mostly on secondary sources. It is aimed at the general public. It does not pretend to be scholarly. It is not such, and it would not, at least by me, be included for reference.

Q. I appreciate that you would not refer to it, but do you agree that that book, as do many others, are silent on the subject of any documentary proof?

A. Well, that book is silent on a lot of things.

Q. Well, even we today, sir, yourself as an expert and looking at other experts, would agree as late as the Stuttgart Conference last spring, that there really doesn't seem to be any documentary order.

A. Documented in the sense of a written order.

Q. Yes. Documentary proof. And I suppose could you agree that that might mean the same thing?

A. Well, not necessarily, because you see there is mention of a Hitler order in documents.

Q. Mm-hmmm.

A. It's not the Hitler order that exists in the form of a document, because that appears to have been oral, but there are documents that state that there was a Hitler order.

Q. Yeah. There are testimonies of the people —

A. No, no, no. There are documents. I repeat, there are documents. Even in the Wannsee Conference you will find reference to that. {1203|1204}

Q. Well, none of those documents that state there is a document are quoted in your book, "Documents of Destruction".

A. Well, in fact I, myself, translated the Wannsee Conference, and it is in there.

Q. And we have gone through that before, but having gone through it, it does not include a reference to extermination at all.

A. It includes a reference insofar as Heydrich speaks of the evolution of the policy arriving at the final solution and makes specific reference to Hitler in that connection.

Q. I see. So the reference to Hitler and the final solution is what you mean.

A. Well, of course, but in this book —

Q. I just want —

A. — since you asked a question, if I may say, I have appended Eichmann's testimony from the Eichmann trial elucidating the Wannsee Conference.

Q. Let's not go too far. I just asked you if in the Wannsee Conference you mean, by talking of an order, they talk about the final solution.

A. I mean by it the annihilation of the Jews of Europe.

Q. But even in the Wannsee [Wannsee] Conference did it have a memorandum or anything before it —

A. You mean the words "final solution"?

Q. Yes.

A. It was not used; except in the Stroop Report where it does appear. {1204|1205}

Q. But it was not a deep, dark secret that there was reference to a final solution because it was referred by Luther, and it was defined in terms other than you would define it; would you agree?

A. Well, the Luther memorandum, as I testified before, is a long summary and one which is not, in all respects, complete to August 1942.

Q. But it talks of a final solution and does not talk about extermination.

A. There was, assuredly, in the month of January, February, even March, in the mind of some people, a good deal of haziness as to what was to be done with the Jews, and in some cases one finds this haziness existing even after March 1942, and it is sometimes hard to decide whether or not the author is fully familiar with the detail, or is sometimes writing in vague language what he is familiar with.

Q. All right. Well, I won't argue with you, sir. If I may, I would just like to produce and show to you a copy, or part of page 1100, or page 964 of

"The Rise and Fall of the Third Reich" to ask you if it does accurately quote — if it is accurately quoted at the bottom of page 10 where it says, reading from the bottom of page 154 of "The Rise and Fall of the Third Reich", I read:

*"What became known in high Nazi circles as the 'Führer order on the Final Solution' apparently was never committed to paper — at least no copy of it has yet been unearthed in the captured Nazi documents. All the evidence shows that it was most probably given verbally to Goering, Himmler and Heydrich, who passed it down during the summer and fall of 1941. A number of witnesses testified at Nuremberg that they had 'heard' of it but none admitted ever seeing it. Thus Hans {1205|1206} Lammers, the bullheaded chief of the Reich Chancellery, when pressed on the witness stand replied: 'I knew that a Führer order was transmitted by Goering to Heydrich ... This order was called 'Final Solution of the Jewish Problem.' But Lammers claimed, as did so many others on the stand, that he did not really know what it was all about until Allied counsel revealed it at Nuremberg."*

I am quoting correctly, sir?

A. You are quoting correctly.

Q. And it seems to be almost, in fact, verbatim from the booklet, "Did Six Million Really Die?", or at least part of it.

A. This from that?

Q. No, I'm sorry. In this booklet, "Did Six Million Really Die?", at the bottom of the page, it quotes that source, "The Rise and Fall of the Third Reich" accurately?

A. Well —

Q. Well, you'd have to read it; did you ever check that before, sir?

A. Well, of course, but —

Q. You did?

THE COURT: Did you ever check the book, "The Rise and Fall of the Third Reich"?

THE WITNESS: Yes, I've been through that book.

Q. MR. CHRISTIE: Did you check it to see if the booklet, "Did Six Million Really Die?", had accurately quoted that book?

A. Yes. Oh, yes.

Q. So does it? {1206|1207}

A. Yes.

Q. Thank you.

A. I thought — I'm sorry, from your question I thought whether Shirer had quoted from this booklet. I'm sorry.

Q. No. Sorry. I didn't mean to confuse you; but that is what I am asking. Would you agree with what Shirer apparently published as being true?

A. Well, it is not entirely so. He was not really a specialist on these matters. He wrote rather early in the nine fifties, and he made certain conclusions, most of which I would say would be shared, but if I had to put it into my own words, I would have to give it a slightly different description of these events.

Q. Would Shirer's description be false?

A. It would be correct insofar as he states that there is no written order by Hitler that has ever been found, and if by "verbal" you mean "oral", then he is correct in sharing the supposition that other researchers have that these utterances were oral if, indeed, orders were given.

Q. Yes. And what the booklet does in the paragraph or heading, "Absence of Evidence" is extend the belief that you agree with as to the non-existence of the order to question the existence of the orders themselves, right?

A. Well, I did not say that.

Q. No, I am not saying you said that, sir. I am saying that is what the book, "Did Six Million Really Die?" does, which I trust you have read. {1207|1208}

A. Yes.

Q. Okay. "Now, there's the part that you disagree with, isn't it — you shouldn't extend your consideration of these points to the disbelief of the existence of the policy itself?

A. That's correct.

Q. Thank you. On page 11, under the heading, "Legal Principles Ignored", I go down to the sentence where it says:



*"Among the judges, of course, were the Russians, whose numberless crimes included the massacre of 15,000 Polish officers, a proportion of whose bodies were discovered by the Germans at Katyn Forest near Smolensk."*

Do you read that?

A. Yes.

Q. Now, is it true that during the Nuremberg trials, included in the indictment against the major war crimes accused was the accusation that they had murdered the Polish officers at Katyn?

A. Yes, there was such a point in the indictment.

Q. They were accused of that.

A. If I remember correctly, yes.

Q. And would you say, sir, that it is now widely debated whether – and I suggest to you, in fact, most authorities would hold that the Russians were probably guilty of that crime?

A. I am not the specialist on the Russians, but it is my own belief that, you know — {1208|1209}

THE COURT: Just a moment. If you are not a specialist on the Russians, and your evidence doesn't fall within the confines of your speciality, then your belief is irrelevant.

THE WITNESS: Well, Your Honour, I was just going to say that it is my belief that the Germans did not do it, because on the basis of my German —

THE COURT: That doesn't matter, Doctor.

THE WITNESS: Okay.

Q. MR. CHRISTIE: There's certainly a lot of authorities in this field that agree with the proposition that the Germans were not guilty.

A. That's correct.

Q. Now, if the Germans were not guilty, I put it to you that one of the judges on the tribunal was Rudenko representing a country that pretty well had to be the other culprit – right?

A. Yes.

Q. So far as this is concerned, it is correct to say that on the judicial bench at Nuremberg was one of the parties to one of the crimes charged in the indictment.

THE COURT: Well, now, wait a minute. That is, perhaps – perhaps you can rephrase that one, unless you say that Rudenko himself —

MR. CHRISTIE: No, I didn't say that.

THE COURT: You said he was one of the parties.

MR. CHRISTIE: I meant to say he was the representative of one of the parties, namely the Soviet {1209|1210} Union. I that most will try and rephrase it, Your Honour.

Q. Now, would you say that it was true that authorities now, today, would agree that the Russians were sitting in judgment on a charge of one of the elements of which – not the whole charge – they, themselves, were guilty of?

A. I don't know whether I should answer it within the confines of what I am qualified to answer at all, but I think that is the prevailing view.

Q. Yeah. So far as that sentence is concerned, that would be consistent with the prevailing view, the sentence I have read from the booklet, "Did Six Million Really Die?", where it says:

*"Among the judges, of course, were the Russians, whose numberless crimes included the massacre of 15,000 Polish officers, a proportion of whose bodies were discovered by the Germans at Katyn Forest, near Smolensk."*

With the exception of the words "numberless crimes", which is a judgmental phrase, shall we say, that statement is consistent with the prevailing view today.

A. Well, of course, that one Russian is pluralized here to become a lot of Russians. It was one Russian that was on the tribunal.

Q. Yes. But he was the representative of the Soviet Union.

A. Because you see, the statement says, "Among the judges ... were the Russians", plural. There was one Russian among four judges. {1210|1211}

Q. Yes, I acknowledge that that is used in the plural where it should be singular, but he was the representative of the so-called Russians. Right?

A. Of the Soviet Union.

Q. All right. Now, the other day we were dealing with this matter of "Confessions Under Torture" and you were asked whether Senator McCarthy said what was attributed to him, and I heard you say you weren't sure as to whether even he would have said that, or words to that effect.

A. Yes.

Q. Right. All right. At the risk of getting involved in something to do with the Congressional Record, which I assure you, as far as this is concerned, does not include radishes or anything of that kind as we were discussing yesterday, I would like to show you a document that purports to be what it says on the top and ask you if you would agree that it appears to be authentic.

A. It appears to be from the Congressional Record.

Q. Would you acknowledge that you are familiar with it?

A. I have not read this particular text before, but I am familiar enough with some of the remarks made by Senator McCarthy as reported in the Press.

THE COURT: You are being asked if you are familiar with the contents of what you are being shown, Doctor.

THE WITNESS: No, not this particular page.

Q. MR. CHRISTIE: What I was about {1211|1212} to ask you, though, is that not part of the A[s]chenauer book, Rudolf A[s]chenauer, defence counsel – I put it to you – I have dismantled it because it is photocopied, but are you familiar with the book, "Review of the War Crimes Trials" by Dr. Rudolf A[s]chenauer?

A. Well, I just perused that rather briefly a long time ago.

Q. It is a rather rare book, isn't it?

A. Well, perhaps.

Q. Maybe I can ask this another way. Would you agree that all the statements made on that page, "Confessions Under Torture", are probably true?

A. No. I have repeatedly testified to something entirely different. I characterized this in all sorts of ways over the days. I don't know that it is necessary for me to repeat all this testimony. It's in the record.

Q. Well, let me be more precise, then. Could you identify one statement on that column, on page 12, under "Confessions Under Torture", that you say is false – just one single statement there, anywhere?

A. I do not state that something is false because I said before that I had no independent knowledge of some of the allegations pertaining to the Malmedy trial which was not a Holocaust trial or, for that matter, to the Dachau trial.

Q. Excuse me, does this article say that the Malmedy trial is a Holocaust trial anywhere?

A. The pamphlet is one pertaining to the six million. Not one of the six million was involved {1212|1213} in the Malmedy trial; not one.

Q. No. Nor does the pamphlet say they were, sir, I suggest.

A. All right.

Q. I suggest the reason for referring to torture in the Malmedy trial is to analogize that probably the same situation prevailed in other trials. Do you agree?

A. Well, there may be that insinuation or implication that was intended by the author. That I do not dispute.

Q. Okay. But I ask you if you can see, or if you read that from top to bottom, "Confessions Under Torture".

A. Yes.

Q. Tell me one single statement there that is false on that whole column. Just one, any one.

A. Well, the statement – are you now asking me whether the attributions are false, or whether, for example, Justice Wenersturm, as quoted, was incorrect?

Q. Well, I was dealing with "Confessions Under Torture", and it is to the left.

A. No. It is under "Confessions Under Torture".

Q. Where is that?

A. On the bottom of the right column. For instance Justice Wen[n]erstrum says certain words here:

*"The reader will immediately appreciate from their names ..."*

– the names of various prosecutors –

*"... that the majority of these people {1213|1214} were 'biased on racial grounds' in the words of Justice Wen[n]ersturm – that is, were Jewish ..."*

Q. Well, all right. Is that a mistaken belief, or is that a false statement?

A. I think it is a false statement, of course.

Q. Okay. Let me analyze it. Did Wen[n]ersturm say that many of those involved in the prosecution were biased on racial grounds; did he say that?

A. This is why I asked you what he meant. The attribution is incorrect, but —

Q. You take issue. You say he was wrong or mistaken or lying.

A. Yes.

Q. However, he did say that?

A. No doubt. I testified to that before.

Q. So you are not saying that is a false statement at all.

A. I am saying, once again, that inasmuch as this is a paragraph taken from Judge Wen[n]ersturm's words as truth —

Q. You dispute the truth.

A. Yes.

Q. But no doubt Wen[n]ersturm believed that, and he was there.

A. Whatever he believed, he said that.

Q. Yes. He did say these words.

A. Yes.

Q. So you'd say that Wen[n]ersturm is {1214|1215} wrong and you shouldn't quote Wen[n]ersturm when he is wrong. Is that right?

A. I would say that Wen[n]ersturm is wrong and, therefore, I cannot agree that this is correct in content.

Q. I see. But there is no doubt about the fact that Wen[n]ersturm said that.

A. No doubt.

Q. And there is no doubt that this article is correct when it says that Wen[n]ersturm was a judge at the NMT – Nuremberg Military Tribunal.

A. Yes.

Q. So that is the truth?

A. That part, yes.

Q. And there is no false statement when he quotes somebody to say those words, unless you dispute the man who said the words.

A. Yes.

Q. All right.

A. Yes, they were the words of someone – I don't want to mislead someone. If someone says that Streicher called all the Jews murderers, that is a true statement insofar as Streicher made that comment, but I do not agree with the nature of that comment.

Q. I understand that, sir, and I am glad you explained it, but [ ] then, of course, that's where we get to matters of opinion; right?

A. Oh, no. I don't think this is simply a matter of opinion. It is a factual question as to whether these people were or were not Jews.

Q. Well, does it say anywhere that {1215|1216} these people were or were not Jews?

A. All right. Do you want me to repeat the passage?

Q. I want you to help me find one statement that is false in there.

A. These were Americans. These were American citizens and American prosecutors. Here is the passage. "The 'American'" – now, that is in quotation marks. Now, whatever is imputed in quotation marks, for "American", when one has an American uniform on —

THE COURT: One at a time, please.

THE WITNESS: — "American" investigators responsible (and who later functioned as the prosecution in the trials) were: Lt.-Col. Burton F. Ellis (chief of the War Crimes Committee) and his assistants, Capt. Raphael Shumacker, Lt. Robert E. Byrne, Lt. William R. Perl, Mr. Morris Elowitz, Mr. Harry Thon, and Mr. Kirschbaum. The legal adviser of the court was Col. A. H. Rosenfeld. —"

Q. MR. CHRISTIE: Can we step —

A. — "The reader will immediately appreciate from their names that the majority of these people were 'biased on racial grounds' in the words of

Mr. Justice Wen[n]ersturm – that is, were Jewish, and therefore should never have been involved in any such investigation."

Q. All right. Now, are you saying that the majority of the American prosecution staff were not Jewish?

A. I say that the majority of the American prosecution staff were not Jewish.

Q. I am not talking about the American prosecution staff. I am talking about those names there {1216|1217} quoted in the article. Are you saying they were not Jewish? I don't know. Tell me. Do you know?

A. He says the majority of these people; what does he mean?

Q. Well, he named them.

A. Just the majority of five people, namely three? He picks five or six names

Q. Please don't answer the question with a question. If you want to me to answer you, I will; but please answer my question.

A. Why don't I concede your point?

Q. What point?

A. The point that this is completely correct, in every respect.

Q. Thank you. You may not agree with what it says, but you cannot say it is wrong.

A. Conceded.

Q. Thank you. Can you see anything else on that page that is false at all?

A. No. I don't wish to repeat myself one more time, if I may be excused.

Q. I am certainly not going to force you to repeat yourself. I will go over to page 17. Now, it refers here on the top of the page on the lefthand-side, in bold print, to:

*"Although Reitlinger's 6,000 a day would mean a total by October 1944 of over 5 million, all such estimates pale before the wild fantasies of Olga Lengyel ..."*

You quote her in your book a number {1217|1218} of times, don't you?

A. Well, I do quote her about certain matters because she was an inmate and reported, in some respects, what she saw, in other respects reported hearsay.

Q. All right. In this article here, "Did Six Million Really Die?", it says that in her book she claimed to be a former inmate of Auschwitz; she asserts that the camp cremated no less than "720 per hour, or 17,280 corpses per twenty-four hour shift." Also, in addition, 8,000 people were burned every day in the "death-pits", and that therefore, "In round numbers, about 24,000 corpses were handled every day".

Do you say that is an incorrect quote of her?

A. No. She did include, obviously, hearsay, and reports that she heard some of these things and printed them in her memoir.

Q. Is this —

A. She does not claim to have made this count. She reports that she heard it.

Q. I see. Could I ask you if this is the cover of her book?

A. Yes. Yes.

Q. "Five Chimneys The Story of Auschwitz", by Olga Lengyel. I refer to page 69, and I'd like to check and see if this is what she said in the portion at the second paragraph: "Three hundred and sixty corpses every half hour, which was all the time it took to reduce human flesh to ashes, made 720 per hour, or 17,280 corpses per twenty-four hour shift. And the ovens, with murderous efficiency, functioned day and night. However, one must also reckon the death pits, {1218|1219} which could destroy another 8,000 cadavers a day. In round numbers, about 24,000 corpses were handled each day. An admirable production record one that speaks well for German industry."

Is that what she said in that book?

A. Yes.

Q. So as far as that quote is concerned you say that it was only hearsay to her.

A. Yes, because she clearly indicates in the very next sentence that she obtained details, statistics of convoys arriving and all of these things from which somebody made a calculation.

Q. Mm-hmmm.

A. Now, the Polish underground in Auschwitz kept a record of arriving

trains, and inasmuch as there were varying numbers of people on them, calculations were made. Sometimes these calculations were wide off the mark, but these are the statistics to which she refers.

Q. Yes. Inasmuch as you seem to indicate, in the answer, that I was reading it out of context, I should read further: "Even while in camp I obtained very detailed statistics on the number of convoys which arrived at Auschwitz-Birkenau in 1942 and 1943." Doesn't that seem to indicate that she had obtained very detailed statistics?

A. Well, I don't think she was there in 1942 or '43, and she obtained these statistics, quite obviously, in ways that we would characterize as hearsay, but based on a record that was kept at Auschwitz and which is available.

Q. Oh, there is a record to substantiate those numbers? {1219|1220}

A. No, I would not say that there is a record substantiating these numbers. There is a record which makes possible a calculation or a miscalculation of that nature.

Q. All right. Well, then, to the extent that this article quotes those things that are described here as "wild fantasies", this booklet, "Did Six Million Really Die?" accurately quotes her verbatim, doesn't it?

A. Well, I don't think it's a fantasy.

Q. Well, I agree, we may disagree on what it is and how we should view it, but that's what she said, isn't it?

A. That is what she said, again with the proviso that she didn't claim this to be her personal calculation or observation. It was based in the context you said on a certain amount of hearsay.

Q. Could you turn to page 629 of your book? Could you look to the Footnote No. 63? Could I read to you the sentence that supports that footnote?

A. Yes.

Q. It says:

"By 1942-43, the liquidation of graves in all killing centers was in progress. Auschwitz transferred the corpses to the five new crematoriums, which could burn about 12,000 bodies a day."<sup>63</sup>

Then, going down to the bottom, Footnote 63, it says:

"Sehn, 'Oswiecim,' p.87. Lengyel, Five {1220|1221} Chimneys, pp. 68-69, figures the theoretical daily maximum capacity at 17,280."

Per day, I guess.

A. Yes.

Q. Well, were you quoting her with approval?

A. No, obviously not, because I chose the figure twelve thousand, and then I added—in the stage of my research there was some haziness as to maximum capacity—that one source, not necessarily the most reliable, attributable to Lengyel, the figuring of the daily capacity. That is all it says. It is a footnote.

Q. Mm-hmmm. Well, do you cite footnotes that you don't agree with?

A. Why not? If there is some possibility that the number was higher than twelve thousand, I put it down as the possible avenue for further research.

Q. And you—

A. But I didn't accept it.

Q. You don't believe it is a credible number, then.

A. Well, I think it's on the high side. What I've got in the text is "about 12,000".

Q. It's my understanding that on that same page, 629, in your book, you say that in August 1944 twenty thousand corpses had to be burned on some days.

A. Yes.

Q. Now, there is a map on this page 17, sir. Right?

A. Yes. {1221|1222}

Q. Now, would you agree with me—you know the book, "Six Million Did Die".

A. Yes.

Q. You are aware that it was published by the South African authorities of—I think it's called the Board of Jewish Deputies, isn't it?

A. Yes.

Q. So this is a publication to refute the book, "Did Six Million Really Die?". Right?

A. In part.

Q. And to provide evidence for its prosecution in South Africa?

A. Yes.

Q. It does include the map, doesn't it?

A. Yes, I think it does.

Q. So you don't dispute the map at all?

THE COURT: Haven't we covered this?

MR. GRIFFITHS: Yes.

MR. CHRISTIE: Yes.

THE COURT: Do we have to cover it again? You asked him the question and he gave the answer, "Yes". Please get on to something else.

Q. MR. CHRISTIE: Would you agree with me that there were gas chambers in Dachau? Is that your opinion?

A. Is it—

Q. I just want to clarify, because I have a point, maybe some people don't think so but I do; maybe you don't think so.

A. You mean a gas chamber for gassing people? {1222|1223}

Q. In Dachau.

A. Well, did I answer that as a maybe or a possibility?

Q. I would like your answer.

A. That is my answer.

Q. What is it?

A. It is a maybe. To my information it's not a case of a large number of people having been gassed at Dachau; a handful might have been, but even that is not confirmed.

Q. Mm-hmmm. Well, I point out to you that in the book, "Six Million Did Die", that it purports to say that a whole roomful of victims of the Dachau gas chamber lay piled to the ceiling in the crematorium.

Aren't I quoting it correctly?

A. Yes. It's possible.

Q. Would that be false news?

A. I didn't say it was false. I said it was a maybe; it was possible. I, myself, did not investigate this matter and I didn't write this booklet.

Q. Well, are you aware that Martin—do you know who Martin Brochat (phonetic) [Broszat] is?

A. Martin Brochat, yes.

Q. Would you recognize him as a credible historian?

A. Yes.

Q. He said that there was no gas chambers in all the Reich.

A. He has said that, yes.

Q. Is he a credible historian?

A. Yes. {1223|1224}

Q. Well, he isn't allowed to say that without being condemned, in your view, as a credible historian.

A. I am saying of the various gas chambers in the west, as you put it, the two, as I said, some researchers established as having had gas chambers with some continuous, although not large, volumes of gas-sings were Natzweiler and Mauthausen. Both these are within the boundaries of the old Reich. Brochat's statement refers to the old Reich. One has to know what he means by that. He means the German boundaries as of 1973.

Q. Could we turn to page 19 and look briefly at the paragraph underneath the picture?

A. Yes.

Q. Right above the boldface print it says:

"... Himmler discovered on a surprise visit to Warsaw in January 1943 that 24,000 Jews registered as armaments workers were in fact working illegally as tailors and furriers (Manvell & Frankl, *ibid*, p. 140)..."

Now, do you consider that statement true?

A. Well, you know, I can confirm, number one, that Himmler did go to Warsaw in January.

Q. Yes.

A. That he talked to an Army Colonel named Freter. He then discovered, rather than some thirty or thirty-five thousand registered inmates of this ghetto, there was a substantially larger number who were {1224|1225} unregistered, working illegally. He was incensed with the fact that there were so many people there. That's my best recollection

from the documents. Now, to the extent that this reflects my recollection, I will agree with it.

Q. Okay. Thank you. Could I ask you if you recognize this book, "Himmler", that I've mentioned earlier?

A. Yes.

Q. And looking at page 140, could you read with me and confirm that it does say: "Himmler discovered that 24,000 Jews registered as armaments workers were in fact working illegally as tailors and furriers."?

A. That is what the two journalists are saying, but I am citing documents —

Q. But as far as the booklet is concerned, that statement is true, is it not?

A. As far as the booklet is concerned, what is true is that they took a statement which is a little bit sloppy from two journalists who wrote a book.

Q. All right. Now, getting to the book — by the way, do you still maintain that, or do you believe that there is some question about the authenticity of parts and, in fact, all of Anne Frank's diary?

A. There is some question as to parts of it, yes.

Q. Is it correct that there are some parts that appear to be written in ballpoint pen and that that wasn't invented until 1952?

A. My understanding, which is based on newspaper accounts, is that the Anne Frank Diary which, {1225|1226} incidentally, I haven't used or cited in my context whatsoever, is an accurate diary except for amendments [sic] or corrections made by her father after the War. It may be that, as sometimes happens with a diary of deceased people, that that was his daughter that he felt they had to make certain changes in it, or corrections in it, which seems to be, from newspaper accounts, it's stated fact.

Q. Okay. Now, going to the very last page, I just want to check a point with you in respect to surviving claimants against the West German government. It says on the last page, underneath "Imaginary Slaughter":

*"By 1965, the number of these claimants registered with the West German Government had tripled in ten years and reached 3,375,000 (Aufbau, June 30th, 1965)."*

Would you dispute that?

A. Well, I really do not know in what sense the word "claimants", is quoted here. "Aufbau" is a German language newspaper. Let me explain what a claimant may mean. It is a person putting forward a claim. The claim may or may not be recognized. The number of those who put forward claims versus the number of those whose claims are recognized is much larger. There have been many, many claimants, most of them, incidentally, Germans not Jews, whose claims, some of them, were not recognized, claims that they were persecuted. So they could have well made over three million of those who made claims; but the recognition of a claim meaning payment to these people is another matter. {1226|1227}

Q. Well, do you dispute the number of claimants in that year is as it states?

A. What I am stating to you is that 3,375,000 may be the total number of people, Jews and non-Jews, who asserted that they had a claim. It does not mean that this is the number of people who received money, let alone the number of Jews who received money.

Q. I appreciate all your qualifications on the answer, one of which was that these were not all Jews, the other of which was that they didn't get recognized necessarily; but do you dispute the figures stated there?

A. I cannot confirm it, but to me, with all due respect, it's a meaningless figure out of context.

Q. I suggest to you that you may be mistaken when you say that they are not all Jews referred to in the article.

A. Well, give me the proof.

Q. Would you agree with me — have you read "Aufbau" of October 8, 1965?

A. I have read through, more or less, every issue of Aufbau through 1965, that is that page that deals with claims.

Q. Yes. Now, does the article say that the claimants are all Jewish, first

of all?

MR. GRIFFITHS: Show him the article.

MR. CHRISTIE: He's got the article in front of him.

THE WITNESS: No, it says something about claimants —

Q. It does not say that all the claim-{1227|1228}ants are Jewish, does it?

A. You see, the sentence is linked with the next sentence that says — am I permitted to read the whole sentence?

Q. You can read the whole thing if you like.

A. It says nothing — and that is the sentence following the number three million: "Nothing could be a more devastating proof of the brazen fantasy of the Six Million." Now, the six million are Jews, even if it is a fantasy. So these 3,375,000 are clearly implied to be Jewish, and they are implied to be Jewish survivors, or people who are left alive. This is a linkage which is totally inadmissible.

Q. It is not what it says, though, is it?

A. Excuse me, but there are two sentences here in sequence. One states that there are 3,375,000 claimants without any qualification at all, the next sentence jumps to the conclusion, "Nothing could be a more devastating proof of the brazen fantasy of the Six Million".

Q. Would not the inference be that a substantial number of these claimants are Jewish?

A. I don't know what you mean by "substantial". As I said before, most of the disallowed claims were not from Jewish people. There were many people asserting persecution in Germany who were not Jewish. Even among the recipients of money, under the {1228|1229} the indemnification law, approximately a third were not Jewish, and that is a much smaller number than those who asserted claims.

Q. So that [the majority who were disallowed is not Jewish; is that what I heard you to say?

A. That is my opinion.

Q. Would the majority who were allowed be Jewish?

A. Yes. About two-thirds.

Q. Two-thirds of the claims allowed were Jewish?

A. Yes.

Q. How many of the claims made were allowed?

A. Oh, that is a difficult figure to give, because we are talking thirty years and changes in rules and type of claims. If the reference is to 1965, which is a watershed because of the widening of claims — before 1965 I would have said some three hundred thousand to which were added some tens of thousands of new claimants. So we are talking about hundreds of [thousands, but in no sense millions.

Q. Could I just produce for one final question the document filed as the Hoess document?

THE COURT: Exhibit "K".

Q. MR. CHRISTIE: I just want to ask you a question about this portion of the Hoess affidavit. It says:

*"The 'final solution' of the Jewish question meant the complete extermination of all Jews in Europe. I {1229|1230} was ordered to establish extermination facilities at Auschwitz in June 1941. At that time, there were already in the general government three other extermination camps; BELZEK, TREBLINKA and WOLZEK."*

Were Belzec, Treblinka and Wolzek established by June 1941?

A. No. No.

Q. So here is a man making a statement in a language other than his own that you know is a totally impossible statement as far as statements of that nature are concerned.

A. I will, without any question, state that this particular document, for [that kind of information and a lot of other, is evidently not — it is a very short thing, a page, that is correct. It cannot be supported by the kind of fact that seems to have been a summary of things he said or may have said or may have thought he said by someone who shoved a summary in front of him and he signed it, which is unfortunate.

MR. CHRISTIE: Thank you very much, Doctor.

THE COURT: Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

## RE-EXAMINATION BY MR. GRIFFITHS:

Q. Several times, Dr. Hilberg, Mr. {1230|1231} Christie referred you to a conversation you had about Mr. Faurisson or some comment you made about Mr. Faurisson, particularly in an interview reported in the *Nouvelle Observateur* in which you said that you were quite willing to keep an open mind academically and look into things if any new evidence came forward. Have I got that paraphrased right?

A. Yes.

Q. Have you ever seen any German document or any other document to make you change your opinion as to the fact of the Holocaust?

A. None whatsoever.

Q. Thank you. You said that you received a very nice letter from Professor Faurisson.

A. Yes.

Q. Can you tell us the contents of that letter?

A. I think he was complimentary. He said I was a nice fellow, but other people were not.

Q. Okay. You mentioned in cross-examination that the last reference that you have seen to a document attributable to Hitler with a reference of Madagascar, you have given a date of February 2nd ...

A. 1941.

Q. How can you be so accurate?

A. Because of a diary kept by an adjutant of Hitler's called Engel. This diary I value highly as an authentic source because it was kept by an army officer who was in Hitler's entourage for something like five years. Although this is not a daily diary, he recorded many interesting, salient comments Hitler made. {1231|1232} The discussion that is under the date of February 2nd, 1941 – and I recall the date because it does seem to me significant, was to the effect that Bormann, one of the top Nazis, brought up the Jewish question, as frequently happened, and they were then discussing some way of trying to solve it. Hitler then brought up Madagascar. Then someone questioned about how could the Jews ever go to Madagascar in the middle of a war. Hitler then said, "You're right. We cannot send them over there because will certainly not risk the German merchant fleet to transport Jews, which might then even be torpedoed by Jewish warships or submarines." Anyway, he said he was now thinking less friendly thoughts about the Jews.

That's all he said at that point on February 2nd. It seems to me that that more or less closed the chapter of Madagascar, that although reference to Madagascar appeared in German documentation thereafter, it has, at that point, ceased to be a feasible project.

Q. You were asked quite a number of questions about Rudolf Hoess, and allegations of torture, complaints of torture before the International Military Tribunal.

A. Not to my knowledge.

Q. Any allegations that you can recall that the record was asked to be expunged during the recording of his testimony?

A. No.

Q. All right. You were also referred to his book, "Commandant of Auschwitz", which I believe was Exhibit 10. And a description was read of people clearing out the gas chamber, or a grisly description and {1232|1233} dragging bodies to the pits.

A. Yes.

Q. On page 198 – it has been filed – there is something that was marked in yellow by Mr. Christie, presumably. It says: "The door was opened ..." – can you read that sentence?

A. "The door was opened half an hour after the induction of the gas, and the ventilation switched on."

Q. "... and the ventilation switched on." Thank you. Now, you have seen documents, you say, as to ventilation of Birkenau.

A. I have seen some documents in which the installation of the gas chambers was discussed, and in which the late delivery of the ventilators prevented the starting up of the gas chambers, the projected time.

Q. That is the nature of the documents you have seen about the ventilators.

A. Yes.

Q. We also heard a great deal about unfortunate Mr. Gerstein, and you indicated, I believe, on any number of times, that you only used those portions of his affidavit that were corroborated.

A. Right.

Q. Can you tell us what corroboration you had for those parts of the affidavit you used?

A. Yes. There was, with Gerstein, another person who also made an affidavit, at least one. There are accounts based on the report of a Swedish diplomat; he may or may not have believed the contents, but he made a record of what Gerstein told him on the {1233|1234} express train in the summer of 1942 about these death camps. The Swedish government has the record of the Swedish diplomat's entry and memorandum of that conversation.

So the important thing is that Gerstein, indeed, was at these gas chambers, did see them, two of the camps, reported these matters, and I believe that this is confirmed in a variety of words.

Q. Leaving aside his statistics and numbers and concentrating more on the fact of the gas chamber, is there anything, since your first edition in 1961, that has offered any further corroboration?

A. Oh, yes. Because since then, especially in the nineteen sixties, the West German government attempted to find every single surviving member of the German guard forces in these camps, these three camps particularly – Treblinka, Belzec and Sobibor – and each one of these people was questioned. A record was made of what they said, and I have been through all of these records.

Q. Thank you. Page 12 – back to the "Confessions Under Torture" – we are almost through – the first sentence, page 12, column two:

"*Altogether more disturbing ...*" –

MR. CHRISTIE: May I, before my friend goes on – this is re-examination which, if I have raised the matter in cross-examination for the first time, he may raise it again; but if he starts raising new issues to which he wishes to direct –

THE COURT: Then you will say he is splitting his case. {1234|1235}

MR. CHRISTIE: I would think I should be then able to reply.

THE COURT: You won't be able to reply. The Crown will not be allowed to split his case.

MR. CHRISTIE: Thank you.

THE COURT: Are you splitting your case?

MR. GRIFFITHS: I don't think so, Your Honour, but if there is a question as to that, I will leave it for argument.

THE COURT: All right.

MR. GRIFFITHS: Thank you.

Q. Have you read this book?

A. Yes.

Q. It's entitled, "I Cannot Forgive", by Rudolf Vrba.

A. Yes.

Q. Well – Dr. Vrba will be testifying.

MR. CHRISTIE: Your Honour, I don't know that in re-examination we should introduce new evidence, if that is what my friend is going to do.

MR. GRIFFITHS: Your Honour, Mr. Christie, in his cross-examination, raised – he raised a very specific allegation that Phillip Mueller plagiarized something in 1979 that was published in 1972, and this is in answer to that specific allegation. It refers to a reference in this book to Phillip Mueller, this book having been written in 1963, and I have the author of the book here.

THE COURT: Show it to Mr. Christie.

MR. CHRISTIE: If my friend is going {1235|1236} to raise this, that's just fine. He is going to show that – very good.

Q. MR. GRIFFITHS: Page 195 of Dr. Vrba's book.

THE COURT: Ask the witness if he knows the book.

MR. GRIFFITHS: I did, Your Honour, and he said he was familiar with the book

Q. He starts by saying:

"*I did not answer him. I scarcely heard him.*"

A. Yes.

Q. All right:

"*I did not answer him. I scarcely heard him. The lorries began to snarl*

again and move towards the gate, like an armoured division. The noise of the engines seemed to fill the camp, to drown my ears. Then suddenly, over this harsh, imperative note, I heard a new, sweet sound. The sound of a thousand women singing. And the song was the Czechoslovak National Anthem – 'Where is My Home ...'.

And then there are two paragraphs then that describe other things, and at the bottom of the page it says:

*"Philip Muller had been working all night. His face was grimy and his eyes were tired. With careful in-{1235|1236}difference, I said to him: 'How did it go?' 'Quietly, Rudi,' he said. 'Very quietly. They sang the Czech and Jewish National Anthems all the time and they just walked straight into the chambers.'"*

Is that right?

A. That's right.

Q. And this book was published when?

A. 1964.

Q. Thank you. Are you familiar with the German to English and English to German dictionary put out by Cassel's, [Cassell's] and is that an authoritative dictionary?

A. Yes. It is the most widely used one on this side of the ocean.

Q. Okay. First of all, the word "vernichten" —

THE COURT: Spelled? You had better get the witness to do that.

THE WITNESS: V-E-R-N-I-C-H-T-E-N.

Q. MR. GRIFFITHS: Do you recollect that several days ago there was a question as to the translation of a word in S.S. General Stroop's report, and whether the word "vernichten" meant "annihilated" or "exterminated"? For what it's worth, what does the dictionary say?

A. "Annihilate, destroy, demolish, exterminate, overthrow; disappoint;" and then, secondary mention, "annul, cancel, nullify, declare null and void, revoke, abolish, quash, abrogate", in law.

Q. And we had a discussion about the {1236|1237} word "Wesen". Can you find that in that dictionary, please?

A. Yes. In the following order, it is given as "reality, substance, essence; being, creature, living thing, organism; state, condition; nature, character, property, intrinsic virtue; conduct, demeanour, air, way, bearing; ..."

Q. Any vermin or insects mentioned there?

A. No.

Q. Thank you. And when was this published, this particular edition of the dictionary?

A. This seems to be a 1957 edition up-dated to the Twelfth Edition of 1968.

Q. This is the Twelfth Edition of 1968.

A. Yes.

THE COURT: That will be marked as Exhibit "L" for the moment.

MR. GRIFFITHS: Your Honour, if it is acceptable, I will photocopy those two pages.

THE COURT: That is why it is not being made a numbered exhibit. I want you to talk to Mr. Christie before we have it as an exhibit.

— EXHIBIT "L" (For Identification) Photocopied excerpts from Cassell's German & English Dictionary.

Q. MR. GRIFFITHS: Page 17, Doctor, of "Did Six Million Really Die?" — perhaps you can look at your copy, mine has some notations in it — page 17, column {1237|1238} one, dealing with that part, discussing the Olga Lengyel book, second sentence of the second paragraph:

*"Claiming to be a former inmate of Auschwitz, she asserts that the camp cremated no less than ..."*

and then the figures ...

A. Yes.

Q. All right. Would you look at those portions of the book Mr. Christie showed you, and can you tell us whether this says that they cremated, or whether they could cremate?

A. Okay. The passage which he underlined is simply an enumeration [sic] of a capacity — 360 corpses every half hour, which is all the time it took to reduce human flesh to ashes, made 720 corpses per hour or 17,280

corpses per twenty-four hour shift.

Q. All right.

A. This is without the death pits. This is simply the capacity of the crematories, and does not include the pits in which bodies were burned.

Q. So it is capacity, rather than ...

A. Yes. This is the theoretical [sic] capacities of the crematories as she relates it, and it does not include the pits.

MR. CHRISTIE: If the witness is going to be, asked to comment, he should read the whole thing.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: I am content to start with "In the beginning" on page 68.

THE WITNESS: In the beginning those {1238|1239} who were condemned to death at Birkenau were either shot in the forest of Braezinsky or gassed in the infamous white house in the camp. The corpses were incinerated in a 'deathpit'. After 1941 four crematory ovens were put into service and the 'output' of this immense extermination plant was augmented vastly. At first, Jews and non-Jews were sent to the crematory equally, without favour. After June, 1943, the gas chamber and crematory ovens were reserved exclusively for Jews and Gypsies. Except for reprisal or by error, Aryans were executed by shooting, hanging, or by poison injections. Of the four crematory units at Birkenau, two were huge and consumed enormous numbers of bodies. The other two were smaller. Each unit consisted of an oven, a vast hall, and a gas chamber. Above each rose a high chimney, which was usually fed by nine fires. The four ovens of Birkenau were heated by a total of thirty fires. Each oven had large openings. That is, there were 120 openings, into each of which three corpses could be placed at one time. That meant they could dispose of 360 corpses per operation. That was only the beginning of the Nazi 'Production Schedule'. Three hundred and sixty corpses every half hour, which was all the time it took to reduce human flesh to ashes, made 720 per hour, or 17,280 corpses per twenty-four hour shift. And the ovens, with murderous efficiency, functioned day and night. However, one must also reckon the death pits, which could destroy another 8,000 cadavers a day. In round numbers, about 24,000 corpses were handled every day. An admirable production record — one that speaks well for German industry."

Q. And was Hoess ever called for the prosecution?

A. Excuse me, Hoess?

Q. Hoess.

A. I am not aware of that. {1239|1240}

Q. Only as a defence witness.

A. That is what I recall.

Q. And you were asked, I believe it was yesterday, about whether you had any knowledge of scientific reports of what happened in the gas chambers, and my recollection is that you replied that from German sources you have reports of what happened. They were not scientific reports.

A. That's correct.

Q. What German sources do you have describing what happened?

MR. CHRISTIE: I thought we had been over this in-chief. I thought I dealt with it in cross-examination, and now we are dealing with it again.

THE COURT: The objection is dismissed. Proceed.

THE WITNESS: German documents pertaining to operations in the death camps are numerous, and they include various railway materials indicating the one-way traffic to these camps.

MR. CHRISTIE: We were over that, Your Honour.

THE COURT: You be quiet, please.

MR. CHRISTIE: May I object?

THE COURT: No.

MR. CHRISTIE: I have my right to object.

THE COURT: Not now you can't. You can object at the proper time. I want the witness to give the evidence, and if you object to that procedure, you may appeal it. Now, please sit down. Go ahead. {1240|1241}

THE WITNESS: In addition, there is correspondence pertaining to the construction of gas chambers. Furthermore — and again I speak of

documentation – there is an extensive correspondence about the delivery of gas, sometimes labelled “materials for handling the Jewish problem”, and this is just a sample of the materials on which one relies on forming the total picture of what happened.

Q. Thank you, Doctor. I have no further questions.

— The witness retires.

THE COURT: Members of the jury – first I should say to Mr. Christie that on Monday afternoon next, at two o'clock, you may put on the record any objections you may have to our last exchange.

Members of the jury, this witness has been here for some time. He has other obligations. I am sorry to have kept you so late. He is now leaving for Vermont and you are free to go until two o'clock next Monday afternoon. The reason is that a number of events that occurred before Christmas are now overtaking me, and I will be otherwise busy in this courtroom on an entirely different matter Monday morning.

Thank you. Have a good weekend. Please remember all of the admonitions that I have given and keep an open mind on this case.

— The Jury retires. 5:10 p.m.

— {1241|1242}

MR. CHRISTIE: Your Honour, may I ask – I just wondered if you could clarify my ignorance. I didn't understand what Your Honour meant by your last remarks.

THE COURT: I invited you to take your seat until the evidence could go in. If you have any objection to that that you want to put on the record at two o'clock next Monday afternoon, you could do so.

MR. CHRISTIE: I see. Thank you very much for clarifying things.

— Whereupon the hearing is adjourned to January 21, 1985, at two o'clock.

## JANUARY 21, 1985

— Upon the hearing resuming.

THE COURT: Anything before we start?

MR. GRIFFITHS: One thing, Your Honour. I am going to have to start paying five cents a day unless I get the German Dictionary back to the library. You were going to rule on that today. I propose, subject to Your {1242|1243} Honour, to put in a photocopy of the pages where the words that were referred to were defined. The definitions were also read out of the book by the witness on the stand.

If Your Honour feels that the photocopy of the pages is not appropriate – whichever way, Your Honour, I need to get the book back.

THE COURT: Do you want to see the Crown pay five cents a day?

MR. CHRISTIE: I would think they can afford it more than I could, but, no, I don't want it to inconvenience the Crown. I think, though, that there is a certain problem here because they looked up the word “Wesen”, and the real word was “En[t]wesung”. That is something, I suppose, I can deal with in defence.

THE COURT: All right. If there is anything I can do to help, deal with it now; otherwise we will put the photostatic copy of the page in and save the Crown a little money.

Anything further, gentlemen?

MR. CHRISTIE: Your Honour mentioned to me something about an objection that I might make. I have given it thought. I think that we are all doing our best with a very difficult case, and I don't think there is very much to say except I am sure that we will all continue {1243|1244} to try to do our duty and do our best, and naturally, things will occur from time to time, but I don't see any point in raising any objection at all.

THE COURT: All right. The jury, please.

— The jury enters. 2:45 p.m.

THE COURT Go ahead, Mr. Griffiths.

Just before you do that, members of the jury, I am sorry to have held you up. The best laid plans of mice and men often go awry. It is my fault. An interpreter did not show up this morning, showed up at two o'clock this afternoon. Hence, I apologize, but that's life.

MR. GRIFFITHS: Dr. Vrba, please.

**RUDOLF VRBA, sworn**

**EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:**

Q. Sir, I understand that you are now an associate professor in pharmacology at the University of British Columbia.

A. That's right.

Q. And that you have been in Canada {1244|1245} for how long?

A. Since '67.

Q. 1967?

A. Yes, with the exception of two years when I was in Boston.

Q. And before 1967 I understand you were in England for a period of time?

A. That's right. Since 1960 through 1967 I was on the staff of the Medical Research Council of the United Kingdom.

Q. What is your field of interest in particular?

A. My specialty was the chemistry of the brain [brain].

Q. Chemistry of the brain?

A. Yes.

Q. And you have a doctorate?

A. I have a doctorate in chemistry, and a higher degree, a candidate of immunochemistry – that means the chemical composition – of the brain.

Q. Before you went to England where were you; what country were you living in?

A. I was born in Czechoslovakia on September 11, 1924. I lived in Czechoslovakia until 1939 when Czechoslovakia was dismembered, and from '39 onwards I lived in a puppet Slovakia in a puppet state which was under German rule with local underlings ruling until 1942.

In June of 1940 I have been deported to the concentration camp of Maidanek where I was fourteen days.

Q. You were two weeks in Maidanek? {1245|1246}

A. Two weeks.

Q. And from Maidanek were you taken someplace else?

A. On 20 June, 1942, I was put into a cattle truck and taken to Auschwitz concentration camp where I arrived on June 30, 1942, and I stayed in Auschwitz until April 7, 1944, when I escaped and returned to Slovakia.

Q. All right. We will hear about your escape in due course. We have heard that there are a number of different camps that are called Auschwitz. Can you tell us which camp you were taken to?

A. I was taken to the camp which was called Auschwitz I. I was in that camp from 30 June, 1942 until 15th January, 1943.

Q. All right. And did you have some —

A. And from 15 January, 1943, I was transferred to the camp called Auschwitz II, which is called Birkenau.

THE COURT: Which is called what?

THE WITNESS: Birkenau. And that was also officially called Auschwitz II, and there I was until April 7, 1944.

Q. Can you tell us whether you did any work when you were in Auschwitz I?

A. In Auschwitz I?

Q. Yes. The main camp.

A. In Auschwitz I for the first two months, this means for the first two years, two months, in July and August, I have been working on an enterprise which was called Buna, which was not far from Auschwitz, and it {1246|1247} later was built up into Auschwitz III, and was supposed to be rubber, synthetic rubber factory.

Q. All right. Were you working in the factory?

A. No. It was a building site, and the complex belonged to E. G. [I. G.] Farben, who used to borrow slave labour from Auschwitz I; and I was taken there every morning as a slave labourer, and brought in the evening to Auschwitz I for two months, roughly.

Q. All right. I would like you to describe for us, if you can, what a day would be like when you were working at Buna.

A. At Buna?

Q. Yes. First of all, what time in the morning would you be awakened?

A. We would be woken up at three o'clock in the morning and lined up and marched up to a train which was in front of the gate of Auschwitz I. We would be counted when we came out from the barrack, then we would be counted when we came out from the gate, I and then we would be counted again when we entered the barracks, and then we waited until the wagons moved to the building site, and the train moved to a station which I remember was called Dwory, and there we were unloaded and marched to a building site which was in the distance of approximately three kilometers.

So this whole procedure of the travel in the train that we were loaded in numbers, a hundred people or so to the wagon, from three o'clock in the morning we would start working approximately to eight o'clock in the morning. {1247|1248}

Q. Now, from three o'clock in the morning until eight o'clock in the morning had you been given anything to eat or drink?

A. Nothing.

Q. Were you given anything before you start work?

A. No.

Q. Okay.

A. We worked from eight to twelve under a certain order of work, and at twelve o'clock, from twelve o'clock to one, we had a pause, and then we were given a litre of soup for five. This means, the soup for five people was given in one plate for five, and without spoons, and another plate was given for five which contained some sort of a tea, which was the only liquid which we could take – water was not available.

Q. Was there any water available at the construction site that you could drink?

A. There was water available on the construction site, but it was known that the water was infected with diarrhea bacteria, and we were warned by all the prisoners that anybody who will drink from it will die.

Q. Did you see anybody drink from it?

A. Many drank and many died. In other words, those who couldn't overcome the thirst in August and who drank that water was done for.

Q. Was there any security at the Buna works when you were working there?

A. Well, we were constantly being counted, and as we came out of the train we marched to {1248|1249} to the Buna quota with Waffen S.S. guards – they were armed guards – on both sides of the column; and when we reached the building site, then the whole building site was surrounded by those S.S.

So at the building site we were left more to ourselves, more or less, but the building site, however, was divided into small quadrangles which were about ten times ten meters long. And at each quadrangle was standing an S.S. man guard with rifle in the hand, I and we were told that nobody can go outside of his rectangle in which he is supposed to go. This means, anybody who crossed that rectangle, which was clearly marked, was shot.

Q. Did you see anybody cross that rectangle?

A. Well, I saw frequently being shot people crossing that rectangle, because one of the jokes was that the prisoners were guarded by —

MR. CHRISTIE: Your Honour, I think —

THE WITNESS: By the S.S. guards —

THE COURT: Excuse me.

MR. CHRISTIE: Excuse me, please. Your Honour, this is not someone who so far has been qualified to give hearsay, and I think we are getting into the realm of jokes and stories and statements that otherwise should not be given. I'd like the witness to confine himself just to what he saw and what he knows for himself.

THE COURT: What do you say to that, Mr. Griffiths?

MR. GRIFFITHS: Well, I appreciate {1249|1250} what my friend is saying. I agree with him, although the joke is a physical joke that is visual that he can describe what he saw.

THE COURT: Well, if he can do it in that way, I don't think that Mr. Christie will object to that; but if he does it in another way, he might.

Q. MR. GRIFFITHS: Just describe for us what you saw.

A. The German prisoners who were professional criminals and were

marked as such with a green triangle would come to individual prisoners, take off their hat, the prisoner's hat, and threw it over the perimeter, the ten-meter perimeter, telling him, "Run! [for the hat." If the prisoner did not run for the hat, then he would be beaten with wooden sticks for not obeying the order of the Kapo; if he ran for the hat, he would be shot down by the S.S. men.

I am perfectly aware that this is not a joke, but it was considered a joke there, and that's why I use the inappropriate word "joke". I apologize for it. So in this way quite a number of people were killed during a day, also people who claimed that they cannot carry on with their hard work. For instance, we had to carry cement in paper satchels.

Q. Bags of cement.

A. Bags of cement, yes. They are considerably heavy. I do not know exactly what their weight was, but they were standard bags which I see, and one had to carry that bag of cement over a certain distance running. And those who claimed that they cannot {1250|1251} run any more were sort of propelled or encouraged to run by beating with clubs; and those who refused afterward were simply beaten so long until they gave any sign of life. And then, in the evening, we collected numbers very care fully so that the numbers of prisoners who worked there, alive, had to come into the camp. The mortality per day could end up five to ten per cent of the column.

Q. Five to ten per cent of the total?

A. Yes. This means the chances to survive over three weeks on that working place were considered to be slim.

Q. After you have the soup and the tea at lunchtime, do you go back to work in the afternoon?

A. Yes.

Q. Can you tell us – I appreciate you never watched. Can you tell us how long you'd be working in the afternoon, how long the working day would be?

A. Well, at twelve o'clock a siren sounded, and at one o'clock again a siren was sounded. The one marching would start and the other marching would end of the working day. Again at noon another siren sounded, but this I don't know exactly what time, but it was our rule that a prisoner shouldn't be kept outside, even guarded, in dark. So this means that we were supposed to come back into the camp before the sun set.

Q. Now, you said it was about three kilometers from the Buna works to where the train would pick you up.

A. Yes.

Q. And how would you, the people that {1251|1252} were injured or had died during the day, how would they get to the train?

A. Well, the dead and the injured were carried by the prisoners who were not dead. In other words, say we went there fifteen hundred people in the morning, but each of those hundred people had separate [sic] Kapos, and that Kapo had the list of his prisoners, and he wouldn't move out from the building state, building place, until all his prisoners which he had a list of by numbers wouldn't be collected. So this means we were again on a certain place with a certain Kapo, all hundred of us, alive or dead. And then the column was formed and when the column was formed the Kapo picked out those who would carry those who cannot go. So we had some who claimed that they will go if they are supported, and so they were put into the march column, and then there were some who were dead, and then there were some who were dying, or definitely not able to walk even after being encouraged to do so with clubbing, and they were carried by the prisoners in such a way that one prisoner would have his head over the shoulder, and the other prisoner would have his legs over the shoulder. So the two prisoners carried a third one, either a dead one or a dying one.

Q. Something happened, Dr. Vrba, at the end of two months, approximately, at Buna, that got you out of Buna?

A. Yes. I got out from Buna under the following conditions:

The camp Auschwitz I, until that time, consisted of two parts with a wall was decided in the middle, and behind that wall were women. Mostly the women {1252|1253} were from Slovakia. Slovakian and Jewish girls. Some of them I knew, and there was conversation. Now, there



broke out a typhus epidemic [epidemic] in that female camp, and also there was a typhus epidemic [epidemic] in the male camp, and there was a danger that by going to Buna – and we had to cross various villages, we will carry the typhus out from the camp. So the workings at Buna was stopped for a few days, and the women from the women camp, female camp, were taken away. As far as I know, they were taken to —

Q. No, don't tell us – only tell us what you saw with your own eyes.

A. They were taken away.

Q. All right.

A. After they were taken away, the barracks were disinfected. After the barracks were disinfected, all of us who were men, in camp number one, had to dress out naked, and we were naked for approximately one or two days during which we were given showers and we were shaven all over the body – this means hair and body hair, pubic hair, and so on. And then a hole was made I through this wall of the ex-female camp, and we were let in one by one into this new camp, naked and disinfected.

However, before this happened we had to go through a commission, and this was a medical commission where they should have proven that we are healthy. The proof consisted of the following test:

There was a doctor and an S.S. man with a lamp, because it was going on day and night. So by the time I was proven to be I was supposed to be medically examined. I was put in front of this reflector and I was ordered to run about twenty yards one way and {1253|1254} back. Now, those who wobbled during those twenty yards, which is a characteristic sign of typhus —

MR. CHRISTIE: Excuse me, Your Honour. I am aware of this particular narrative and I am aware that at this juncture certain statements, in my understanding, will embark into the realm of hearsay, and if my friend wishes, I can speak about it in the absence of the jury, but I would ask my friend to direct the witness in that regard.

THE COURT: Do you know what is coming, Mr. Griffiths?

MR. GRIFFITHS: Yes, Your Honour. I must say I am not sure what Mr. Christie is concerned about. Perhaps Mr. Christie can tell me whether this warning will be satisfactory.

Q. Just don't tell us what other people said.

A. No. I —

THE COURT: Just listen.

Q. MR. GRIFFITHS: Just describe what you saw.

A. I described exactly what I saw.

Q. Not what you heard, but what you saw.

A. Yes. Until now I described only what I saw.

Q. Okay.

A. I was ...

THE COURT: You were running back and forth, did you say, for how long?

THE WITNESS: Just twenty yards forth {1254|1255} and twenty yards back.

THE COURT: How many times?

THE WITNESS: Once.

THE COURT: Thank you.

THE WITNESS: And on judging how I was running, the commission decided.

Q. MR. GRIFFITHS: All right. Did they put you in a group?

A. They put me in a group which did not run too well.

Q. All right.

A. Because I was hurting by my shoes; I had trouble with my feet.

Q. Were you able to change groups?

A. Well, it was dark, and a Polish Kapo came to me, who knew me, and he said to me —

Q. Don't tell us what he said, but he said something to you?

A. He said to me —

THE COURT: No, you can't say what he said. Sorry, Dr. Vrba. Don't tell us what he said, but he said something to you.

THE WITNESS: Yes.

Q. MR. GRIFFITHS: And were you able to move your position?

A. Yes. He pretended that he is beating me and put me in the position of those he thought to be perfectly healthy.

Q. All right. Did you see what happened to those who wobbled during their run?

A. We were standing until cars came. {1255|1256} This means lorries. And then people were ordered to enter the lorries and the lorries left the camp.

Q. Did you see any of them again?

A. Never.

Q. Did you know anybody in that group?

A. Several.

Q. Now, you were in the so-called healthy group.

A. Yes.

Q. Did you go back to work at Buna?

A. No. Next morning, after the so-called unhealthy were eliminated from the camp, we were taken to a hole between the male and the female camp in the wall, a hole in the wall, and there were again two men who were disinfected us from top to bottom with a rag in lysol, and [ ] we entered, then, naked, this disinfected camp of the women and I stayed there, in that camp, in Block IV, in a different attachment of group, until 15 January, 1943.

Q. All right. Now, many of these words are new to us, so I am going to ask you to describe some words as we go along. What is a "block"?

A. "Block" means a house in Auschwitz I. It was called a block.

Q. How many people would be living in a block?

A. There would be a variation, from five hundred to twelve hundred.

Q. How many were in your block, Block IV? {1256|1257}

A. In Block IV, the situation I cannot exactly say, because I was put into the Block IV of the souterrain of Block IV.

Q. Is that underground?

A. Underground, yes. What is it called? A cellar. Then there was the first floor, the ground floor, and then there was an upper floor. And we were put into the ground floor under a new Kommando which was called Kanada.

Q. Is that Kanada with a "K"?

A. "K", that's right. As it is spelled in Europe.

Q. And was there a German word for that Kommando as well?

A. There was a German word which was called Aufra[ä]umungskommando, which means clearing command, or clearing-up command. And we were several hundred in that cell area. It was forbidden for me to go to the first floor, ground floor, or to the second floor. So I cannot tell you how many were on the upper floors; but in the down floor I estimate that there might have been, at that moment, three hundred or more people in Block IV, Auschwitz I.

Q. Can you tell us in general what the word "Kommando" means?

A. Whenever the Nazis or the ruling order of the S.S. created a particular group, a task group, that group was called a Kommando. This meant a working group.

Q. A working group.

A. Yes. It was also sometimes they {1257|1258} called Arbeit[s]-kommando.

A. Yes.

A. Work kommando. And each Kommando has a special title, according to the work they were doing.

Q. All right. I am not going to use the German word. I will use the more familiar word, Kanada.

A. Kanada, it was known in the camp, yes. The Kanadakommando.

Q. Can you tell us what you did with the Kanadakommando?

A. I think I should show it, perhaps on a ...

Q. All right. Just a minute.

A. But I can describe it without.

Q. Right.

MR. GRIFFITHS: Your Honour, can I speak to you in the absence of the jury for just a moment, please?

THE COURT: Excuse us just a moment, members of the jury, please.

— The jury retires. 3:10 p.m.

MR. GRIFFITHS: Thank you, Your Honour. Dr. Vrba has prepared,

Your Honour, a number of transparencies that would be suitable for an overhead projector and screen which I have in my office and can have in the courtroom very quickly. The transparencies, Your Honour, are of maps of the surrounding area, and more {1258|1259} immediate maps of the particular camps to be able to show – the purpose of them is to be able to show his movements within the camp and his opportunity to observe various things within the camp.

He has brought a grease pencil, and the transparencies, Your Honour, would be available to be made as exhibits, as marked by Dr. Vrba. At this point there are no additional markings on them. They are simply maps, outlines.

THE COURT: What are transparencies?

Q. MR. GRIFFITHS: Do you have them here, Doctor?

THE COURT: And has Mr. Christie seen them?

MR. GRIFFITHS: No, he has not, Your Honour.

MR. CHRISTIE: I am sure if I just glanced at them – and I am quite delighted my friend is doing this because it will help the jury to understand ...

THE COURT: Thank you. Do you have some more?

THE WITNESS: Yes, please.

THE COURT: We have all that are going to be relevant here, so that we don't wast[e] time?

MR. GRIFFITHS: I think those are the ones that are relevant to the discussion.

THE WITNESS: May I have a look if gave you the relevant ones? Those are relevant. The other ones I would like to see. These are relevant.

MR. CHRISTIE: I was prepared to introduce some of these very same documents, or attempt {1259|1260} to, myself. So I don't object to any of these.

Q. MR. GRIFFITHS: Now, just so that we are clear, Dr. Vrba, so His Honour knows, Mr. Christie knows, there are two transparencies that are framed in white.

A. Yes.

Q. Can you tell us what the source of those two transparencies are? Who drew those?

A. I drew those in June – in April 25th, 1944, in Slovakia, after I escaped from Auschwitz.

Q. All right.

A. And I received the copies from the Executive Office of the President of the United States of America, dated November '44, and those are pages number 40 —

Q. My question, really, Dr. Vrba, is whether you recognize those, and you say yes, you did those yourself.

A. That's right.

Q. Now, the other documents, or maps – and there are five of them ...

A. Yes.

Q. ... can you tell us the source of those?

A. Those are the maps which have been published during the trial at which I was a witness. This was in 1964 in Frankfurt where war criminals from Auschwitz were tried, and I have been there as a witness, and that court used maps in order to illustrate what the witnesses are saying so that the jury could follow photographically the movements. {1260|1261}

Q. All right. So these are not maps prepared by you, but you have them out of a book, do you?

A. Yes, I have them out of the book which is called – two books. One book is "Auschwitz Process," they are taken from this book. And the rest of them is taken from a recent publication which is published by Professor Martin Gilbert, and it is called "Auschwitz and the Allies," a book which appeared in 1981 and brought additional maps, and I made copies because they would enable me easier to describe my movements within the complex of the camp.

Q. These are not on the transparencies here yet.

A. I think they are, some of them.

Q. These are the ones you asked me to make the transparencies —

A. No. The ones I asked you to make the transparencies are those two.

Q. The ones from Dr. Gilbert are which, can you clarify? Sorry, Your Honour. Just so we I are clear as to the source of the material.

A. Plans from Auschwitz, page 129. This is from the court in Auschwitz, this map.

Q. All right. And that is a map called, "Plane von Auschwitz".

THE COURT: As long as that is identified by you for the moment, Mr. Griffiths.

Gentlemen, can I do this? I am satisfied on what I've heard from counsel for the accused as well as from this witness that there doesn't appear, at this moment, to be any objection to this witness {1261|1262} referring to these transparencies, some of which he has sworn he created himself, others created for him, and all of them have been seen by Mr. Christie. I am not sure that Mr. Christie has examined them all at any depth at the moment, he never having seen them before. I am thinking of adjourning now for ten minutes or so. The jury can drink some coffee, Mr. Griffiths and Mr. Christie can examine these transparencies, and I think we are far enough down the line, gentlemen, that I could reasonably anticipate that there will be a consent to this witness referring to these things as he testifies.

Does that sound reasonable to you, Mr. Christie?

MR. CHRISTIE: Yes, sir. Indeed.

THE COURT: Does that sound reasonable to you?

MR. GRIFFITHS: Yes. Just one other matter that I would like to get assistance from Your Honour, so I don't waste any court's time, is that if we did have some consent, I would like to have everything set up for when the jury comes back in, and I guess the question would be, physically, the best way to do that, I was going to suggest that, perhaps, I set the screen up down towards where the television is, and the projector would be here or in the middle of the courtroom.

THE COURT: When you say "here", you are talking about ...

MR. GRIFFITHS: Crown counsel table, which would mean Dr. Vrba would be down near the projector while he is giving his testimony concerning the maps, Your Honour. {1262|1263}

THE COURT: Does he mark on the transparency itself which will be on the projector projecting on the screen?

MR. GRIFFITHS: Yes. He marks on the transparency, and it shows on the screen.

THE WITNESS: I can mark on a transparency which is empty over that transparency.

THE COURT: That is something that I think can be discussed with counsel, Dr. Vrba.

The only other problem I have, gentlemen, is this. The accused has to see precisely what is going on, Mr. Christie has to see what is going on, and of no little importance is that the jury must see the same thing. You might want to consider putting the projector on counsel table behind you so that the line of vision of all the jurors —

MR. GRIFFITHS: Projected up into the corner, Your Honour, perhaps.

THE COURT: That is something you and Mr. Christie can work out. As long as the jury has the best view along with the accused, I am content, as long as counsel are.

— Short adjournment.

— Upon resuming.

MR. GRIFFITHS: I think we are ad idem, Your Honour, Mr. Christie and I, that there was one transparency that Mr. Christie was concerned about, and I agree with him. It was something showing things after Dr. Vrba {1263|1264} had left Auschwitz, so we are not including that in the group that Dr. Vrba will be referring to.

THE COURT: Is that correct, Mr. Christie?

MR. CHRISTIE: I didn't quite hear my friend.

THE COURT: He said there is one transparency that is not going to be used that you have seen and that will not be used.

MR. CHRISTIE: Yes. I have suggested to my friend that I have twelve copies of a photocopy of the gentleman's map drawn in 1944 which he referred to, and I also have photocopies, twelve, available for the jury so they might follow along, of the schematic plan of Auschwitz II, or Birkenau, which I had intended to tender and I have offered to provide now, if it meets with the approval of both the witness and the Crown, so

that the jury will have something in their hands to follow along with, even afterwards. I think it probably will help them, and that is why I am offering it.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: I am obliged to Mr. Christie for his suggestion, Your Honour. I think the reason why I have selected to do it this way is that Dr. Vrba and I were not having a huddled conversation at the witness box, and we all know what we are talking about and where it is, and I prefer to do that. With rare exceptions I don't like to put documents directly in the hands of the jury. I think it is distracting for them from the evidence.

THE COURT: I think at the appropriate [sic] {1264|1265} time Mr. Christie, if you wish, you can ask that they be distributed to the jury, especially when cross-examination time comes around.

MR. CHRISTIE: Thank you, sir.

THE COURT: Bring in the jury, please.

— The jury enters. 3:45 p.m.

THE COURT: Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour. In the absence of the jury, Your Honour, I have set up an overhead projector and a screen, and Dr. Vrba has some transparencies that he's made on some various maps of Auschwitz I and II and the surrounding area and will be using the screen and the maps to help describe his evidence in a loud, clear voice next to the projector.

THE COURT: Yes, he may do that.

MR. GRIFFITHS: Thank you, sir.

THE COURT: Members of the jury, when you are looking at the screen that appears before you, if any of your number have difficulty seeing what's on the screen, please don't hesitate to hold up your hand and we will make sure that you can see it. I am just not sure how the logistics of all this will work until we try it.

Q. MR. GRIFFITHS: Dr. Vrba, the question that I asked you, I believe, immediately prior to the break —

THE COURT: Just hold it, Mr. {1265|1266} Griffiths. Dr. Vrba, would you please stand on this side, towards our Clerk, with your back to me and facing the accused and the jury so that everybody can hear. How is that? Is that all right with you?

THE WITNESS: It is perfectly fine.

THE COURT: Can the jury see that? Go ahead.

MR. GRIFFITHS: Thank you, Your Honour.

Q. Dr. Vrba, I believe that the question that I asked you was what it was that you were working on in the Kanadakommand[o], what duties that entailed. You are living, you told us, in Auschwitz I from June 30, 1942, to January 15, 1943. Do you have a map or an overall plan there that would show both Auschwitz I and Auschwitz II, which we've been calling Birkenau?

A. Yes, I do.

Q. All right. Would you put that on the screen, then, please?

A. This is the map as I could reconstruct it from memory roughly after my escape. There is another map which is more exact which was produced by the Court in Frankfurt and copied from books.

Q. And you have some copies of other maps here, do you?

A. Right.

Q. And first of all, can you tell us which way is north and which way is south on your map?

A. On my map south happens to be, on this projection, south happens to be here. North is here. East is here and west is here. In other words, it was in {1266|1267} my mind, due to some error in my education at the age of ten, I had a sort of —

Q. So where do you always put "south" on your maps?

A. Well, if I draw it by heart, say if I see a place, then I would draw it as I draw it now.

Q. At the bottom.

A. No. At the top here.

Q. The writing, Dr. Vrba, just so I am clear, the writing is not upside down, so if you usually put "south" at the top, wouldn't that be the reverse?

A. Yes. I am afraid I have made you an error because of how this is positioned.

Q. It is different from what shows on the screen.

A. Yes.

Q. "South" is at the top, "North" is at the bottom.

A. South is at the top, right. South is this way.

Q. Okay.

A. I'm sorry for this because this is I a mirror. I wasn't aware of it. If I read it this way, then "south" is here, and "east" is here, and "north" is here.

Q. Thank you, Doctor.

A. Sorry for this.

Q. All right. Now, as we are looking at the map now, the map you drew, which is the Auschwitz I and which is the Auschwitz II camp?

A. At the time, when I was in Auschwitz {1267|1268} from June 30 to January 15, the camp, Auschwitz I, is this. This is the so-called, this is where we were overnight. If you wish, I can show you this small piece magnified.

Q. Okay. We will get to the details as we go on, Dr. Vrba. This is where the Auschwitz I camp is.

A. The Auschwitz I camp is, therefore, here.

Q. There's I. Now, where's Birkenau on your map?

A. Birkenau on my map is here. This whole complex. But this complex I did not see in 1942. I saw that complex for the first time only on one visit in 1942 December, and lived in this complex from 15 January 1943 until the escape on 7 April, 1944.

Q. All right. How far apart is Auschwitz I from Auschwitz II?

A. It would be roughly the walk from here.

Q. From the Auschwitz I camp —

A. From the Auschwitz I camp to here where there was a gate and a footpath, dirt road. I would I judge that it might have been three to four kilometers. I didn't measure it with a yardstick, but I would think that it would be a one-hour march.

Q. Now, while you were working in Auschwitz I, or living in Auschwitz I, you were working in the Kanadakommando.

A. Right.

Q. And where would you go to work for, the Kanadakommando? {1268|1269}

A. The Kanadakommando consisting of the day shift and of the night shift, I was given the night shift but I worked also on day shifts because sometimes the shifts overlap.

Q. Well, would there be different jobs according to day or night?

A. They have completely different jobs according to day or night.

Q. Can you tell us, first of all, about the night job?

A. Yes. For the night job, at any time of the night we would be woken up in our barrack, which was Barrack No. 4, which was approximately a year, and we would be told to go to work, Rollkommando, which meant the rolling group, and guards would come because it was night and we had to march out from this Auschwitz I, which was guarded by electric fences and watchtowers with machine guns, we would be marched out from here in a terraine [sic] which, by the night, was not guarded. That crosses show the guard position approximately by daytime only. By nighttime, the prisoners were inside this compound, and the S.S. guards were not around. By daytime the prisoners worked within this area, and therefore by daytime there were no guards around the electric fences, but there were guards standing around the whole camp. So that prisoners could move around with a relative freedom within this perimeter.

Q. Now, you have labelled on the document, on the map, it says, "Outer chain of sentry posts".

A. Yes {1269|1270}

Q. And were there, in fact, sentry posts?

A. By daytime there were sentry posts, because by daytime many of those — here, in Auschwitz, there were many Blocks, many houses. Aufra[ä]umung[s]kommando was in Block IV, but there were many others who worked in these factories — one Block to Krupp, one Block to Siemens, and one was called DAW, which means Deutsche

Ausrüstungswerke, which means German armament factories. Consequently, by daytime, when they were taken to the three factories, they were not guarded within those factories because by daytime there was an outer guard around the whole perimeter, and there was absolutely within the guard posts, between the towers, it was absolutely sort of flat terrain, so that even a mouse would have tried by daytime to cross this would be caught up in a crossfire, machine guns.

Q. Were there any fences between that outer chain of sentry posts?

A. No. There were no sentries here on this outer post. There were just towers and a lot of inscriptions in considerable vicinity around. It was written —

Q. If you could tell us what the English was —

MR. CHRISTIE: I think it would be hearsay, anyway, if it wasn't within the area where the witness was.

Q. Did you see the posts?

A. Yes, I have, because I was on one occasion taken outside so that I could see it, and I saw the post during my escape. So that the post we are saying, {1270|1271} anybody approaches it by chance, without authorization, will be shot without warning. So by daytime the sentry chain was sort of considered to be impenetrable from the inside or from outside.

Q. Now, during the nighttime you said your rolling commando, or Kanadakommando, would be ordered up sometimes at night; and where would you go and what would you do?

A. We were taken first to the gate, and they were waiting for us, a group of S.S., who took us to the ramp. This means we were marched to this place.

Q. All right. And can you tell us what that is on your map?

A. This means that this was a place which was neither in Auschwitz I nor in Birkenau, but there was a neutral corridor which, de facto, didn't belong to anybody from the camp, because here is a main line from Vienna to Krakow.

Q. What kind of line?

A. Railway line. And here has been made a ramp. This means a blind detachment. And we worked in the night on this ramp, and I would now need to paint details in how it was organized this particular ramp.

Q. All right. Go ahead.

A. Now, I shall concentrate only on this piece.

THE COURT: The first transparency will be the next exhibit. {1271|1272}

— EXHIBIT NO. 11: Transparency – Approximate Situation Sketch of Auschwitz and Birkenau Camp Districts.

Q. MR. GRIFFITHS: And that is entitled, "Approximate Situation Sketch of Auschwitz and Birkenau". Now, you've put a clear transparency, have you, on the screen?

A. This is the main railway line. This is south again. This is direction Vienna. This is north. From this railway line, approximately here was Auschwitz railway station, which I could see. From this, as a blind railway line, which was held up here and which was approximately five hundred yards long, meters long — I didn't measure it with a yardstick, but roughly fifty cattle trucks could be brought in with a locomotive, and there was space enough for fifty cattle trucks, so I would say the cattle truck is ten meters.

Q. Well, space enough for fifty cattle cars.

A. Yes. And a locomotive. In front of this railway line there was a wooden ramp. The wood ramp would be, therefore, long, five hundred to seven hundred and fifty meters, roughly, I would guess, half a mile, and was wide approximately three to four meters like, say, two tables put together in the width. And in front of this ramp — this is a ramp, wooden ramp — here was a road which ended nowhere and which can be approximately ten meters wide.

Now, our work, then, consisted in the following order whenever we were taken there. Our work command, from 20 August to 7 April, which makes roughly {1272|1273} eight months, which makes roughly two hundred and forty days, roughly. And I was taken out there for this particular work not every day but sometimes three times a day and night. Therefore, the number of times when I have done such work I

would say is certainly smaller than three hundred times, but well over a hundred times of this particular type of job. May I continue?

Q. Please go ahead.

A. We were brought and marched by our guards into this road, and there we had to line in rows of five, all of us, and we could dependant on the situation, anything from a hundred to three hundred prisoners, standing there in hundreds, with the guards standing around us holding guns in their hands, rifles.

We had to stand so long until came a new detachment of guards from a different place, and they marched in from here and made a chain of guards which I will mark in blue so that it is, perhaps, visible, or black. And this I chain looked like this.

Q. You are making circles on your sketch.

A. So this means that they were standing — this is a queue of chains, because we are in a neutral territory, neither in Auschwitz I nor in Auschwitz II, but in between, in that corridor, so that when they made this chain in this way they had enclosed the ramp. They enclosed this ramp and they enclosed their prisoners, but traffic between Vienna and Krakow could freely move by. And I have seen the train with the dining room quite frequently in the distance of about twenty yards from which I stood, because the distance from this ramp to {1273|1274} this line was quite small, maximum twenty meters.

However, because it was now considered that we are enclosed and the whole place was lit with street lamps so that it was light in daytime, these guards were now recalled.

Q. That's the guards around your group from your Kommando?

A. That's right, because they were absolutely unnecessary because there was a new chain of guards. When that happened there came, on foot, a group from here. Here is the road, a path, a footpath to the S.S. Kasernes.

Q. What is Kaserne?

A. Barracks. S.S. Barracks. And I can show on the previous map of various places, and there first marched a group of people who were dressed as S.S. uniforms as non-commissioned officers. This means silver buttons. And when they were there, then came, after them, a smaller group of individuals who were dressed as S.S. officers — gold here, gold here —

Q. On the shoulders and on the chest?

A. Yes. Everything gold. Gold ring, everything. They have white gloves. No clubs or anything in their hands. Whereas a non-commissioned officer came in the hands with sticks but not clubs, wooden bamboo walking sticks.

When everything was thus in place the signal was given and a train containing a number of wagons was brought to this ramp. This train came under guards, and the guards came down from the train and the commander of the guards went to the commander of the new guards {1274|1275} which was standing here and give him some papers and keys — I understand papers and keys. After the papers and keys were exchanged, the guard which brought in the train was marched off because they didn't have anything there to do, and the keys were distributed amongst the S.S. non-commissioned officers, Waffen S.S., non-commissioned officers, who took a position in front of each wagon, and those wagons were full of people. These were cattle trucks in those cases, but not always. There was a certain percentage where the people were brought in in a normal third-class train wagons. This was a minority of cases, say one out of twenty trains, one out of ten. Ninety percent came in cattle trucks.

Now, because the cattle trucks were more usual procedure, what happened was that while we were still standing here, you are not allowed to move at all, but stand here under the supervision of the Kapos. The S.S. opened the locks with which the trains were locked, and suddenly all the wagons were opened and we could see the mass of people inside.

Now, the trains were overcrowded with people. I mean, I would judge that there was a variation. There could have been sixty, there could have been eighty, and there could have been hundred people at various occasions per train.

THE COURT: Per ...

THE WITNESS: Per truck, per cattle truck. At that moment the S.S. started to shout at those people inside who, for a longtime, obviously, didn't see the doors open, "Alles raus. Alles raus." – "Everybody out. Everybody out." "Alles ..." – "Leave everything {1275|1276} stand". I mean, "no luggage take with you". That was the first command they got.

Now, the people were sort of, in general, stunned by the light and by the change, and in order that this whole thing to going, they started now with those walking sticks hit into the first ones when were the open truck and trying to take them out. "Raus. Raus", was the command.

Now, some of them, as they tried to get out, they tried to grab some of their luggage. Now, if it was a handbag, you know, from the size of a ladies' handbag, they let it go by, but if it was a luggage, then they simply hit the person who picked up the luggage with the stick over the hand, broken or not broken, so that the luggage left and the rest very fast understood that the luggage is not to be taken out from that wagon.

The people, then, were lined up on this ramp, and were told to move down from this ramp to this road and were told to separate among men and women, and the order was given that women and children of no matter what sex should go together with the women. So we had two rows, very fast formed up – a row of women and children, and a row of men. And it was said all children under sixteen should join either the mother or with whomever they came.

Now came a commission when they were lined up of those people, of those individuals who were dressed up as S.S. officers with the gold and the white gloves, and the men had to move across with them, in front of them, and there was a doctor who I knew quite well whose name was Dr. Mengele, but often other people not with {1276|1277} officer rank but so-called Sanität[er]... – corporal of the sanitation service, he had black insignia on his uniform as belonging to the health service, and they would sort the men as they passed by, either by flick of the finger to go and join the women and the children, or to go to the other side. This was a rather rapid process and often, because people were speaking various languages, the S.S. Doctor or the S.S. sanitary would take the stick and turn the stick so that the round part would stick out, and he would sort out those people by putting the stick against the neck and shoving him left or shoving him right, because there were often cases when there were sons and fathers who didn't want to separate, and they started to plead that they would like to go to work to the same place. So he didn't want very long discussion, often in a foreign language – they were sometimes Greek, sometimes Dutch so he invented a fast sort of communicating process by giving this stick, the walking stick on the other hand, put, say, the father this way, and gave him a smack on the back, put the son this way, gave him a smack on the back and shows them where to go, and if necessary, a second or third smack follows so that they understood that they have to part. And this process would take not long, perhaps two hours, and soon we will have on this ramp two columns – one column of men which would be approximately – with great variation – when the transport contained, say, two thousand people, you could expect anything between five to twenty-five percent of men being chosen for this walk, but sometimes none, depend on the situation of the camp. There was a strong variation from five to twenty-five percent. {1277|1278}

Similarly a row of women, fifty or hundred good[-]looking, young women in the age usually of sixteen to thirty, was set up, and then we had a long column which consisted of old people, of grandmothers, grandfathers, women who had children on hands, either teenagers, twelve or thirteen, or babies, and all those who sort of, during this, didn't show a staid gait or they didn't look healthy. So this was approximately seventy-five to ninety-five percent of the people who arrive.

While this was going on, we were still standing separately and under orders that if any of us exchanges one simple word with a newcomer, with that civilian, will be shot.

Q. Did you ever see that happen?

A. Oh, yes. Some try to speak, and some women – there were scenes

like, for example, some women when they saw the officers, they started to sort of thinking that officers are guarantee for their safety because there is a gentleman. So one woman walked up, in my presence, well-dressed woman with two small children, to the officer and she said – we were dressed in prisoners' garb, and she said to him, "One of the gangsters has told me that I and my children will be gassed."

MR. CHRISTIE: Your Honour, excuse me. You know, I realize the gentleman wants to give us a full explanation and all, but it's obvious that we aren't in a position to hear this conversation, and I think it's clear it's hearsay.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Well, Your Honour, {1278|1279} I am not really introducing it for the truth of what was said, but for the fact that what happens when somebody says anything, not for the truth of what is said.

THE WITNESS: I overheard the conversation.

THE COURT: Yes, I know that, Doctor; I think that what you should do is ask the witness what, if anything, he saw as a result of any conversation he overheard.

MR. GRIFFITHS: Thank you, Your Honour. I will phrase it in that way.

Q. Dr. Vrba, what, if anything, did you see happen as a result of the conversation you may have overheard between this woman and the S.S. officer?

A. The S.S. officer mollified her. He says, "Madam" –

Q. Don't tell us what he said. Just what you saw happen.

A. Yes. The woman took the S.S. officer to the prisoner and showed which said it.

Q. And what happened to that man?

A. The officer took out the notebook and wrote out the name of the prisoner and went away. When everything was finished and all those people were gone, the officer would come and read the number of that prisoner. The prisoner would come out. The prisoner was taken to the wagons and shot, and we carried the dead body home. Now, may I continue to the general process?

Q. Please.

A. The general process now consisted that from somewhere trucks were stationed – approximately {1279|1280} ten trucks came here in front of this road which leads nowhere.

Q. Excuse me just a moment, Doctor. May I ask you if you can use that map to explain?

THE COURT: The map has already been referred to. It will be Exhibit No. 12.

— EXHIBIT NO. 12: Transparency describing ramp.

MR. GRIFFITHS: . Thank you, Your Honour.

A. Now, from somewhere, I don't know from where, exactly, the station, ten trucks came. The trucks were open trucks, lorries, which were equipped like when one sends the transport, the contents of the lorry by a press of the button from inside would lift.

Q. Like a dump truck?

A. Dump truck. Now, that people in this group –

Q. You are indicating the large group of women and children.

A. Yes. Were asked to enter the dump truck. This means there were staircases put to the dump truck and they were counted for hundred. Until hundred were not on the dump truck they were being encouraged to more and more. In other words, the dump truck was loaded to absolute explosion with people. And once the dump truck was loaded it immediately departed to this road.

Now I need the second map, the first which I have shown. Once they were loaded on those trucks {1280|1281} not on all trucks, when a truck was loaded it immediately departed in the direction of Birkenau taking the one and only road which at that time existed with the camp of Auschwitz and the camp of Birkenau. The cars, obviously, here in Birkenau, disgorged the content of humans from these trucks because they were very fast coming back. So that for about two hours there was a brisk traffic between the ramp and this complex, which was complex Birkenau, and fast, one truck after the other, took those people away until this column of those old and children and so on completely disap-

peared. And the old trucks came back. During all this time we were still motionlessly standing on a road somewhere so that we don't interfere with this process.

Now, that's men, and that's women who were so young and good-looking. There came again two groups of S.S. and one group of S.S. marched the men either in the Auschwitz I for so-called reception as new prisoners, and then other group transported fifty or a hundred women into the women's camp, as far as I knew.

Q. They marched them away. Where was the women's camp at that time?

A. At that time all men were marched from this ramp either in the direction of this camp —

Q. Auschwitz I.

A. Yes. Or in the direction of this camp.

Q. Birkenau.

A. Yes. This means we knew that there is a female camp, but there is also a male camp. So the women were always marched this direction. {1281|1282}

Q. To Birkenau.

A. To Birkenau. Whereas the men were sometimes marched to Birkenau and sometimes to Auschwitz I.

Q. Were the ones that you've identified as a smaller group, the five to twenty-five percent, were they ever put on the trucks?

A. No. They had to march, without luggage. They were just marched off. They surrounded them. They were usually marched off before this loading of the old people on the trucks started for certain reasons. It was simply said, "We are now going to work", and guard groups came, surrounded them, because it was night, and in the night they have been taken out from this circle and either marched to Auschwitz I or marched this way to Auschwitz II. And when they were marched off, then this large group started to be loaded on these trucks.

Q. Now, what happened to all their luggage?

A. Now came our job. Now there were no people any more except a small amount of people which either were dead and were still in the wagons — in other words, the S.S. entered the wagons, not too far in because the wagons were in rather a disgusting shape. They were gathered urine, excrement and blood. And the people were usually coming lying on straw. So the S.S., at least nearby, used their sticks and started, "Schweines aus [Schweine, raus]", which means, "Swine, out". Now, if a person went out, it went out and left lying on the ramp.

Q. You are indicating the wooden ramp? {1282|1283}

A. On the wooden ramp. Or if he didn't, in spite of the strong urging of the S.S. by beating wherever it fall — I mean, sometimes on the head sometimes elsewhere, there was a lot of crying going on during this process — but then the S.S. said, "Fine. That's the end of it." And now our job came.

First we had to empty all luggage, all dead bodies, and all living who cannot move out from the wagons. This means from here we were driven along the wagons, and all the work had to be done running. Anybody who was found loitering around or something like that was immediately without discussion clubbed.

Now, we had to enter the wagons, and the first thing is that we had to throw out the luggage as far as we could from the wagon. Simultaneously, we threw out all people from the wagons. We dragged them out, dead or alive, and put them on this ramp together with the luggage. Now came the trucks back from Birkenau.

Q. The dump trucks?

A. The dump trucks, yes. As they were coming back from Birkenau, we were picking up the luggage from this ramp. This ramp was now full of luggage, all sorts of luggage, from two, three thousand people — a lot of luggage — and each of us was supposed to pick up luggage and on the double run to the truck which was here in front. We were called the Rollwagenkommando. And this Rollwagen was basically something in hand-driven truck on rubber wheels so that we didn't actually have to carry always the luggage from the distant points to the trucks, but we came with this Rollwagen, forward drive, dragging it, then jump on the ramp, then jump on the {1283|1284} Rollwagen, then they pass

through the luggages [sic] on the Rollwagen, and then we jump down from the Rollwagen and surrounded the Rollwagen and run with the Rollwagen and the luggage to the front of the ramps where the trucks are, and the trucks had, again, those stairs through which the people went before. On the stairs were strong guards, and from the Rollwagen we throw the luggage to them and they were throwing it in the truck, and when the truck was filled, the next truck was filled, until not one single luggage was remained.

Q. What about the people? What about the dead and the dying, the injured?

A. Meanwhile the dead, the dying and the injured were lying here around, and it was forbidden to take any notice of them. I mean, anybody who would stop with them before the luggage was away would be punished appropriately.

Now, when all the luggage was away, we had on the ramp a collection of people which could be twenty percent of the transport, sometimes five percent, but sometimes thirty percent of dead or invalids dying. So we were now ordered — a number of those dump trucks I came and we were ordered to take them from that ramp, along this road, [road] to that dump trucks.

THE COURT: To the ...

MR. GRIFFITHS: Dump trucks.

THE COURT: To the trucks.

THE WITNESS: To the lorries, and staircases were put in front of the lorries, but we were not allowed, as is normal, when you carry a dead body or a sick person, that four men holding or something like {1284|1285} that. It was usually one man who had to do it. This means the man had to grab the dead or dying by the hand and run with him on this road to this truck, and if the speed was not sufficient, there were a number of S.S. men with those clubs to give us a little bit more enthusiasm, as they called it, into this work.

When we came to these trucks, there were again men on top of the staircase, and dead or dying, or invalids who were neither dead nor dying but invalidated, paraplegics, broken legs and so on, were carried by us up the staircase, taken by two men on top of this staircase, and thrown into the lorries. So the lorries was taking a mixture of dead, dying and invalids. And this lorry, the people were not standing but they were usually lying because the number of dead was too big, and as they lied, so they lied. And when that lorry was approximately this way covered with bodies —

Q. You are indicating a mound in the lorry?

A. Then the lorry went the same way as the previous way — that is, direction Birkenau. The lorry went to Birkenau. After the last body, dead or alive, has been eliminated, we had to eliminate the last luggage and the cars, the dump trucks with the luggage, they didn't go to Birkenau where most of the people went, but they went to Auschwitz I, and here, next to the Deutsche Ausrüstung[s]werke.

Q. Next to the iron works.

A. Next to the Deutsche Ausrüstung[s]werke there was a yard, and this yard was called Kanada, and this yard had here a railway line, because the Deutsche {1285|1286} Ausrüstung[s]werke, Krupp and Siemens used workers to get out their products. So this railway line went in in front of this Kanadakommando. Here is the Kommando. So all the cars came with the property to Kanada, and there the trucks were lifted and the property was shifted down.

Q. I am going to stop you there, if I may.

MR. GRIFFITHS: Your Honour, I see that it is twenty to five. Is this a convenient time?

THE COURT: Members of the jury, would you please retire now for the evening? We will start again at ten o'clock tomorrow morning. Please keep an open mind. Don't permit anyone to discuss this case with you, nor should you discuss it with anyone else.

Have a good evening. Thank you.

— The jury retires. 4:50 p.m.

— The witness stands down.

— Whereupon the hearing is adjourned to January 22, 1985.

**JANUARY 22, 1985**

— Upon the hearing resuming.

MR. CHRISTIE: Your Honour, I'd like to speak to you in the absence of the jury.

THE COURT: Certainly. {1286|1287}

MR. CHRISTIE: Thank you, Your Honour. The defence has had, since the 8th of January, a witness by the name of Udo Wallendy [Walendy], a publisher from West Germany, waiting in Toronto. He has to leave on the 28th of January, and last night my friend gave me a piece of paper advising me he proposes calling three new witnesses.

Every witness that I am aware of, including the present one, has been added since the preliminary hearing. The obvious effect is that the Crown's case is made considerably longer than anticipated, and certainly far more unpredictable than was estimated from the preliminary hearing. This includes in respect to Dr. Hilberg, the fact that Dr. Fried, who had previously testified on the tribunal proceedings, had amal-ga[ma]ted into his evidence Dr. Fried's evidence as an expert; so that complicates matters further.

Dr. Vrba is a totally new and unknown witness to us. We have a summary of his background, but we are told three new witnesses are to be called. They keep changing from time to time, which throws us into a state of somewhat confusion.

However, I suggest that this has resulted in a very, very great problem for the defence in {1287|1288} that we have witnesses waiting here from West Germany and other places that we had anticipated by the end of the month could be under way.

I'd like to suggest two possibilities, if I may, to enable us to provide our defence in addition to the Crown to complete its case: One possibility, which might be somewhat unusual, would be the position of a defence witness in the middle of the Crown's case – that would be quite undesirable, probably objectionable to the Crown; the other possibility which I suggest might be more acceptable to the Crown, and which I might suggest is that a video tape deposition be taken, under oath, with the opportunity to my friend to cross-examine at will, and as far as he likes, the witness in question. That could be done in the evening at my friend's convenience. I can provide the equipment and the personnel to do the video tape deposition; then the witness can be cross-examined by my friend and he can go on his way, at which time the defence, at such time as the defence is called, we can then introduce that, having given my friend the opportunity to cross-examine. I think that would be preferable [sic] to not having a witness.

The witness is Udo Wallendy [Walendy], who is {1288|1289} mentioned in the book, "Did Six Million Really Die", as the author of another book. The book is in evidence. I filed it in my cross-examination earlier. So it is a relevant witness. He is a publisher who has published extensively in the field and done research in the National Archives, I think, both in the United States and in West Germany. So in regard to him I would be seeking to qualify him as an expert in the field in which he has researched, and also to give firsthand evidence on the subject matter which is referred to in the book, "Did Six Million Really Die?". So he becomes both an expert witness and a witness on matters of fact referred to in the book. If it were not that he was, to that extent, relevant, I wouldn't be interposing this problem, because I certainly don't wish to create unnecessary delays, but I cannot see how, with the situation being as it is – he has waited twenty days or will be here twenty days and still we are told three new witnesses and new witnesses every day – it throws the defence into a position where we are unable to keep these people waiting any longer.

I wonder, then, if Your Honour could direct, in your discretion, that that second suggestion, or if more convenient the first, be adopted to enable our {1289|1290} side of the case to be presented. I think that the variations on the matter as presented from the preliminary to the present stage are approaching that level of alteration of the case where I will be raising the suggestion that an oblique motive exists to the constant rearrangement of the evidence of the Crown, the inclusion of new witnesses, and the disappearance of old witnesses whose evidence is consistent with the theory of the defence, namely, the witness, Sabina

Citron, the complainant in the whole matter in the first place. Thank you.

THE COURT: Thank you. Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour. I assure my friend there is no oblique motive in not calling Mrs. Citron or in the fact that there are new witnesses that are being added to the Crown's case. I explained to my friend what Mrs. Citron – that there was an illness in the family, and that's why I was not calling her, and that remains my position, Your Honour. She is available if my friend wishes to call her. I have not been adding new witnesses every day, as my friend has indicated, although I did give him three new witness statements yesterday of people that I interviewed and met for the first time on Sunday. {1290|1291}

I don't need to tell Your Honour, indeed I don't need to tell Mr. Christie that this case has received wide publicity, not just within our community in Toronto, but across the country and by telephone, Your Honour, and I know the switchboards from a number of other organizations hasn't stopped ringing since the 7th of January. These are witnesses that were not known to me before, have become known to me, the nature of their evidence is such that it is germane [germane] to issues that my friend is raising, and I felt it appropriate that the jury hear that evidence. And accordingly, I provided my friend with the witness statement from those witnesses.

Dr. Vrba, I advised my friend some weeks ago that Dr. Vrba will be testifying. I provided him with a copy of the report that Dr. Vrba wrote in 1944 and advised him of the book that Dr. Vrba had written of his experiences in Auschwitz and advised him that he had difficulty in obtaining that, and I wonder what assistance it was. So he had full disclosure of what Dr. Vrba's evidence will be.

I regret, Your Honour, that the matter is taking longer than was initially anticipated. I recollect quite clearly that at a number of stages, both {1291|1292} in the courtroom and outside the courtroom, that I indicated that I had Dr. Hilberg here, set aside two days for his evidence. I had never been advised two days would not be sufficient for that evidence. I had arranged for Tuesday and Wednesday of last week, and that I had Dr. Vrba arranged for Thursday and Friday of last week.

I don't criticize Mr. Christie's right to fully cross-examine, and that is certainly a right that he has exercised during the course of this trial, but I don't take full responsibility for the length of the trial, Your Honour. It's an adversarial [sic] process, and matters are being gone into in depth.

I know of no precedent, Your Honour, for either of the procedures that my friend suggests. They are as fresh to my ears as they are to Your Honour this morning. I have always felt, Your Honour – and again I am not prepared with law or precedent on this – that it was vital for a jury to be able to assess the credibility of somebody in person in the courtroom milieu, and not somebody on television. Obviously, as my friend says, any deposition would have to be in the presence of Your Honour as well and the court reporter here. The video {1292|1293} tape itself would not be sufficient. There may well be rulings during the course of his testimony and matters which Your Honour would have to appear on.

As to any suggestion that the Crown splits its case, again, I know of no precedent for that, and I will be opposed to both suggestions.

THE COURT: Thank you. Mr. Christie.

MR. CHRISTIE: First of all, Your Honour, my friend says that he told me about Dr. Vrba. That is correct. But it seems to me I am hearing, every day, about new witnesses, alterations for old witnesses. The preparation for a case should not be undertaken during the course of a trial. I am sure that is a recognized pre-requisite. If I have been surprising my friend, he should concede that as people go along, he has people who phone him on the weekend or any other time.

I suggest that we are entitled through the preliminary to know something about the case, and I can count now five witnesses, two experts, who are altered, and the total situation of the case is changing from day to day, it seems to me.

In the case of these circumstances it seems as if the Crown modifies its position on the basis {1293|1294} of the cross-examination, because from what I can see, of the witness statements provided, points brought



out in cross-examination now are covered by new surprise witnesses. I think it approaches the stage where I could very readily ask for an adjournment.

The Crown provides me with witness statements, probably a quarter of a page long, to deal with fundamental matters in the case. It would be certainly within my right, I think, to ask for an adjournment in the face of this new type of evidence. I don't propose to do so. I think that would be far too much of an inconvenience for the jury and for the whole Court, but I am asking for some consideration of what I think is a practical problem, if it were necessary to conduct these depositions such as one takes commission evidence, before a commissioner, or in open Court, I am quite sure we could arrange that, although I am sure it would, indeed, be inconvenient to Your Honour and to the Court as a whole. I'd much rather avoid that if I could; but I really think that it ill becomes the Crown to say, well, we are finding out new things every day, and we want to add them as they come along; the defence can wait until we are through with whatever we happen to find. It seems to me with three {1294|1295} new witnesses, that's about the size of the matter; and in the face of that, I am asking for some consideration to enable us to put our case into evidence without the necessity of recalling people from West Germany and other places who are directly referred to in the book. There isn't some kind of abstract —

THE COURT: In what book?

MR. CHRISTIE: This book.

THE COURT: Exhibit 1.

MR. CHRISTIE: Exhibit 1. Thank you.

They are quoted here, and they have come to verify what they've found. Now, they have waited since the 8th of January, and I certainly recognize they couldn't testify then. They have to wait, but they have to go back on the 28th, twenty days later.

I find it difficult to comprehend how the Crown can take the position that they may extend their case when and if they choose as long as they find it relevant. If people now phone them with information today, I suppose I will hear some new statements tomorrow. That's the way it happened yesterday. I don't see how the defence can be put in a position of coping with that kind of re-arrangement in the case. Thank you.

—— {1295|1296}

RULING

THE COURT: Counsel for the accused in the absence of the jury, has moved the Court to provide for and to accommodate the evidence of the proposed defence witness, Mr. Udo Walendy.

I am told that that witness is West German by way of national origin and is a resident of that country. He has, I infer, at the request of the defence, come to Canada to testify as a defence witness at this trial. He came here on the 8th of January.

This trial commenced in a formal way on Wednesday, the 9th of January. A jury was selected with no undue delay. The evidence really did not commence until well into the latter two days of the first week after the Christmas recess. That would make the evidence in this case having started really in the afternoon of the 10th of January and all of the 11th.

All of last week was consumed with the evidence of four or five Crown witnesses, most of whom were examined and cross-examined with despatch.

Dr. Hilberg, a Crown witness, testified as an expert. As I recall it, generally speaking, his evidence in examination-in-chief consumed not quite a day — the better part of a full morning and somewhat in the {1296|1297} afternoon. He was then cross-examined by counsel for the accused for two and a half days.

Mr. Christie has indicated in his motion that Mr. Walendy has to return to Germany on the 28th of January. This motion is made on the 22nd of January. Defence counsel moves that the Crown's case be interrupted and that the defence witness be examined in-chief and cross-examined before the jury.

In the alternative, and preferable [sic] to the defence, Mr. Christie submits that in the evening a video tape recording be made of Mr. Walendy's evidence and that there be examination-in-chief and cross-

examination with the tape ultimately being displayed to the jury.

Crown counsel objects to both of those suggestions.

Mr. Christie is further of the view that the Crown is virtually, as he says, on a day-by-day basis, altering its case and notifying the defence that it intends to call more witnesses than originally intended with the result that any comparison between the witnesses called at the preliminary hearing and what the Crown intends to call at this trial is somewhat incidental.

Counsel for the defence takes the view {1297|1298} that the constant juggling and adding of witnesses with no intention to call other witnesses on the part of the Crown is not only confusing to the defence, but has taken defence to the point where it is contemplating suggesting that the Crown has an oblique motive in doing this. In any event, while the defence is not making a motion for an adjournment, that thought is passing through Mr. Christie's mind.

Crown counsel observes that no one asked the witness, Walendy, to come to this country on the Crown side on the 8th of January. Mr. Griffiths points out that when he suggested that he had set aside two days for the total evidence of Dr. Hilberg, no one on the defence side advised him that it will be another one or two days in addition to that before the whole matter of that witness' evidence could be finished.

I am of the view that I have no jurisdiction to, in effect, tell the Crown how to prosecute.

In the same way I have certainly no jurisdiction to in any way regulate how the defence will be put in. I have jurisdiction to ensure that the law is followed and our procedures are adhered to. That {1298|1299} jurisdiction I have attempted to exercise.

I know of no statute or case law that permits the taking of evidence of any witness by video tape in a criminal trial. It seems to me that the mode of trial having been taken by the defence to have a jury, the jury is entitled to see witnesses first-hand and, as Crown counsel says, not through television.

I think it would be a grave error on my part to permit the evidence of any witness, be it video-taped, in the absence of the jury, at night, and to be shown to the jury later. It would be an improper disruption of the Crown's case for me to make an order that the Crown's case be interrupted so that the evidence of the defence witness could be taken.

I am dismissing the motion now for the reasons I have given. Defence counsel has the right to bring that motion again. Whether he succeeds or fails will depend on what I hear then. It will also depend on how fast we proceed, how quickly and with what despatch this case proceeds both in the examination-in-chief and in cross-examination of the witnesses as they are called by the Crown.

I am not unmindful of or unsympathetic {1299|1300} with Mr. Christie's position insofar as the witness is concerned. Scheduling of witnesses is a nightmare to both sides.

There is no substance in Mr. Christie's submission that the Crown is apparently improperly deciding to not call certain witnesses and to call others that have not been called at the preliminary hearing.

Preliminary hearings are conducted to see whether or not there is evidence sufficient to put the accused on trial. Their prime motive is not one of examination for discovery, although it has been said by others senior to me that that is one of the natural benefits that might flow to the defence from the holding of preliminary hearings.

The motion is dismissed on those terms.

THE COURT: Is there anything further?

MR. CHRISTIE: No, Your Honour.

MR. GRIFFITHS: No, Your Honour.

THE COURT: The jury, please.

—— {1300|1301}

— The jury enters. 10:35 a.m.

THE COURT: Members of the jury, I am sorry to keep you waiting. A matter came up first thing this morning, and I dealt with it. We are now ready to proceed.

Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.



**RUDOLF VRBA, previously sworn.****CONTINUED EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:**

Q. As I recollect, Doctor, we have reached the point yesterday where you were describing what went on in the night shift of the Kanada command, and I believe you had testified that you reached the point where the dead, the dying and the invalids were loaded on trucks and taken away. What was your responsibility then?

A. Once all the people – that means dead, dying, invalids, healthy – were distributed, each into its place because the trucks took them, we collected the luggage and loaded them on the returning trucks. The trucks were making quite short journeys. Say a truck went away with a hundred people and came back within ten minutes and there were only about ten trucks, so that if you had, in the transport, say three thousand to four thousand people, average was three thousand, but it could be four thousand, it could be five thousand.

The deportaiton [deportation], the elimination of the {1301|1302} people from the ramp would then take two to three hours, and after that, as the trucks are coming back from Birkenau —

Q. Were they coming back empty or full?

A. Empty. We were immediately loading the property of the people on the truck. May I use the slides, please?

Q. Please.

A. We were standing here. Here is a ramp. The truck with the people moved in this direction.

Q. Towards Birkenau?

A. Which is Birkenau, and came back, each truck, again to the ramp where we loaded it with the luggage. And then the trucks with the luggage, the property of the deportees, came into this complex, which was called Kanada, and was adjacent to the complex called, "DAW", which means Deutsche Ausrüstung[s]werke, and translated means German ammunition military ammunition factory. I think that for short we can call it DAW. And this means that after all the luggage has been put on trucks and deposited here in Kanada, in this particular quarter, our job was to clean out the wagons. The wagons had to be cleaned out in such a way that not the slightest trace should remain that they were used for transportation of human beings. That means the straw was taken out and put on the ramp, the cars be meticulously cleaned with brushes, with mops, with all sorts of cleaning equipment, finally disinfected with lysol, again wiped and swept out, and then a commission came to inspect if the wagons are in an almost perfect state, like new, from inside.

After the wagons had been given {1302|1303} clearance to clear the ramp and our job was to eliminate from the ramp any slightest trace of anything, not one piece of paper, blood, urine or excrement, not a trace of clothes or whatsoever was allowed to stay on the ramp, and when that process was finished, we were again rounded up, and if I can have the previous picture ...

Q. What exhibit number is that that you just put on – Exhibit 12?

A. Yes. The whole process went into reverse. This means we had to line up here and on the road in front of the ramp in fives, the group hundred, two hundred, depending how many you got. A detachment of S.S. came and marched us off, and the moment when this detachment of S.S. had marched us off, had us surrounded, that S.S. went home.

Q. The larger circle.

A. Yes. And we were marched, then, either, depends on the hour, either back into the camp, which means that we were marched back into the sleeping quarters here —

Q. In Auschwitz I?

A. — in Auschwitz I, which were surrounded by barbed wire and lights and garbage all through the night, or if there was much work, we waited either for the next transport, because there were such days that five or six transports came within twenty-four hours.

On the other hand, there was sometimes so much work to be done in this, specialized work to be done in this specialized Kanada complex, that you were marched into the Kanada complex and kept there work-

ing until we were allowed for going to the camp. {1303|1304}

Q. Do you know what a Red Cross van looks like?

A. That's right.

Q. Can you describe it for us?

A. Well, it was Red Cross vans which was a green military van with a large red cross, and when the people were lined up, this red cross van went in front of them. If I show again this picture, the people who were left on the ramp and were lined up here waiting for the transport in this direction —

Q. Towards Birkenau.

A. Yes. The Red Cross van came from Kanada via a small hole which is not shown on this map, but here was a road, a connection, crossed the railway line here and via a small road, went here to this direction. The Red Cross van originated here in Kanada compound, and contained Zyklon gas, the canisters.

Q. Did you ever see inside that Red Cross vans?

A. Yes. I have been several times inside the Red Cross van, because one of my jobs when I was here in the Kanada complex was to load the Red Cross van with Zyklon gas. And this usually happened before the arrival of the transport. This means when we were not in the camp, when the alarm came that the transport is coming, say this was alarm for twenty minutes in vans, then first thing when we got here in the Kanada complex which I have described how it looked, came the Red Cross van and there was a special small house which stored the Zyklon, and we were told —

THE COURT: You cannot say what you {1304|1305} were told.

Q. MR. GRIFFITHS: What did you do?

A. We were ordered — I'm sorry for using the word "told". We were ordered to —

MR. CHRISTIE: That is hearsay as well.

THE COURT: Rephrase it, please.

Q. MR. GRIFFITHS: You received some orders.

A. Yes.

Q. As a result of the orders what would you do?

A. A queue was formed from this little house to the Red Cross van, and that would stand in the queue. In the little house inside there was Zyklon conserves — they looked like conserves.

Q. Conserves, jam?

A. Well, they were the size of a gallon jam conserves. When I hold it like that, then it was a little bit over my two hands.

Q. You are indicating holding it from underneath.

A. Yes. So it depends where I stood, either where I was ordered or where they were stored, or the Red Cross van, or sometime in the middle, depending on the situation; and we were loading that Red Cross van with the Zyklon.

Q. Was it always the same amount, or did the amount differ?

A. It differed, depending on how many people they expected to come, I understand.

Q. That's the night shift. {1305|1306}

A. That's the night shift.

Q. What about the day shift?

A. The day shift, the day shift worked in this compound.

Q. That is the Kanada compound.

A. That is the Kanada compound which was a square of approximately roughly hundred meters on each side. So this would be ten thousand square meters or hundred thousand square feet, roughly. And I would now, if you throw a light on what this looked like here inside, in the first line I would like to take notice that this compound was outside the main camp where we slept in the night, but inside the great of chain of guards. Therefore, when we were working here by day, there were no special guards here inside except the S.S. who worked, who commanded us to work, but not the guards; but this compound was often working for twenty-four hours a day, and that was also a night shift. And because in the night these guards are not standing, there was an arrangement for guarding us in the night within this complex. So this complex, then, looked finally like this.

Q. And you've got a clean sheet of transparencies, then, and you are

going to draw us a picture of the compound now.

A. This was a compound of about a hundred yards with a gate here, barbed wire around. In those corners were guard towers, equipped with guards and machine guns, and here all along was light in the night. There were the following buildings inside. Here was a large building made of brick with a patio and a terrace, a veranda, very long barrack, type of Birkenau barracks, {1306|1307} was here. Here was a lavatory for the prisons, and other barrack was here, and here were again two barracks. So on the whole we had there four barracks, each barrack of the size of a large horse stable, and the house which I would say would represent a house with a square footage of rough estimate twenty thousand square feet which was a special store, twenty thousand square feet inside space.

Now, the trucks from the ramp would come with the property here into this, with the luggages, into this yard, and the property would be unloaded by the man in the truck pressing a button, and the truck lifting so that the whole luggage would slide down. However, if it didn't slide down, two prisoners or three prisoners had to climb up on the truck and help the luggage to get down so that the truck would return to the ramp for the next load. And meanwhile, in the centre of this yard, a great heap of luggage has been formed and prisoners were immediately used to store those luggages along the walls of this barrack.

Now, the walls of this barrack, the barrack was approximately the height of this wall.

Q. In the courtroom here?

A. Yes. About thirty meters long. This means, I would say, twice as long as this courtroom, by judgment, and the luggage from one or two transport vehicles represented a considerable mass of matter. It had to be done pretty fast because the trucks were going up and down from the ramp, and they were, of course, keen to clean the ramp very fast and to get the trucks for other jobs. So this was phase number one, the position of the luggage next to this barrack. {1307|1308}

Q. What happened then?

A. Then we were working there at various times – two hundred, three hundred, four hundred or five hundred people. Inside this barrack the situation was the following —

Q. Excuse me just a minute, Doctor.

MR. GRIFFITHS: The drawing, Your Honour, of inside the Kanada compound in Auschwitz, could that be the next exhibit?

THE COURT: Yes.

— EXHIBIT NO. 13: Transparency of Kanada compound.

THE WITNESS: This barrack had two gates in the front and in the back like a horse stable with light coming from the top, no windows. Along, inside the barracks, blankets were spread out – say nine, ten blankets. The blankets were confiscated immediately from those arrivals. They all had blankets, and there were a great store of blankets. And around each blanket were situated around ten prisoners. This was the first stage of our work there, which was also by night.

Now, six or ten or eight prisoners, depending on the amount of luggage, were doing nothing but running from the outside from here where the luggage was stored in great heaps and bringing two luggages in each hand. I mean, if you brought only one or something like that, it would be – his enthusiasm for work would be increased by the S.S. men who stand at this door with a club, with a truncheon. So if sufficient speed, or carried {1308|1309} a considerable amount, physical convincing has taken place. The luggages were dropped here and these people who were around were already highly specialized. There was one man whose job was to open the luggage as fast as possible, and the rule was that it doesn't matter whether the luggage is or is not preserved healthy because the luggage was marked with names. So rough instruments were used, sometimes the luggage was cut up, and as fast as possible the content of the luggage was dumped on these blankets, and the people around these blankets started to be frantically active in sorting out the contents of the luggage. Men's clothes were on one side, women's clothes went on the other side, and children's clothes on the other side of the blanket. Things like shoe cream, shoe paste, combs, on the other side of the blanket, and on one side of the

blanket went everything like documents, photo albums, diaries or books, material consisting of paper. In the middle there was a small luggage into which went valuables – money, gold, etcetera – wrist watches.

Q. Jewellery.

A. Jewellery which was found in those luggages. Now, this was here inside in the middle of each blanket, the small luggage. The papers were collected by a special collector again who went around with a big luggage and collected the documents, and those documents were taken here behind this barrack and between this barrack in the DAW, and a fire was made and those documents were burned there without inspection. Indeed, it was strictly forbidden to inspect those documents, and as I will explain later, before we left we were extremely thoroughly searched for money which was abundant there and for documents. {1309|1310}

In other words, somebody who stole a sardine could get away with twenty-five lashes, but if somebody stole a bank note, a diamond or a document didn't get away live.

Now, can I have this picture? Now, when it was all sorted out, again other groups came and started to load into blankets certain goods, say male clothes, female clothes, pans and pots ...

Q. Pots and pans ...

A. Pots and pans, yes. All sorts of things which were there, and I will go back through this picture.

Q. Exhibit 12.

A. Right. And now we would carry, the prisoners would carry from this barrack, where the sorting was going on, this was called the sorting barrack, loaded with blankets in which the goods were, sorted goods were stuffed, were running under the eyes of Scharfu[ü]hrer Wyglev. So he was sitting here and started observing the situation. As the prisoners were running with the property, with the property in blankets and depositing all better clothes here in this barrack, all laundry in this barrack, other items in this barrack. In that three barracks were working women. These women were brought from Birkenau. They were stationed in Birkenau, and every morning brought into the Kanada command. Women do not work on the ramp, and in Kanada they worked in the three barracks where they sorted the goods according to quality. This means they sorted shirts, first quality shirts, second quality shirts, and so-called Lumben [Lumpen], which means rags. And they are bundled, and in this barrack enormous amounts of those shirts of first quality, of {1310|1311} second quality and third quality were accumulated. Similarly, undergarments of first quality, second quality and third quality were accumulating so that it looked like in an enormous warehouse inside. The number of women who worked on the sorting amounted for anything from two hundred to three hundred to four hundred, depending on the business that was going, and in regular intervals the train came. There was a train line as I explained in figure number one. There were train lines there, because this was group Siemens, and armaments, DAW, which produced material for war with the slave labour provided from Auschwitz I, and therefore they had to export those things straight to the railway, and so there was a railway line coming into the camp, and this railway line was prolonged, and so, occasionally, wagons would be put in front of the Kanada, and we would then load those wagons on particular days with the property sorted already out. This means the wagons would come here. Here would be the railway I line, and they would bring in wagons, and there were days when it was in the order, shirts, first quality and second quality. So we had to run from this barrack with the proper load and load it on those trains, then came, say, shoes, first quality, second quality, third quality. The shoes were carefully bundled together so that they are not mixed up. Then there were overcoats, first quality etcetera, etcetera. Now, the third quality underwear and shirts was not sent as such, but it was called as a rag quality and was sent to paper factory for making paper, and this I know because when loading it in the wagon, the designation of the wagon was written on it, Memel was written on it, which is a Baltic town. So this rags of {1311|1312} the third quality were transported for making paper in Memmel [Memel], and the

better things were distributed to various addresses in Bavaria, mainly, but also in other addresses, and it was written Winterhilfswerk, which means help for the winter, and they made various contributions among the population for either those who are poor or those on the front and running out of underwear and shirts, and they send it to those centres.

Q. Now, during this time that you were working in the Kanada command, the day shift or the night shift, up until January 15th you said you were living in Auschwitz I.

A. Right.

Q. Before January 15th did you ever go into Birkenau?

A. Yes. On one occasion.

Q. All right. Now, have we got a map there that would show?

MR. GRIFFITHS: While Dr. Vrba is getting it, the sketch showing the inside of the barracks as described by Dr. Vrba, if that could be the next exhibit.

THE COURT: Exhibit 14.

— EXHIBIT NO. 14: Transparency – Sketch showing inside of barracks.

Q. MR. GRIFFITHS: Now, this is a different map and perhaps you could orient us on this map where Birkenau is and where Auschwitz I is on the railway lines.

A. That was a previous map which I {1312|1313} showed, made by memory, and this map is an official map made by experts.

Here, this is Auschwitz I.

Q. And you have marked that in red.

A. Yes.

Q. Now, where is the road that you would travel from Auschwitz I —

A. Here is Kanada. And the road of the tracks which we travelled from Auschwitz I was the following: When we went to the ramp we were marched from Auschwitz I where we were overnight, over this pass to this pass without reaching the railway station, Auschwitz. This is a river here and we reach here the Vienna-Krakow line, railway line. And we cross it and enter the rail of Birkenau.

Q. And there is a road there that you are indicating that went to Birkenau. Were there any other roads that went to Birkenau?

A. None. This was the only road that I went to Birkenau. Also, some of the S.S. who were stationed in this region have this time made footpath by walking over these fields, so that some sort of dirt footpath to the railway station existed because behind the railway station and behind Auschwitz there were pubs.

THE COURT: There were what?

THE WITNESS: Pubs.

THE COURT: That is where one drinks beer.

THE WITNESS: Yes. The S.S., in order not to have to go this way, they have stamped out {1313|1314} a road which was a shorter road to the railway station and to the town of Auschwitz.

Q. All right. Now, can you —

A. The only road on which a car could go is this one.

Q. All right. Can you tell us where, before January 15th, you went in Birkenau?

A. On January 15th —

Q. I'm sorry, I said before January 15th.

A. Yes. In December 1942 I was once ordered to enter a truck, one of those trucks, to go to an unknown place, and at that location I was driven to Birkenau and I was driven along this road, enter the Birkenau, came here. Here was a main gate of Birkenau, main entrance. There was the one and only entrance how it would get to Birkenau complex was either here: here was the one and only entrance.

Q. All right.

A. And the other entrance was here, which was the side entrance. I was taken through this — sorry, it went there. It was here. This is the entrance, and I was taken with a truck first through this main entrance here, then the truck went in between camps "C" and "D", which I will show in bigger detail. Then it turned left, and here we are in this region, and there in the large hut there was, as I described, a horse stable: we were taken in by a number of open pits and the hut, not hut, horse stable, was filled with clothes from bottom to the very top, and our job

of about fifty men was to clear a road through that enormous amount of clothing and then side roads, so {1314|1315} that the clothing could be slowly taken out or sorted on the place.

Q. Did you have an opportunity to look at the pits that you saw?

A. Yes. The pits were quite close to the barrack. It was December 1942, and the heat came out from the pits. The pits were not used. There was nobody. When I looked into the pits I saw bones which were fragments only which were burned, but a lot of unburned or slightly burned children's heads. At that time I didn't know what it means, why children's heads don't burn, but now I know that they contain such an amount of water that to burn completely a child skull is much more difficult than a grown-up's skull.

Q. How many were there, one or more than one?

A. As far as I can recall I didn't walk by more than three. There might have been further from the barrack, but of course, I couldn't walk there. I had to keep by the barrack.

Q. Can you give us any estimate as to how large those pits would be?

A. The depths I would estimate for six meters.

Q. Six meters.

A. Yes.

THE COURT: What's that in feet?

THE WITNESS: Six meters is about twenty feet, eighteen feet. Eighteen feet, twenty feet. So this means the depths would be again up to this panneling, the second panneling. I would estimate that it is about {1315|1316} six meters. And it was a rather quadrangle. It was quadrangular. I would say six meters on each side and six meters down. They were not in use, but the heat was still coming out, and if you like to come closer because of the heat, it was December, it was very cold.

Q. Now, on January 15th did you move?

A. Yes. On January 15th —

THE COURT: What year would this be, Doctor?

THE WITNESS: '43. It turned out under some suspicion that certain amount of money turned out in Auschwitz one camp found by the so-called political department, which was an internal police in the camp which had its own block which was block eleven, which was known as a torture block, or investigation block.

Now, they had found evidence from some prisoners that money which originated from Kanada —

MR. CHRISTIE: We are now embarking into the realm of hearsay and I object to it. I don't mind if he goes on, but —

THE COURT: I agree with you, Mr. Christie.

Q. MR. GRIFFITHS: Perhaps without going into the reasons why, was your group moved?

A. One day we were moved. On 15th January, 1943, we were moved from Auschwitz to Birkenau.

Q. All right. And have we got a drawing there, a little more detailed drawing of Birkenau that showed the various barrack?

A. Yes. My original drawing after I made it after my escape in 1944 is this. And when we {1316|1317} came to Birkenau, all this was under construction in '43, this region here.

Q. And you are indicating where there there [sic] is the Roman numeral II, "A" through "F".

A. Yes. It was under construction, and there were no prisoners whatsoever.

Q. Where were all the prisoners?

A. These two camps existed. Here are women and here are men. And we were brought in into this men's camp into Block 16, and what a men's camp look like and how this look like in more than my drawing is shown on this map.

Q. Now, are there parts of this map that are different from when you left on April 7?

A. Since April 7th, since I left, I am now one year forwards.

Q. I understand that. I just want to understand just what was there when you were there, and you can't testify as to what was there after you were there.

A. Now, these barracks were not there by the time I left.

Q. Indicating at the top.

A. Yes. And this railway which is here indicated as coming in through the main gate was not finished. There were only laid foundation from the railway, and I could see that the railroad is a building, but it was not finished on 7 April, 1944, otherwise I cannot see the meaning of this here, which is connected, evidently, from the building of this new railway of which I didn't mention before, because when you look at my original {1317|1318} painting which was made in 1944 at the time of my escape, behind this complex of Birkenau, here are the Krematoria II, III, IV and V, there was just a little small forest and no roads.

MR. CHRISTIE: Your Honour, I don't know how this witness can say that unless he admits that he was there.

MR. GRIFFITHS: He was there.

MR. CHRISTIE: He was outside Birkenau and behind —

MR. GRIFFITHS: Yes, Mr. Christie. He escaped. You will hear about it more.

THE WITNESS: Yes, I escaped. I escaped.

THE COURT: Excuse me, gentlemen. The previous transparency that he put on will be Exhibit 15, the one he drew himself.

MR. GRIFFITHS: Yes, Your Honour. A rough ground plan of Birkenau from 1944 from Dr. Vrba.

— EXHIBIT NO. 15: Transparency – rough ground plan of Birkenau in 1944 by Dr. Vrba.

THE COURT: Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

Q. Dr. Vrba, you were explaining the camp enclosure, Birkenau, when you were there.

A. Yes.

Q. All right. Carry on. Now ...

A. This means this was Birkenau I. Here are women and here were men. {1318|1319}

Q. We are looking at the left side of the drawing and on the bottom —

A. On this side of the drawing were women and here were men. And to make the geography clear, south on this map is in this direction, and this I know because on clear days from this place where I lived — I lived here in this place, but when I go as far as this and could look through the wires, I could see mountains, and I knew that those are the Bezkydy. These were Slovak mountains.

Q. Slovak mountains. And these were —

A. In the south.

Q. Now, I put to you another one, and this is three-dimensional, tilted: another one that we have seen before as a flat plan.

A. Yes. So this would be the flat plan similar to that one which I drew after my escape, and this means that Birkenau I was two — this was "A" and this was "B". In "A" were women; in "B" were men. This complex was Birkenau II, and it was not built up at that time.

Q. When you first moved in.

A. In January 1943. And this complex did not exist whatsoever in January 1943.

Q. Now, where were you living in January of 1943?

A. I was living in this building here. And this building was called Block No. 16.

Q. And where were you working after January '43?

A. After January '43 I was working {1319|1320} back in Kanada. This means by daytime or by nighttime I was transported to the ramp, and by daytime to the Kanada storehouse in Auschwitz I.

Q. All right.

A. I was marched there. In other words, I was only changing my barrack from Auschwitz I into a barrack in Birkenau. That was a change on January 15th. And here I stayed until January 8th.

Q. I'm sorry?

A. June 8th, 1943.

Q. All right. During that next six months ...

A. Yes

Q. ... can you tell us whether you saw any of the truckloads or lorries of people coming from the direction of the train ramp into Birkenau that you described for us yesterday?

A. Certainly.

Q. Can you tell us where they went?

A. Because when I finished my work, if I may call it that way, when this Kommando finish the work on the ramp, the Kommando went home. Now, when I was home and somebody else was on the ramp, when I was in the day Kommando, then I would see that those trucks with those people who were not marched into the camp, the healthy men and the healthy women went, so to say, in front of my nose by this main entrance, by this road, into this region, which was surrounded by barbed wire, electrified barbed wire, and unloaded in this yard. So that it was my privilege and right of the prisoners that when they are not working, they can walk. This is the {1320|1321} main road. Furthermore, here, this is Block 27, and next to the Block 27, here, it was a wooden structure.

Q. Is it shown on this plan?

A. It is not shown on this map because it was only made from wood, and this was called Leichenkeller, which means mortuary. And this was a mortuary for prisoners who died by daytime in the prison compound, and in this mortuary there was a very close check on the numbers of the prisoners so that one knows who died, who because Registrar in the mortuary was Fred Wetzler, with whom I escaped later who was from the same town I was, who I knew from home, and with whom I escaped from Auschwitz. This means if I may have this main picture, if I was not working, I used every occasion to go to the mortuary, because there was the company of Wetzler, who was my closest friend.

Secondly, we conspire from the very start with Wetzler the conspiracy of escape. Wetzler by that time lost three brothers in the Sonderkommando. And it gave me safety, because by staying in the mortuary, this Wetzler, it usually contained two hundred, three hundred, four hundred bodies. The S.S. didn't like the stench which accumulated there, so we had a peaceful teatime in that place, and if I may have the picture, also naturally from this place I could see perfectly what was happening on this road and what's happening here, {1321|1322} from the crematoria.

Q. You described barbed wire. Was there any kind of fence around those buildings that are crematoria that would prevent you from seeing what was happening there?

A. Not at the start. At the start I could see perfectly well from here, in January 1943, February 1943, perfectly well what is happening here. The distance is not more than fifty, sixty yards. I mean, the distance apart from the barbed wires would be like over this room, quite close. So that I could see perfectly well what was happening in this area.

MR. GRIFFITHS: Your Honour, is this a convenient time for morning recess?

THE COURT: Yes. Twenty minutes.

— The jury retires. 11:27 a.m.

— Short adjournment.

— Upon resuming.

MR. CHRISTIE: Your Honour, I just want to point out what I thought might have been a misunderstanding in my application this morning. My friend said he hasn't heard an application such as I was making. I thought I had mentioned the word "commission", and I intended it to be such an application, and I wanted to point out that I thought {1322|1323} perhaps, although at the time I was speaking to a point of law that didn't seem to be of well-known repute, I think I am right in saying that 637 indicates that: "A party to a proceeding to which this Act applies may apply for an order appointing a commissioner to take the evidence of a witness who (a) is, by reason of, and then some other good and sufficient cause, not likely to be able to attend at the time the trial is held, or (b) is out of Canada."

I noted too that in the case of *R. v. Bullement* (1979) 46 C.C.C. (2d), 429, the Court of Appeal of Ontario has held that such an application may be made during the trial. However, the application would only be granted — or however, in deciding whether or not to grant the application, the trial judge is entitled to decide such factors as to whether the trial is disrupted by the taking of evidence. and the possible prejudice to the opposite party it resulting therefrom, as well as the consequenc-

es that the jury will not have the advantage of observing the demeanour of the witness.

In view of the fact that it didn't seem clear that my friend acceded [sic] to the factor, the position, that there was such a right, I simply want to re-affirm that I was intending my application to be regarded as {1323|1324} one under s.637(a)(ii), and although I am not asking Your Honour to rule on this at this time, I would like Your Honour to consider my application in light of these remarks and in that section for consideration at a later point.

I will be renewing it with the same factual reasons as I gave before. And I might point out that I also indicated at the beginning of the case that I was going to make an application at the end of the Crown's evidence that the witness, Fried, who was called at the preliminary hearing and gave evidence which I would want for my defence, I would be seeking his examination under Commission as well.

Now, he is in New York City, and I was prepared to make that application at the end of the Crown's case to convenience the Crown, but I put the Crown on notice that I would be seeking that order.

So I am simply re-affirming what I said previously, identifying the section number and indicating that I would be, if possible, raising the issue with you again, perhaps tomorrow or at a later stage, respecting Dr. Udo Walendy.

Thank you very much, Your Honour. {1324|1325}

THE COURT: I think, Mr. Christie, one of the reasons that I dismissed your application without prejudice – in effect you are making it again – was because at the present time, on what you've told me concerning Mr. Walendy, the wording of s.637 is incompatible with his physical presence in this country and being available, at least at this time, to testify.

In so far as the other matter is concerned regarding the witness in New York City, I understand you are not making an application now. You are merely advising that you may very well be making such an application at the appropriate time.

MR. CHRISTIE: Yes. Because I have asked my friend to produce the witness, and so far he has declined; but I am simply indicating that if he does not produce the witness by the end of his case, that is what my application will be.

THE COURT: All right. Thank you. Is there anything further from either side.

MR. GRIFFITHS: No, Your Honour. I just indicate that I will not be producing the witness by the end of my case and I will be confirming that. That will be the argument I expect my friend to make, but {1325|1326} I will not be producing that witness from New York City, and I was not aware that s.673 was being used for Udo Walendy, and I am obliged to my friend for pointing that out.

THE COURT: Thank you, gentlemen.

Bring in the jury, please.

— The jury returns. 12:05 p.m.

THE COURT: Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

Q. Dr. Vrba, prior to the morning recess you were telling us that you had a clear view from the mortuary where your friend worked of the area of the Krematoria II and III, or what are marked on the plan.

Can you tell us what you saw when trucks would come to that area?

A. May I have the map again?

THE COURT: I think, before we go any further, what we are all looking at on the screen – that's Exhibit 16, I believe, isn't it?

THE REGISTRAR: It hasn't been introduced, Your Honour.

MR. GRIFFITHS: Perhaps, before we go further, that can be introduced. It's been marked by Dr. Vrba indicating that Block 27, where his friend was living {1326|1327} and where the mortuary is, and it is a plan said to be of Birkenau.

THE COURT: Please mark it now, otherwise things could become somewhat confused.

MR. GRIFFITHS: Thank you, Your Honour.

— EXHIBIT NO. 16: Transparency of Birkenau complex, BI, BII, BIII.

Q. MR. GRIFFITHS: Q. So Dr. Vrba, Exhibit 16 I am showing now on the screen, can you tell us what you saw?

A. I came from the night shift where several transports during that night arrived, but I was exchanged on the night shift approximately at five o'clock in the morning and broke into my barracks for sleep. Instead of sleeping, I get out from the barrack and walk over to Block 27 to the mortuary to talk to my friend, Wetzler. This mortuary had a window on this side.

Q. Indicating on the side closest to the crematoria?

A. On the side closest to the crematoria. So that when I, before the window, in front of the window was a table, and on the table coffee was served, or tea. The dead were around this table. There was such a corner with paper and coffee and a window. While I was drinking my coffee I could see that the people from the night which I have seen arrive, most of them were not seen but there were several hundred, first on this yard which was enclosed with electric fences, and with tower guards, and they went into this building which is known to us as {1327|1328} Krematorium No. II. This Krematorium No. II had, apart from buildings, long bunkers which were approximately the height of two such tables. Say the bunker was about this height, above a head of the human being.

Q. All right. You are indicating about six and a half, seven feet?

A. I would think so. In other words, a man who would climb on it would have to lift his hands and sort of make an exercise in order to swing himself on top of the bunker. This bunker had air lifts, openings for airing, approximately three or four, along, which were I covered by wooden or some lid which was easily removable.

THE COURT: Covered by —

THE WITNESS: Lids. From the distance I couldn't see if it was a wooden or a metallic lid. Then I saw Sanitäts Dienst Gefreiter, which is —

Q. And you called it ...

A. The sanitation service corporal. And he came having about four or five of those Zyklon tubes which I knew very well from loading into the Red Cross van. And he came to the bunker and he put them down, and then he started to put those lids, those tins on top of the bunker until he had them all on. And then he climbed on the bunker by holding on his hands and in a sporty way swinging himself over, which attracted my attention because it was not usually the demeanour of S.S. men to make sport. He then, on top of this bunker, took out a gas mask which he had hang over and put on the gas mask, and with something which, from a distance of about fifty yards, opened the lid of the Zyklon-B tubes, which was well-known to me from distance, and then he, went to {1328|1329} one of the vents in a leisurely step, opened the vent and shoved in the content of the tin in the vent in a leisurely way, and when he was finished he a couple of times has hit the —

Q. Indicating tapped the tin.

A. Tapped on that opening. Then he closed the opening, opens the tin, again in a rather leisurely way, having the gas mask on, and went to the next vent where the procedure was repeated until he dropped into each vent one or two of those tins – sometimes one, sometimes two. And when he cleared it he took the empty vents to the edge of the bunker, climbed down from the bunker, took the empty tins again down from the bunker, put down his gas mask, put the gas mask back into his holder, and with the tins under the hands walked away, disappearing inside the crematorium.

Q. Did you see any people come out of the crematorium, any of the hundreds that you saw go in?

A. I beg your pardon?

Q. Did you see any of the hundreds of people you saw go into the crematorium go out?

MR. CHRISTIE: So far he didn't say he saw hundreds go in.

THE WITNESS: No. I saw the crematoria, and within the vicinity of the crematoria from January 1943 until April 7, 1944, as the time went, this was the first crematorium and this is where I was witnessing the gasings of the first in the crematorium. Soon after the crematorium, three were opened. They are called II and III, because Krematorium I was a

smaller arrangement, which was in Auschwitz I, and we are here {1329|1330} Auschwitz II, and later there was Krematorium IV and Krematorium V, all of them surrounded with a barbed fence, electrically charged, with towers to guard, and the entrance was only this side to Krematorium IV and Krematorium V, and entrance was this side to Krematorium II and to Krematorium III.

Until the day 7 April, 1944, this railway line was reaching only about to this gate.

Q. MR. GRIFFITHS: Halfway up the camp.

A. That's right. And there were none of that roads. Therefore they were not recorded on the map which I prepared after my escape in Slovakia in April 1944. Similarly, on that map which is one of the exhibits, it can be seen that it is only indicated that this is building, but it was not finished on April 7.

Q. Can you describe for us what would go on inside the mortuary? Can you describe what you saw out the window? What would go on inside the mortuary?

A. Inside the mortuary in Block 27?

Q. Yes, sir.

A. This means inside this mortuary.

Q. Yes, sir.

A. The procedure was the following:

This is the blocks of the male camp, and that were store out in front of the block. In other words, when there was called to roll appel[,], to roll call, which was twice a day, in the morning at six and in the evening before the dark, before the sun set, then all prisoners had to line up in front of their barracks.

Now, those who couldn't stand to the {1330|1331} line-up were, dead or alive, lined up in tens in rows, laying in such a way that the first person would have his legs spread and the second person would be put on him with the head between the legs, and his own legs spread. So that we were in tens – five heads on one side and five heads on other side, easy to count. Then the prisoners had to line up. We had to line in front of the barrack. This is a barrack, and the prisoners were lined up in rows of ten and so on.

So usually in front of such a barrack in Birkenau, in front of each barrack there is an estimate of eight hundred, one thousand, two thousand people in front of barrack. Now the people had to line up in rows of ten in such a way that when the S.S. man came to count them, he had a long ruler and he could rule this way or this way by walking by the lines in front or the side, and could see, without too much counting, how many rows of ten are there, and that nobody from the rows missing. If there were 953 people, then you had ninety-five rows and three in the last row.

Now, those who couldn't stand were out laying, the dead and alive together, in such rows, and they were again stapled up to ten.

Q. Stacked up to ten.

A. Stacked up to ten. When the signal came to count – now, can I have all the other maps?

MR. GRIFFITHS: May I have the barrack map, Your Honour, shwoing [sic] the roll call, Exhibit 17, or the drawing?

— EXHIBIT NO. 17: Transparency of sketch showing roll call. {1331|1332}

THE WITNESS: There came a signal which was given by a gong, and from that moment on nobody who moved in the camp – no movement in the camp was allowed. This means anybody who would move, apart from the S.S., would be shot. Then the S.S., when everything was absolutely still, counted – a separate S.S. – the number of prisoners in each Block, and this was conveyed to a table here in the middle where the camp commander was sitting, and his registrars, and he knew exactly how many people are in the camp on that particular evening, and it was then said that so many and so many prisoners are present. It was not identified if they are dead or alive.

When everything was all right, then that was the end of the roll call. If one prisoner was missing in the general count., then the procedures were initiated to find the prisoner, and if that prisoner wasn't find, either in the latrine or under some bed, within twenty minutes an alarm went

out that the prisoner is missing; but this happened very rarely.

Once this count has been confirmed, the roll call was called off, but before it was called off guards mounted the towers which are here in small quadrangles, and the camp was thus hermetically sealed. In other words, it was known that nobody of a prisoner can be found between the inner and outer perimeter. This means the roll call confirmed that all prisoners in Birkenau camp – at that time only this camp was operating – all prisoners were inside this quadrangle and all prisoners were inside this quadrangle. And then, with the exception of prisoners who might have been at the ramp {1332|1333} under special guard – and this was noted, that so and so, many are under such and such a guard, and when it was agreed that this is so, then electricity was switched into the wires and that is guards were called off because there was nobody in between.

After that the bodies were being disposed. So this means, if I can have ...

We are starting a procession. One man carried one body, and from the whole camp you could see a peculiar doubles marching to this place.

Q. Indicating a mortuary.

A. Yes. And sometimes it was difficult to see which one is dead and which one is alive because they were bone and skin. So that the live one was carrying the dead one with his head here and dragging him behind and holding on his hands, brought him to the mortuary, and there he put him down and the name of the dead one was written down into a book and the dead body was stapled here and in this wooden shack the bodies were stapled in tens again so that it can be easily counted.

Q. Stacked in tens.

A. Stacked in tens. And in the months of January, February, March, April 1943 the number of bodies were between three hundred and five hundred. The number of people in the camp varied close to fifteen thousand, very rough estimate.

MR. CHRISTIE: Is that fifteen or fifty?

THE WITNESS: Fifteen. In the main camp, roughly. This means it can be twelve, it can be {1333|1334} eighteen. It varied from —

Q. MR. GRIFFITHS: That's just the males, not the women?

A. Not the women, no. The women – between the men and the women there was a road and gates, so that there was no communication; but the same process was going on at the women's camp. They were like mirror camps.

Now, here the bodies were stacked, and I waited until midnight. At midnight there was some working done on the bodies.

THE COURT: There was a ...

THE WITNESS: Work done on the bodies. There was a special Kommando, work group, which was called Leiche[n]kommando, dead body Kommando, and they used a special instrument which in modern time the ladies use for curling the hair.

MR. CHRISTIE: Again, I don't know, I don't know whether this witness is giving hearsay evidence.

THE WITNESS: I happened to be present. This was taking place while I was sitting here having the coffee with Wetzler. And two younger boys who were the assistants were opening the mouths of the dead bodies and with the mirror checking if he had got gold teeth. If there were gold teeth, he went in with that instrument and broke out those gold teeth and they were put into a tin.

Normally, when there were three, four hundred bodies, the tin would be the size of a litre tin which was full, and it was gold and meat tissue and blood {1334|1335} altogether.

Now, around midnight would come S.S. man with the same lorry which I have described many times from that lorry fleet, and he would ask for the paper for the dead which Fred, my friend, has prepared, and I often help him with that.

Q. MR. GRIFFITHS: That's Fred Wetzler?

A. Wetzler, yes. And then, with assistance would load the body on to the truck which was a process which was done in such a way with four assistants – two were on the truck and two were down on the truck and two were swinging the body to the truck, and when the body hits a

truck, the two on the truck again took the body and swung it into the back of the truck, and at the back of the truck there were again two guys and they were doing this ...

Q. Stacking?

A. Stacking into tens: and when all was finished, when all was finished then the papers between the S.S. men and Wetzler were exchanged, in which Wetzler got a receipt for so and such bodies of such and such numbers, and such and such tin of gold teeth. But the habit was that the S.S. men liked to write, "Half a tin", because the tin was full, of one tin, or "One tin" when there were two tins. And when Wetzler signed that, he got a box of cigars.

The bodies, then, I could see the car when it was loaded – can I have the picture, please – when out this road. Here was the first gate.

Q. Indicating a road in the middle of {1335|1336} the men's camp.

A. Yes. These were brick barracks, and these were wooden barracks, and here is a road which was wide enough for trucks. The trucks went this way. By the way everything was written up here, thousands of bulbs were burning.

THE COURT: Everything was lit up?

THE WITNESS: Yes. Thousands of bulbs were burning. And he went here with a car, and then he came here to the gate, then he turned at the gate. At the gate he was searched. The car was searched at the gate – if there is no living body hidden in the car. So a sort of a search went through.

Once that search went through, he turned the car here, went here into the crematoria and behind the corner, which I couldn't see ...

Q. MR. GRIFFITHS: All right. If you couldn't see it, you can't tell us what happened.

A. And then I saw him after five minutes returning this way and going home.

Q. Out the camp ...

A. Out of the camp, his duty was finished.

Q. What happened to the people that were not dead but were stacked with the dead people at the roll call? You said those who couldn't stand up for the roll call were stacked with the dead people.

MR. CHRISTIE: I didn't hear him say that.

MR. GRIFFITHS: Well, I did. Have I got that wrong? {1336|1337}

MR. CHRISTIE: There's been a fair amount of leading thus far, but I do suggest that is a leading statement. Maybe the witness will agree with it. I don't know.

THE COURT: I don't agree with it, and that's the important thing. One, he has not been – the Crown has not been leading, and two, I heard the witness say that the living and the dead were stacked up together. Is that correct?

Q. MR. GRIFFITHS: What happened to those who were living who were not able to stand for the roll call?

A. There were several procedures which varied from place to place.

THE COURT: Just what you know.

THE WITNESS: From what I have seen.

THE COURT: From what you have seen, exactly.

THE WITNESS: Some of the Block leaders – this depended on the decision of the Block leaders. May I please have the map again?

The Block leaders might have decided a short process, in which case the half the prisoners was killed in a way that the coffee was brought in demijohns, and they had ears through which carrying woods, stacked through.

Q. MR. GRIFFITHS: Could you compare a demijohn to a milk can in terms of size? {1337|1338}

A. Yes. The tea was carried, was carried into the Block in a demijohn from the barrack container which would contain tea for thousand people which was big at least two hundred fifty litres, if every party should get at least one fifth of a litre, and these had two ears made – the barrel was from wood and the ears were made from metal. In order that such a bottle can be carried, there were two wooden rods of considerable massivity which were pulled through the ears, and two prisoners, one here and one here, would hold it – I am not a very good painter – and carry it. They were carrying it from the kitchen to the barrack; and

when it was emptied from the barrack to the kitchen.

Now, those rods –

Q. The wooden rods?

A. The wooden rods, when the thing was not carried, were not in those ears but laying by the side. So the people who were still alive and the Blockeltester, or the Block senior, was one of the German professional criminals with the green triangle.

Q. We will get to that.

A. Then he would put the rod upon the neck of the prisoner and balance on it for a minute or two until there was no sign of life, and –

Q. You saw this with your own eyes?

A. Many times. Now, there were other Blockeltesters who didn't like this procedure, and they had introduced – we need a map, the map of Birkenau.

THE COURT: Exhibit 18.

MR. GRIFFITHS: That would be the sketch of the barrel, Your Honour. {1338|1339}

— EXHIBIT NO. 18: Transparency – Sketch of barrel.

Q. MR. GRIFFITHS: Now, you put on Exhibit 16, which is the map of Birkenau.

A. This was a main kitchen here.

Q. Indicating the upper left quadrangle of what you described the men's camp in the bottom in that quadrangle.

A. Yes. And this was a so-called sauna where the newcomers from the ramp were bathed and shaven and deprived of their clothes.

Q. And that's in the upper righthand quadrangle at the bottom of that quadrangle?

A. Yes. That's "F". But here, this Block was called Block 7 and Block 8 and was called Krankenbau, which means building for sick people – in other words, I should have translated it to hospital, but I don't dare to translate it as such because it means something different in our language, and I am trying to reproduce the vernacular of the Nazi language as it was used at that time.

Now, this prisoners, this procedure required a little bit of paperwork because the Blockeltester, the senior of the Block, had to make a transfer list and send that person with the transfer list to this Krankenbau, to this hospital, where he was accepted and put in a bunker.

Q. You've been in the hospital?

A. Yes, several times, because Fred Wetzler, when he was not working in the mortuary, was {1339|1340} stationed in Barrack 7 for taking care of the half-dead. In other words, the difference between taking care of dead and half-dead was sort of done by the same person.

Now, in this Krankenbau there were absolutely no facilities for any medical treatment, and as a rule there was no water or minimal water, and there were no beds but certain bunks. That looked from inside this way. There was a wall along the barrack and this is a wall, and along this wall there were three rows of boxes, like pens for animals, and those sick people were put five per pen into the pen with one blanket or with no blanket, and they didn't have to go any more for roll call. The roll call were done simply that by walking around, they counted five per pen as they didn't bother to drag them out and to drag them back; and when somebody was dead, then the living threw him out from the pen and then he was collected and was proclaimed dead.

The number of those who came into this hospital and survived was perhaps one to a hundred, the chances. In other words, a hospital was sort of – the Krankenbau was such a thing that when the Blockeltester was fussy and didn't want to kill the prisoner who was dying, they brought him to this so-called hospital and there he was left to die. However, it was a hospital filled up too much, so that there was no space; there is no space for more than seven or eight hundred prisoners. Then one of those trucks would come into the hospital.

Q. Exhibit 16 ...

A. One of the trucks would come here with an SDG – Sanitäts Dienst Gefreiter – Corporal of the Sanitary Service, and all prisoners now had to go for a {1340|1341} roll call. All were dragged out from those bunks and lined up, and those who were not standing went to one side, and those who could stand were taken back into the block, or sometimes

they decided that the whole situation is untenable, in which case the dead and the dying were loaded on that truck, which I know from the ramp and the mortuary, they were loaded on the truck. If it went standing, then standing; if it went legs, then legs. The truck was closed, turn, came out here, came out here, and moved here, and that's the last we saw from them.

Q. In the Krematorium II?

A. In the Krematorium. Papers were signed so that the truck driver had to sign that he took so and so many prisoners away.

So that the next roll call, the Blockeltesters, the senior of the block, has got a paper saying that, "I've got so and so much prisoners", and the missing ones have to be taken away on the truck.

THE COURT: Exhibit 19 will be the sketch of the barrack of the sick.

MR. GRIFFITHS: Thank you, Your Honour.

— EXHIBIT NO 19: Transparency – Sketch of barrack of sick persons.

Q. MR. GRIFFITHS: You told us earlier that initially there was, in January, when you first moved to Birkenau, that there was just a barbed wire fence around Krematorium II. Did that ever change?

A. Barbed wire fence?

Q. I think that's what you said.

A. Yes. Can I have the picture? {1341|1342}

Q. Did that ever change? Was there ever any change in that fencing?

A. There was no change in the fencing except that the krematorium, this crematorium, Krematorium II, had the fencing perimeter, and Krematorium III was not finished. When Krematorium III was finished some time later, they connected the fences and made common entrances for both crematoria, whereas before this was finished and this was finished several months later, there was entrance only here.

Q. Krematorium II?

A. Yes. So they adjust the fences around the crematoria as they built up the crematoria.

Similarly, they started to build simultaneously Krematorium IV and Krematorium V, which I had many times opportunity to see after I had been transferred.

Q. Now, you said you were working on the ramps, and in Kanada, I believe you said until June 8, 1943.

A. Right.

Q. And did you then change jobs?

A. Yes. There came a possibility and an opportunity to change jobs.

Q. And were there any – perhaps you can explain to us what your new job was and any changes in the camp that led to your new job.

A. While seeing going on the mass murder on the ramp, I had plans to escape from the ramp. However, without going into details what was the weaknesses of the ramp and what was the plans of the escape, I suddenly realized that the Germans noticed the weaknesses {1342|1343} too and made great architectural changes on the ramp which made my escape from the ramp not probable as a success. And therefore I used the opportunity, on June 8th, for June 8th this was already build up – between January 15, 1943 and June 8, 1943 they were building this camp, which was a camp BII, Birkenau IIB – this was Birkenau I, IA and IB.

Now, this complex was Birkenau II, and then it had subsections "A", "B", "C", "D", "E" and "F", whereas Birkenau I had subsections "A" and "B", "A" being the women, and "B" being the men.

Now, all men from Birkenau IB were transferred to Birkenau IID; that was our new camp. This was a new male camp, and after disinfecting the remaining barracks the women got both parts of this camp. In other words, there was a bigger influx or bigger need for female wards, and they converted them, "A" and "B" in June into women camp, whereas all men were in "B" IID.

Now, by that time I was a year or almost a year in the concentration camp Auschwitz, and anybody who lived that long started to have various friends. Acquaintances were struck up, mainly acquaintances which came from freedom and were often of political nature – people who were in the same trade union or in the same Czech Nationalist Party, or in the same Polish Army unit, or in the same brigade in Spain during the fight against Franco, or in the same district of a Communist

Party, or of a Social Democratic Party, they recognize themselves and they started to organize themselves clandestinely.

Q. Clandestinely? {1343|1344}

A. Yes.

Q. Secretly?

A. Secretly, yes, because any sort of such an organization would be punished draconically. This was against the rules. However, the objective of that was to improve the camp living standards, and this was necessary by eliminating the criminals from their position.

Q. You can stop there. You mentioned this earlier, and I wonder if we can take this opportunity to talk about the different categories of prisoners at Birkenau and Auschwitz and how, whether they were identifiable from their uniform, their prison garb and how they were identifiable.

A. Well, with some experience it was possible for an experienced man in Auschwitz to identify from a simple look at the prisoner quite a few things, but for that one required already some experience, because there were no handbooks.

Now, each prisoner had a number, not only tattooed on his hand, but also sewn on his garb, and say if a prisoner had a number 23220 on his garb, there was a triangle, and if the triangle was red, this means that they considered him a political prisoner. If the triangle was green – I don't have green pencils here – this means that the prisoner is a criminal by profession before he came to the camp. If the triangle was violet, that meant that he is in concentration camp because of studying the Bible, this means pacifist gentleman, Jehovah Witnesses who came to concentration camp because they made pacifist propaganda which didn't suit the Nazis. {1344|1345}

Q. Well, anyway, Jehovah Witnesses.

A. Yes. Those who had black triangles were called anti-social elements, and that comprised either people who were accused of avoiding honest work. Then there were [was] a different colour of purple, which were people who were accused of homosexuality.

So by this, as far as the Jews were concerned, who were the majority in the camp, they had a red triangle, but underneath [sic] the red triangle there was a yellow triangle, so that it altogether gave a David Star with a yellow background which meant political Jew.

Now, by looking at the people I could, for instance, say that if somebody had the number 30000 and had a political triangle, red with a yellow background, I knew that he is probably a Slovak Jew just by looking at him and from the number, because I knew when the number came in. I came in into Auschwitz on 30 June, 1944, and my number was 44000, and because to recognize with whom I am meeting, and the camp was full of victims of the so-called political department – this means informants – there were many informers who came into the camp and left children, mothers, fathers and so on at home and the political department said, "Either you work for us or we kill your children" —

THE COURT: No. Just a moment.

Q. MR. GRIFFITHS: You can only tell us what you heard or saw, not what somebody else said to you.

A. Right. It was necessary to recognize the people as much as possible in order to survive. So those were the times. {1345|1346}

Q. All right. So before I stop you, you are going to tell us what your new job is that you are able to get because of your connections and seniority in the camp.

A. Having had considerable seniority after living almost one year in the camp and looking healthy, again – I, of course, went through typhus and various things, but after I overcome it and collected myself, I gain the confidence of various members of various political parties.

THE COURT: Just —

Q. MR. GRIFFITHS: Tell us what you did or what you were assigned to.

A. I were [was] assigned to be assistant registrar in Block IID.

Q. What does that mean? What does a registrar do?

A. I was in Block IID, in Birkenau IID, Block 9, and an assistant registrar would have a file of prisoners who are in this block, in Block 9.



Q. In the barracks, yes.

A. And would, on their account, go to the kitchen and get the bread and soup and tea for those people, and he would also, every day, prepare the papers for the roll call. So he would say that of this barrack are 920 people; of that are 397 Jews, 257 Poles and 22 German – something like that – the statistics of the barrack. And as long as there was no hitch with the roll call, he didn't have much else to do.

In other words, it was an easy work. If the roll call didn't fit, then he was in danger, because {1346|1347} if he made an error and the roll call had to stand and the whole S.S. had to stand a couple of hours until they found out he made an error in the number of prisoners that nobody was missing, then he was killed. So there is a risk, but otherwise reasonably comfortably work.

Q. Now, from being assistant registrar in the men's camp, Birkenau II, did you change your job again?

A. Very soon. In July 1943 they open a new camp. Meanwhile this camp was occupied, "B", these two rows, and they opened a camp BIIA, which was quarantine camp.

Q. Quarantine camp?

A. Quarantine camp. And they started a new way of accepting prisoners. Until then, once they accepted the prisoners from ramps – this means those who were selected for work and not to be trucked away you know where – those prisoners were first put into the quarantine camp for two, three or four months so that the health officers of Auschwitz can say that they are decreasing the dangers of typhus by having the new ones – because typhus and various diseases [sic] at Auschwitz are caused from outside, so consequently, when there was a transport from the ramp came, and those who were chosen not to work, they were then transported either here into this complex, but those who were chosen to work were transported in the quarantine camp and registered.

Now my job was to take the names, to take their nationality, birth date, background. There was a card about everyone – age, profession, various informations – race, origin of place – and then he said {1347|1348} that he lived in Block 6 or Block 7 or Block 8. So this means, when a transport of three thousand people came and two thousand seven hundred went into these barracks –

Q. In the direction of the crematoria.

A. — or in this direction, then three hundred came here.

Q. Into the quarantine camp.

A. Quarantine camp. And now I had the possibility. of speaking with them because they saw elderly prisoner better dressed with pencil and paper, etcetera, and the possibility of giving them a piece of bread.

Q. Now, you can't tell us what was said to you, but can you show us which barrack, or which block you were a recorder or registrar of?

A. I was a registrar of Barrack 15.

Q. Second from the gate.

A. This was the main gate. This means that any truck whatever had to pass into Birkenau complex either through this main gate, this means I could see in the distance of approximately forty to fifty yards, or it went this way – this is the road.

Q. On the bottom of the camp?

A. Yes. This was not built up, and there was only one way which led into Krematorium IV and Krematorium V. So this means that by daytime, if the transports arrived from the ramp, I could count every car which went either this way, every truckload, or which went either this way, and because my experience in Kanada on the ramp, I knew that a hundred per truck, simply by counting those trucks knew how many people came more or {1348|1349} less; but I know that the number hundred was kept pretty close. The trucks were coming by from the ramp one after the other, but not very densely because it takes the time to roll the truck and they came accompanied by two motor bicycles, they were usually the side cars, one motorbiker and on the side car a machine gunner so that nobody gets any ideas of jumping down from the truck.

And those cars went in front of my eyes here or in front of my eyes here. In the night, when I was, say, asleep at two o'clock, when such a

car went by, my barrack shook and all I had to do was to count how many times it shook to know how many trucks went that way, or to count how many times it went that way, because when you are in such a barrack you know if it shakes from which side it shakes, small distances.

Moreover, in my role as a registrar of the block I had to many times go out in front of my block because there are no windows, only on top, but I could, under the pretext of controlling the guards in front of the barrack who were responsible for the latrine – in other words, to control if the latrine is full, if the latrine is not full – you had to go put of the barrack and take a look at what's happening. Moreover, if the latrine was full, which was a barrel, in my clothes which was a little bit better as registrar I would take the prisoners and tell them to empty the barrels in the middle of the night into the lavatories, here, so that the barrack is not, so to say, contaminated by feces; and under the pretext of sanitation, etcetera, etcetera, I could many times in the night take to prisoners this two big barrels of excrement and move in the night to the official toilets, because {1349|1350} by the night prisoners were not allowed to go to the official toilets, they were not allowed to out to the barracks and see what happened.

Q. May I stop you there?

MR. GRIFFITHS: It is one o'clock, Your Honour. Is this a convenient time?

THE COURT: Two thirty.

— The jury retires. 1:00 p.m.

— The witness stands down.

— Luncheon adjournment.

— Upon resuming.

— The witness returns to the stand.

— The jury returns. 2:30 p.m.

THE COURT: Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

Prior to the morning break there was a transparency on which Dr. Vrba made some notations as to the different colours of badges, and I'd ask that that be marked as the next exhibit, please, Your [Your] Honour.

THE REGISTRAR: Exhibit 20.

MR. GRIFFITHS: Thank you.

— EXHIBIT NO. 20: Transparency – sketch describing triangles worn by camp inmates.

Q. Dr. Vrba, this morning, at the break, {1350|1351} you were describing for us your new position in the camp close to the main gate and your new job as a block registrar or block recorder.

A. The translation would be Block Scribe.

Q. Could you just tell us, briefly, about what the organization of the camp would be in terms of – you mentioned block elders and block registrars. How was the camp organized in that way?

A. This is Auschwitz I, the external perimeter of guards. This is Auschwitz I, the internal perimeter of guards, and I have magnified this quadrant so that it is clear what was inside.

Q. This is the internal camp of Auschwitz I?

A. Of Auschwitz I.

MR. CHRISTIE: Perhaps he would be so kind as to identify the origin of this drawing.

THE COURT: Yes, I agree. Go ahead, Mr. Griffiths. Would you do that for us, please?

MR. GRIFFITHS: Thank you, Your Honour.

Q. Can you tell us where this plan of Auschwitz I comes from?

MR. CHRISTIE: I think it comes from Phillip Mueller.

THE WITNESS: It comes from Martin Gilbert's book, "Auschwitz and the Allies".

Q. MR. GRIFFITHS: If I may lead, does it come from a book by Phillip Mueller?

A. This is quite possible. This is quite possible, but no matter which book it comes, I can {1351|1352} recognize it as an original drawing and identify each building here.

Q. All right. I am not going to ask you to identify each building, but per-

haps you could indicate to us how the hierarchy of the prison, of the concentration camp, the organization of the blocks of the camps

A. Here is the main entrance to the camp. The camp is surrounded with a double layer of electrical fences, and those are the guarded towers. This construction here is a kitchen.

Q. Rough U-shape at the bottom of the drawing.

A. Is a kitchen. On top of the kitchen is an inscription, "For all prisoners". Now, the blocks are numbered from 1 to 11. This is a former female camp that I mentioned yesterday.

Q. That you crawled through naked after the typhus epidemic?

A. Yes.

Q. And after that I was stationed in the cell area of Block 4. Block 11 was the so-called punishment block which belonged to the realm of organization which called herself political department of Auschwitz concentration camp. Basically, this was the interrogation place.

Q. I am going to stop you. Unless you were in there, you can't tell us about it.

A. Pardon?

Q. Unless you were in there, you can't tell us about it. {1352|1353}

A. I have been stationed for some time, and when I worked in Buna, in Block 10, from the windows of Block 10 I could see what was happening here.

Q. In Block 11.

A. However, I was in Block 4. Each of the blocks had Blockälteste, senior prisoner, and this senior prisoner, in each block, had a second in command, then each block had the Blockschreibe, which translated literally would mean block scribe not registrar.

Q. But we have been calling that block registrar this morning.

A. Yes. Literary translation would be "scribe".

Q. Thank you.

A. Each of those block scribes knew exactly how many prisoners are in each of the blocks, and here, I think, in one of these blocks

Q. To the left of the kitchen.

A. — to the left of the kitchen was a building which was called Hauptschreibstube, which I translated means Chief Writing office. This means Central Registration Office. Each prisoner brought to the camp and through this gate would be first processed. This means he would be taken into the sauna for a bath, which would be Block 1, I think, and he would go in and leave his clothes outside, and when he comes out on the other side, he will be naked and he will get prisoner garb.

From that moment on the only permitted property of a prisoner was one handkerchief. Pencil, paper, anything of that sort was considered conspiracy and would be punished very strictly if found on regular visits. {1353|1354}

After this was the scribes from the Central Office and would take chairs and tables and parade the prisoners. Each prisoner would have a file card on which was his name, birth date, nationality, origin and date when he came in, plus a place for special remarks, and his number, which he received in the camp. The numbers were consecutive and the dead prisoners' number was never revealed.

After the file has been made, the file has been given to one of the block scribes wherever it was a decision that this particular prisoner goes, and then the card was in the file of the block scribe as well as a file in the Central Office.

Thus, the scribes in each of those blocks knew exactly how many prisoners are any time there, and if a prisoner died he has to be identified by his number, which at the start was written with grey pencil, with an ink pencil, on his forearm and on his chest so that the bodies of dead which accumulated every day in front of the blocks were identified in the evening by reading the numbers.

Q. Did that system change of writing the numbers on in ink?

A. The system of ink writing numbers changed because ink wore off, and so it was replaced with tattooing. So this would be approximately the same in Birkenau.

Q. Can you show us where in Birkenau that process would take place?

A. Yes. Yes. In Birkenau the map of Birkenau is here. {1354|1355}

Q. Exhibit 16.

A. And when I refer to Birkenau, and always this far in January 1943 was occupied by prisoners. The Schreibstube was in Block 4 which would mean this block — 1, 2, 3, 4 — here was the Schreibstube.

Q. So that is the upper righthand quadrant of Birkenau I in the first row of blocks.

A. Here. When the men in this main camp were transferred to Bau Auschwitz II, building Section I to Building Section II, then this Section II, the only prisoners were in building Section IID. That is here, these two rows. This here was a kitchen, and this here was a Chief Schreibstube.

Q. And you are indicating the kitchen immediately below the words "BIID", or the numbers or letters.

A. Yes.

Q. And opposite that in the "BIID" camp was the Registrar's Office.

A. That's right. Now, when I was transferred from BIID into BIIA, then the Registrar's Office, if I remember well, was here in Block 1, the Chief Registrar's Office.

Q. And that would be the Registrar in what camp?

A. For BI 8.

Q. For the quarantined camp?

A. Yes. I was in No. 15, the block scribe. I was the sub to the first scribe in BIID, and this scribe was sub in the scribe of BIID, whose name was Gorrik (phonetic) a prisoner with the number of 32000, {1355|1356} and this chief scribe was then sub to the chief scribe in Auschwitz 1.

So that at the top of the hierarchy was the top administration of Auschwitz I, and the administration in Auschwitz II, as far as prisoners is concerned, went through Chief Scribe in BIID under whom were all scribes, each in the individual blocks, and the Chief Scribe of BIIA.

Q. Now, the lorries that you heard coming by in the nighttime, or that you saw going in the daytime, can you tell us if they ever went to the registration places?

A. No. The people who went to registration places were never brought in by lorry. They were marched from the ramp, which was not more than one half kilometer away, under guard, into the sauna,

Q. Yes. In the men's camp.

A. Yes, in the men's camp. And when this men's camp became a female camp, then they were marched on foot between Krematoria IV and V. There was also a sauna. I am not so sure what exactly is it — "F" on this map — because much has been changed. This map has been made approximately two, three months after I escaped from certain details, I would say.

So all those prisoners who went in through the registration process and have got a number came to the camp on foot, because they were small groups. Those who came into the camp from the ramp on those dumping trucks, they never enter any of those camps, but enter the camp by only one possible entrance — two possible entrances. The main entrance was here. {1356|1357}

Q. You indicate "A" at the bottom of the diagram.

A. That's right. This was a big tower and a building of a rather considerable length which harbour inside the building, according to my observations, a so-called Bereitschaft [Bereitschaft], which means emergency unit. This means that day or night there was a unit of S.S. which was completely dressed and armed, you know, just like in an ambulance waiting for any I event. So this was a research, which did have nothing to do but to be called up in case of trouble.

Can I have the picture, please?

Consequently, the lorries which came from the ramp entered this gate and went to the landing between Krematorium II and Krematorium III, which were having a common queue of guards. Here you can see the towers — 1, 2, 3, 4.

Another way how to transport the victim to the Krematorium IV and V was that they went here and between BIID and BIIC, which is here. BIIC is this camp, and BIID this camp; here a road of considerable width. And this road ends here blindly and goes into the yard of Krematorium IV and Krematorium V, which is again enclosed with an electrical fence and guarded towers. Here is a gate to it.

Consequently, those prisoners who came to the camp were coming on foot, and because there was now, from June 8th, 1943, registrar, I could see each face of them because they had to pass through registration in this camp which was their first stop. They stayed there for three, four weeks, or three, four months. The administration in that respect weren't very clear and many of them died in quarantine.

Q. All right. Now, Dr. Vrba, if I can go ahead a little bit to the events surrounding April 7.

A. My escape.

Q. Yes, sir. And I am going to ask you, we heard a lot about a chain of guards and electric fences, and I am going to ask you how you escaped.

A. If I may first have the previous picture, if I may.

THE COURT: You are looking at Exhibit ...

MR. GRIFFITHS: 16, Your Honour.

THE WITNESS: This was Building Section 1. This was called Building Section 2. And in April 7, when I escaped, the Building Section 1 was full, but Building Section 2 was not quite full. Here was a quarantine camp in "A". In "B" was a family camp which had a tragic end. They are Czech families from Theresienstadt, a ghetto, who were kept for six months before they were gassed on 7 March, just before I escape. This camp was empty. Here, in "D", was the main camp and the main mass of the prisoners. In "E" were gypsies, because the gypsies has not been considered Aryan race, were rounded up and kept here for some time in "BIIE" until they were later gassed, and that's "BIII". Here is a small camp called "BIIF", and this was called the hospital camp. So from this hospital in Block No. 7 they made a quite a big complex of number of things. This third part was in building and it was not called anything {1358|1359} at that time except it is a future building Section 3.

Now, because those barracks did not yet exist, but the wood for those barracks did exist —

Q. The wood for the barracks.

A. Yes. And the wood was put together in the way how you see wood put together in large shops in Toronto which sell lumber. Say if you are coming to a lumber yard, you can see ten wagons on foot stapled in a certain way.

Q. Stacked?

A. Stacked. Now, when the woods were stacked, the building of the woods of the stack was made in such a way that there was a stack of approximately ten wagons of wood. The stack has an irregular shape as in the lumber business yards, and in one part there was an empty space made, not filled with wood, and covered again with wood.

Now, I would like to go to the — and this was approximately here.

Q. Indicating in the future building area 3.

A. In the future building area 3. Now, I would like to show this place which I will mark here with a pencil. Roughly here. Now, the system —

MR. GRIFFITHS: We are going to put on Exhibit No. 11.

THE WITNESS: Now, I have this whole map in a larger scale as it was drawn up by me from my memory back in 1944, and that place which I marked as a hiding place was here.

Now, the system which operated against prevention of escape was a system common to all German concentration camps, and because the Germans had an experience of concentration camps since 1933, it was considered foolproof.

Q. I am going to stop you and ask you about the system in this camp that you know of.

A. Right. The system was the following:

There were the killer camps including the crematoria here which were surrounded by barbed wires which consisted of electrical fences in double rows; and before this barbed wire there was a ditch which could be approximately four to five yards deep.

Q. Did you see that?

A. Yes, because you couldn't not see it, living in the camp. Now, this ditch has been made by hand by prisoners. It was a long process. They had to ditch it — the earth was carried in hats, and enormous ditches

were built. Now, again this is in red. Here is the electric fence, and here was a gate to the individual subsections — Section 11, Section 12, Section 13, etcetera.

By daytime, when the day broke, the prisoners were woken up by the dawn and lined up in front of their barracks for the roll call.

Q. Now, if it all checked out, the roll call was all right, what happened then?

A. When the roll call was all right, the prisoners were aligned for work outside the inner camp in this outer area, and when it was given the signal that the roll call was all right, then guards marched out, {1360|1361} different guards, to this area.

Q. The outer chain of sentry posts on your map.

A. That's right. Now, this outer chain of sentries then operated in such a way that when each was on its place and this was a diameter of about two kilometers, thus it was about six kilometers long and not connected with the road, it was all smooth, so that from the towers which are here marked, from a crossfire not a mouse could come through.

Now, when the signal was given that everything is all right here, then they went to their places and were checked in the following way:

One guy shouted this direction, "The queue stands". This guy shouted to this guy, and this band, this shouting, until the shout of, "I am in my place" started. Once this procedure was finished, there was no use to keep the guards in this electrically guarded fence, because prisoners were enclosed here. The guards from here came down and went home, and the electrical current was switched off.

Now, the prisoners marched to work in units of a hundred, two hundred, three hundred or five hundred. Say they marched to work in Krematorium IV and V, say they marched to move earth for the camp, make it flat, etcetera. So suddenly the camp is full with ten to fifteen thousand prisoners — not individual. I mean the freedom of movement was not that an individual prisoner could move around, just move around in columns, teams, and each team had a Kapo and each Kapo had a list of the prisoners which were accompanying him for which he was {1361|1362} personally responsible. So if one prisoner would wander around here, around the place which was teeming with S. S. men and Kapos, he would be very fast picked up as a loiterer.

Now, my system, then, was the following ... Now I need the other map.

Q. Exhibit 16 now is projected.

A. Yes. My job was every day to report to the Chief Scribe. This means I went from my block to the Chief Scribe of the block of this camp, and there were collected all reports from each block — how many prisoners in each block, how many are dead, etcetera, etcetera — the technical details.

Now, the Chief Scribe could either take the bundle of papers and bring it to the Chief Scribe here, or say that he is busy and delegates his work to me, which he did with considerable preference delegating it to me for the following reasons —

THE COURT: Well, he delegated his work to you.

Q. MR. GRIFFITHS: He delegated his work to you. So what did you do when he delegated it to you? What freedom of movement did you get?

A. Well, I got a certain freedom of movement. The freedom of movement consisted that I was allowed to go out of this gate. Here is a gate that I have to say my number and the purpose of my trip. Then I would walk here, which is a distance of approximately five hundred yards. Here was again a gate.

Q. In "BIID"?

A. In "BIID". Here was again a gate {1362|1363} and I had to say again my number. The number was noted that I came, for what purpose and to what, and go with the paper to the Scribe, the Chief Scribe.

Now, once I have done it, nobody really would control me if I moved around the camp among the thousand prisoners which moved around. Fred Wetzler who was in the old camp was suddenly separated from me, so it was natural that I would go to Fred Wetzler to visit him and to discuss our mutual business. This was already illegal, but not that risky because by daytime there are not many S.S. men here inside, and I was dressed like a scribe and they are not worried if I am a scribe from

this camp or that camp – he wouldn't know.

Secondly, I could do another thing. Using my trip I would, instead of going here ...

Q. Into the men's camp.

A. ... into the men's camp, take a bundle of papers and go between the crematoria into the baths; that baths was used very frequently by members of the Sonderkommando. The Sonderkommando had the property of the people who had to undress before they went to the gas chamber and were stealing quite a bit of it before they were giving it to the Germans. Consequently, I think the presence of various people who knew me and marched here as if nothing happened back to my camp, BIIA, where I had to go through the S.S. men, the S.S. men would ask me, "Did you bring me the stockings?"

Q. You can't tell us what they said.

A. Pardon?

Q. You can't tell us what the S.S. men would say. {1363|1364}

A. He did say.

THE COURT: Never mind what he said. Just answer the question.

THE WITNESS: The S.S. men —

THE COURT: Just a moment. Do a little more controlling here, Mr. Griffiths.

Q. MR. GRIFFITHS: You can't tell us, Dr. Vrba, the words that were said by the S.S. men. Would you have any conversation, without telling us what it is, with the S.S. men?

A. Yes.

Q. All right. And as a result of that conversation would you do anything? Did you do anything as a result of your conversation with him?

A. Yes, I did. As a result of this conversation, produce a pair of stockings and give it to him. If I did that he didn't ask me how come —

Q. I'm sorry, I think – I don't think you can say what he wouldn't ask you; but you'd give him the stockings.

A. Yes.

Q. Okay. And what effect, if anything, did that have or seemed to have on your freedom of movement?

A. Well, this enabled me to move along this path with relative freedom, because otherwise it was checked on the clock when I left the camp and when I came back to the camp, and it is clear that I had only half an hour for that.

Q. How would you have access to that area where the wood pile was? How would you have access to that area where the wood pile was? {1364|1365}

A. Just like I would go here. I could take a risk, pretending that I am now not a block scribe, but a what they call a foreman, with a bundle of papers, and go here and move around that prisons and pretend that I am writing or something. So I gained a certain freedom of going frequently into this area, frequently into this area, and frequently loitering around this area.

Q. How was it you were able to escape? You said you went into that area. What did you do?

A. Here was built up a bunker, as I mentioned, and I knew that the bunker is built up.

Q. This is the wooden pile you told us about?

A. The wooden pile. That wooden pile was build [built] up by people unknown to me. This required a considerable amount of organization to build it up, because hundreds of prisoners had to build it.

Q. You can't tell us what you didn't see.

A. Yes.

Q. Specifically, on April 7th, what did you do, you and Mr. Wetzler?

A. On April 7 Wetzler and I had a meeting on this place. This means that Wetzler, under a pretext, being a scribe here —

Q. BIIID.

A. BIIID – went out from here and came here.

Q. To the roadway?

A. To the road. Along this road into {1365|1366} the Mexico, into this building Part 3.

Q. The building part was called Mexico, into this part of the camp?

A. This part of the camp later called Mexico, but they called it in the

building Part 3. And together so that we see one another we went by different rows to the place where we were hiding, supposed to hide. On that same place, again from different opinion, two prisoners who were detached from BIIID and were detached to work in this camp ...

Q. Mexico.

A. In Mexico, in Section 3, absconded from their group, and we all four met at the enormous wood pile here and nobody could see us because the wood pile had an irregular form. So there was sort of corridors made. The two prisoners would then take down six or seven layers of wood on a certain place. Wetzler and I would slip into that place. They would cover it up and go away. And now started a different process.

Now, for that I will need the bigger map. The process was as follows:

At five o'clock, before it gets dark, all who work in this area are marched back here.

Q. To the inner camp.

A. To the inner camp. When they are all in, the gates are closed and the record on the gate is first checked – if everybody went back who went out. So already they found a record that I went out but didn't come back.

Q. If you are inside the woodpile, you can't tell us, obviously, what was going on outside {1366|1367} the woodpile. Did you ever have any experience as to what would happen if there was a number short?

A. That's right. This is the system explaining. This means that I knew in advance every step which would take place, because I knew the system.

Q. Okay.

A. So where this happens, then the S.S. at the gates did not become too nervous because they sometime were sloppy. So in other words, the gates are closed, the electric was put in and the roll call here start.

Q. Now, what happens if the roll call is short some people and they can't be found in twenty minutes?

A. Meanwhile both queues are standing.

Q. So the outer chain of guards is standing as well?

A. Yes.

THE COURT: Mr. Griffiths, what you are doing here is, the witness is extrapolating what would usually occur because he knew the system. That has gone far enough. Ask him what happened next, to his own personal knowledge, because unless you can prove that the system worked in precisely the same way in this case, I am not interested in having anyone, especially the jury, hear what he expected to happen, because that is something within the confines of his own mind, emanating from his own extrapolations.

MR. GRIFFITHS: I think I have your point, Your Honour. Thank you.

THE WITNESS: No. I could check on it. {1367|1368}

Q. MR. GRIFFITHS: No, Dr. Vrba, please. You had some understanding of what would happen from prior experience. Don't tell us what you think happened while you were inside the woodpile.

A. Right.

Q. Don't tell us that. How long were you hiding in the woodpile?

A. I went in the woodpile on Friday afternoon on 7 April at two o'clock.

THE COURT: Would you say that again? I missed that.

THE WITNESS: I went into the wood pile on Friday afternoon at two o'clock, 2:00 p.m., on 7 April, 1944.

Q. And when did you come out of the woodpile?

A. I came out from the woodpile on Monday, April 10th, 1944, at nine o'clock p.m., after certain checking of the situation.

Q. All right. When you came out of the woodpile, which direction did you go?

A. I came out from the woodpile first because I could hear that the outer guards gave the signal to withdraw in the usual way. This means I could hear it and I knew that they have to make seventy-two hours.

Q. You heard them give the signal, "Stand down"?

A. That's right. And at this moment I concluded that there were no outer guards, that it is nine o'clock in the evening, that the inner guards are {1368|1369} here and that I am basically a free man.

Q. Which way did you go when you left the camp?

A. Well, I tried to first pass a sentry, the tower sentry, and then tried to

go behind this little forest behind this crematoria, and then to cross this railway line, and behind the railway line I knew from previous experience is a river called Sola, and I knew that the river Sola, from certain investigations I made I before during my stay at the camp, goes between the camp Auschwitz, which will be here, and the City of Auschwitz which is approximately here.

Q. I'm sorry, you can't ... "City" is the other circle you made?

A. This is the City of Auschwitz, and this is the River Sola. This River Sola, I learned, originates on the Slovak border in a place called Zwardon. When you look at the map it is a rather straight river.

Q. All right. Let me stop you for just a minute. When you came out of the woodpile and you circled around to get to the River Sola can you tell us what road, if any, you crossed on your way to the railway line?

A. In the first line I found here, in this distance.

Q. North of the woods.

A. North of the woods, and I approached it this way, in the night, of course – it was dark and it was approximately midnight, something which I couldn't differentiate between if it is a river or a road. It was glistening. So I went by and put my fingers in and I saw {1369|1370} that it is sand. So that was a sandband approximately eight meters wide which started from nowhere, and I didn't know how far it goes, and I suspected that this is a minefield. Consequently, because I didn't know how far this went, which is not a road but untouched sand, I decided, instead of going around it, to take the risk and cross it. So I sensed that I will cross that sand and that when he crosses it after me, he should go carefully into the same step which I went.

I crossed and nothing happened. Then he crossed behind me carefully, using the same steps, and after we have done it, we have seen that this so-called road or sand or whatever it was ended approximately after two, three hundred yards. So it was meant to be —

THE COURT: Just a moment.

Q. MR. GRIFFITHS: Don't tell us that. Just tell us your observation. Now, you circled around, you said, behind the woods?

A. I circled around behind the woods and reached the railway line at five o'clock in the morning.

Q. Other than the sand that you've told us about did you cross any roads?

A. None whatsoever. It was all moor. It was bog. Because here the River Sola, and here is the River Bistula [Vistula] which have got a lot of meanders, which was boggy and marshy.

Q. I will stop you there for just a minute. I understand that you made your way back to Slovakia.

A. Yes, please. I don't understand your question. {1370|1371}

Q. Did you make it back – did you get back to Slovakia without getting caught?

A. I was caught by a patrol on the next Saturday near a place called Poromka (phonetic) which opened fire at me.

THE COURT: Just a moment. I am not – if this is relevant ...

MR. GRIFFITHS: Well, Your Honour, I am trying to get a little further down the road.

THE COURT: See if you can do that.

Q. MR. GRIFFITHS: I know that things happened to you on the way to Slovakia.

A. Yes.

Q. Did you get to Slovakia safely?

A. Yes. Across the Slovak border on Friday the 21st April at ten o'clock in the morning.

Q. All right. When you got to Slovakia were you able to meet with anybody and tell them of your experiences?

A. Yes. That was my intention to do so, and to that I directed my activity from that moment on.

Q. All right. Can you tell us where you met with these people, what city?

A. I met with those people in the City of Cadca, which was about thirty miles south of the border. – I came to the City of Cadca and I have, meanwhile, collected the information that in City of Cadca lives a doctor called Dr. Pollok (phonetic).

Q. Through Dr. Pollok were you able to make contact with other people and tell your story?

A. That's right. {1371|1372}

Q. All right. And the story that you told, what you observed, did anybody write that down?

A. Immediately.

Q. All right. And did Mr. Wetzler speak to these people as well?

A. We were both together and speaking to these people, which were representatives of the Jewish Council of Slovakia, and actually, it was Dr. Neumann, Dr. Oscar Newmann, engineer, Krasnansky —

Q. And others?

A. And many others – many lawyers.

Q. After you and Mr. Wetzler spoke to these people was something put down in writing?

A. That's right. While we were speaking to the people they had brought a stenographer with them and what I was saying was taken on a stenogram in absence of Mr. Wetzler. What Mr. Wetzler was speaking was taken on a stenogram in my absence.

Q. After you and Mr. Wetzler spoke to these people, was anything written about – again, by the Jewish people about what you had told them?

A. Yes. The stenograms were transcribed into a typewritten text collating the statement of both of us.

Q. Was that written by you or by others, the final text?

A. The final text was typed by a typist, and was presented to me for signature and to Wetzler, to confirm that his typescript contains our words.

MR. GRIFFITHS: All right. Is this {1372|1373} a convenient time, Your Honour?

THE COURT: Yes. Twenty minutes.

— The jury retires. 3:30 p.m.

— Short adjournment.

— Upon resuming.

— The jury returns. 3:55 p.m.

THE COURT: Yes, go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

Q. Dr. Vrba, would you tell us whether or not there was any distinctive odour at the Birkenau camp?

A. I was for fifteen months. After fifteen months, if you are in a particular environment which has a particular odour, you don't feel that odour. I couldn't say that I felt a particular odour. Don't forget that in front of each block there were ten, fifteen, twenty dead bodies. Hygienic circumstances were lacking from what we know as civilized hygienic circumstances, and I, after a certain time, found the environment as being adapted to it.

Q. All right. Did you have an opportunity to observe – can you tell us if the crematoria had any smoke stacks?

A. Yes, it did. The crematoria worked {1373|1374} in a peculiar pattern.

Q. Unless you were inside, you can't tell us what goes on inside the crematoria.

A. Only what I can see from outside.

Q. Thank you. Go ahead.

A. From outside, when the transport was sort of about twelve hours after the transport arrived, you could hear a buzzing coming out from the crematoria, and then smoke and flame came up from the chimney. The flame looked approximately like when you here go around Toronto and the burn of oil. I have seen similar chimneys with fire on top of them.

Q. Like the refinery, is that what you mean?

A. Like refinery. Now, this lasted for some time – perhaps an hour, perhaps two – and attracted attention; and as the flame became smaller, the smoke became thicker and there was a thick smoke coming out for some time, perhaps half an hour, perhaps an hour, and then the smoke stopped being so thick and when you look carefully at the chimney, then it would look slight smoke coming out from the chimney, not very different from a smoke which come out from an average house, as far as I recollect.

Q. Have you ever gone by any different name than Rudolf Vrba?

A. I have been going by several different names.

Q. When you were in Auschwitz did you have the name Rudolf Vrba, or another name?

A. No. I have been born as Walter {1374|1375} Rosenberg, and when the Germans made a quizzling [Quisling] government in Czechoslovakia which obeyed their orders and prized [prided] itself that Slovak racial laws are stricter than in Germany, the law has been passed that I must have a middle name, the middle name of Israel; every Jew was called Israel as a middle name. If it was a Jewess it was Sara. Consequently, I was registered in concentration camp Auschwitz as Joseph Israel Rosenberg, and under that name, as far as I know, would have been issued the warrant against me after I escaped. Consequently I never used that name again, and when I arrived in Slovakia I started to use the name Rudolf Vrba for several reasons.

Q. And have you used that name ever since – Rudolf Vrba?

A. I use[d] that name illegally to protect myself against search until September 1944, when I entered the Czechoslovak Army partisan units; but as all my documents were burned in Maidanek, I couldn't show any identity except a false document on the name of Rudolf Vrba, and under that false document I have been enlisted in the Czechoslovak Army which administration insisted that anybody who enlists in the army must have a document. "False document", they said, "We can't see that it is false. It's all right." So the Gestapo said also it's all right. The document falsification was perfect.

However, when the War was over and I have been discharged from the Army into normal civil life, I hesitated to start civil life with a name which is not legalized. Do you mind if I look into my things to refresh my consideration?

Q. No. Is there a document you are {1375|1376} looking for?

A. Yes. Consequently, when I was released from the Army and my release papers were issued on Rudolf Vrba, I have insisted that my original name, Walter Rosenberg, should be included in my release papers, and these are the release papers from the Army.

Q. I will come there. You stay up there.

A. Which were issued in May 1945.

Q. All right.

A. Together with description of my military activities on behalf of my native countries.

Q. What language are your release papers in?

A. The release paper is in the Slovak language.

Q. And what name is given on this document?

A. This document says that it is issued to "Rudolf Vrba (W. Rosenberg)".

Q. Do you have a photocopy of that?

A. I have a photocopy of that which I gave among the papers, but this is an original.

MR. GRIFFITHS: I hesitate to make the original an exhibit. Perhaps I can get a photocopy tomorrow, Your Honour.

Q. Dr. Vrba, are you a member of any —

A. Excuse me, I didn't answer your previous question.

Q. Oh, I'm sorry.

A. Because the name was then legalized {1376|1377} as Rudolf Vrba on ground of my request that, when the Germans came to my native country —

THE COURT: Just a moment.

Q. MR. GRIFFITHS: It was legalized.

A. It was legalized after the War for the reasons I asked for – deGermanization of my name.

Q. DeGermanization of your name.

A. Right. No connection with my so-called German culture which I saw in Auschwitz.

Q. Exhibit 1, the pamphlet, "Did Six Million Really Die?" page 16, Dr. Vrba, Chapter 6, entitled, "Auschwitz and Polish Jewry" ...

A. Yes.

Q. I am going to ask you a couple of questions about that.

A. Yes.

Q. First of all, on page 17 there is a paragraph as follows, and I will read it and then will ask you to comment on it.

A. Please.

Q. It's the second complete paragraph on the first column of page 17.

A. Yes.

Q. "Although several millions were supposed to have died at Auschwitz alone, Reitlinger has to admit that only 363,000 inmates were registered at the camp for the whole of the period between January 1940 and February 1945 ..."

and cited as authority is the book, "The S.S. Alibi of a {1377|1378} Nation", page 268 and following –

"... and by no means all of them were Jews. It is frequently claimed that many prisoners were never registered, but no one has offered any proof of this. Even if there were as many unregistered as there were registered, it would mean only a total of 750,000 prisoners – hardly enough for the elimination of 3 or 4 million. More over, large numbers of the camp population were released or transported elsewhere during the war, and at the end 80,000 were evacuated westward in January 1945 before the Russian advance."

Now, can you comment as to whether any people were at Auschwitz who were not registered – what you saw with your own eyes?

A. All people who on the ramp arrive —

MR. CHRISTIE: Excuse me, Your Honour. This witness can't answer for the camp. He can answer for records he kept, and I think that he is being asked to answer as to whether they were being registered in the camp, and I never heard him say through his entire testimony that he kept a register for the camp. He did for his block, and I heard what he said about it, but I think the question begs to tell us that he can say something about the camp registry as a whole.

THE COURT: I don't disagree with Mr. Christie's objection. There is a point. It is your {1378|1379} examination-in-chief, Mr. Griffiths. You can either lay more groundwork, if you feel that is advisable ...

MR. GRIFFITHS: Thank you, Your Honour.

THE COURT: As it stands now, I do not disagree with what I have heard from Mr. Christie.

MR. GRIFFITHS: Thank you, Your Honour.

Q. Did you ever see the people who you described being brought to Birkenau in lorries registered?

A. Those who left the ramp in lorries – and this was seventy-five to ninety-five percent of arrivals, depend on the transport – went from the lorries into the area of Krematoria IV and were not registered.

Q. Thank you.

A. Most of those people consisted of children which were of ages one to twelve, or of old people which were of ages over sixty, old women of ages over sixty, and nobody has seen a prisoner of the age of eleven or of the age of seventy in the concentration camp Auschwitz.

Q. You can't say "anybody". Did you see prisoners of those ages?

MR. CHRISTIE: Well, he said "nobody", and my friend shouldn't cross-examine his own witness.

He has elicited some hearsay and he shouldn't accept anything other than what he got.

THE COURT: I agree. Go ahead, Mr. Griffiths.

Q. MR. GRIFFITHS: The next section {1379|1380} of the pamphlet, it says, "Auschwitz: An Eye-Witness Account":

"Some new facts about Auschwitz are at last beginning to make a tentative appearance."

I am just reading from the pamphlet now, page 17, column 2, under the bold title, "Auschwitz: An Eye-Witness Account":

"Some new facts about Auschwitz are at last beginning to make a tentative appearance. They are contained in a recent work called *Die Auschwitz-Lüge: Ein Erlebnisbericht von Thies Christopherson ...*"

And there is a translation. What does it say?

A. "The Auschwitz Legends: An Account of his Experiences by Thies Christopherson, Kritik Verlag/Mohrkirch, 1973".

Q. And that is the publisher?

A. Yes.

Q. "Published by the German lawyer Dr. Manfred Roeder in the period-

ical *Deutsche Bürger-Ini* [ti]ative, it is an eye-witness account of Auschwitz by Thies Christopherson, who was sent to the Bunawerk plant laboratories at Auschwitz to research into the production of synthetic rubber for the Kaiser Wilhelm Institute. In May 1973, not long after the appearance of this account, the veteran Jewish 'Nazi-{1380|1381}hunter' Simon Wiesenthal wrote to the Frankfurt Chamber of Lawyers, demanding that the publisher and author of the *Forward*, Dr. Roeder, a member of the Chamber, should be brought before its disciplinary commission. Sure enough, proceedings began in July, but not without harsh criticism even from the Press, who asked 'Is Simon Wiesenthal the new Gauleiter of Germany?'"

And the source of that is – can you read the German for me?

A. Yes. "Deutsche Wochenzeitung, July 27th, 1973". This is German weekly, July 27, 1973.

Q. It goes on, then:

"Christopherson's account is certainly one of the most important documents for a re-appraisal of Auschwitz. He spent the whole of 1944 there, during which time he visited all of the separate camps comprising the large Auschwitz complex, including Auschwitz Birkenau where it is alleged that wholesale massacres of Jews took place. Christopherson, however, is in no doubt that this is totally untrue. He writes: 'I was in Auschwitz from ... the mass murders which were supposedly perpetrated by the S.S. against the {1381|1382} Jewish prisoners, and I was perfectly astonished. —'"

MR. CHRISTIE: You missed a line, I'm sorry.

MR. GRIFFITHS: "I was in Auschwitz from January 1944 until December 1944. After the war I heard about the mass murders which were supposedly perpetrated by the S.S. against the Jewish prisoners, and I was perfectly astonished. Despite all the evidence of witnesses, all the newspaper reports and radio broadcasts I still do not believe today in these horrible deeds. I have said this many times and in many places, but to no purpose. One is never believed."

The article goes on:

"Space forbids a detailed summary here of the author's experiences at Auschwitz, which include facts about camp routine and the daily life of prisoners totally at variance with the allegations of propaganda" – and he cites pages 22 to 27 of the Christopherson work.

"More important are his revelations about the supposed existence of an extermination camp. 'During the whole of my time at Auschwitz, I never observed the slightest evidence of mass gassings. Moreover, the odour {1382|1383} of burning flesh that is often said to have hung over the camp is a downright falsehood. In the vicinity of the main camp (Auschwitz I) was a large farrier's works, from which the smell of molten iron was naturally not pleasant' ..." –

and he cites pages 33 to 34.

"Reitlinger confirms that there were five blast furnaces and five collieries at Auschwitz, which together with the Bunawerk factories comprised Auschwitz III" –

ibid page 425 if [of] Reitlinger.

"The author agrees that a crematorium would certainly have existed at Auschwitz, 'since 200,000 people lived there, and in every city with 200,000 inhabitants there would be a crematorium. Naturally people died there – but not only prisoners. In fact the wife of Obersturmbannführer A. (Christopherson's superior) also died there.'"

Page 33 of the Christopherson work was cited.

"The author explains: 'There were no secrets at Auschwitz. In September 1944 a commission of the International Red Cross came to the camp for an inspection. They were particularly interested in the camp at {1383|1384} Birkenau, though we also had many inspections at Raisko.'"

And it cites Bunawerk section, page 35.

Now, how does that description of, Auschwitz and Birkenau, and bearing in mind that part of the time that Mr. Christopherson was writing about is after you left the camp ...

A. Yes.

Q. Well, how does that square with your recollection of the camp?

A. Well, when did he leave the camp?

Q. He was there, he said, I believe, from – sorry.

A. He spent the whole of 1944 there.

THE COURT: January to December of 1944.

THE WITNESS: January to December 1944. Well, there are certain people who claim –

Q. MR. GRIFFITHS: Just a minute. My question is, how does this description square with your recollection of the camp? Is this accurate in your view?

A. This is a complete lie.

Q. All right. Now, I have one other section that I would like to refer you to, if I may.

A. The lie has got also something cynical about it. It is a cynical lie.

Q. On page 24 of the exhibit, and this is under a chapter titled, "The Nature & Condition of War-Time Concentration Camps", and there is a sub-heading that says, "Humane Conditions", the paragraph begins:

"That several thousand camp inmates {1384|1385} did die in the chaotic final months of the war brings us to the question of their wartime conditions. These have been deliberately falsified in innumerable books of an extremely lurid and unpleasant kind. The Red Cross Report, examined below, demonstrates conclusively that throughout the war the camps were well administered. The working inmates received a daily ration even throughout 1943 and 1944 of not less than 2,750 calories, which was more than double the average civilian ration in occupied Germany in the years after 1945. The internees were under regular medical care, and those who became seriously ill were transferred to hospital."

Do those conditions described there correspond to your recollection?

A. These are absolute lies. Moreover, he says about something about the Red Cross report, which he doesn't show. Where can I see the Red Cross Report?

Q. Don't worry about that. My question is just as to the conditions that are described there.

A. Yes, this is a cynical lie in my opinion.

Q. Are you, Dr. Vrba, part of any hoax or conspiracy or fraud to deceive people as to the things that you have been telling us about, the conditions in these camps, the deaths in these camps?

A. If I have any reason to deceive people?

Q. No. My question is whether you are – are you a part of any conspiracy to deceive people about what went on in these camps?

A. No, I am not part of any conspiracy, and I am not part of any political party, and I am not part of any organized religion, of any church, and my only affiliations, officially, are to universities in which I worked for the last thirty years, which is University of Prague, University of London, University of Harvard and University of British Columbia; and I had, during all those times, no affiliation to any organization except academical organization.

MR. GRIFFITHS: Thank you, sir. I have no further questions, Your Honour.

THE COURT: Members of the jury, the same instructions that I have given will apply. Have a good evening. Ten o'clock tomorrow morning.

— The jury retires. 4:25 p.m.

— The witness stands down.

— Whereupon the hearing is adjourned to January 23, 1985.

(VOLUME VII follows){1386|1387}

## Volume VII

### JANUARY 23, 1985

— Upon the hearing resuming.

THE COURT: Is there anything before the jury comes in?

MR. CHRISTIE: No, Your Honour.

— The jury enters. 10:07 a.m.

THE COURT: Go ahead, Mr. Christie.



**RUDOLF VRBA, previously sworn.****CROSS-EXAMINATION BY MR. CHRISTIE:**

Q. Witness, will you say it's true that you have told stories about Auschwitz?

A. I didn't keep a secret out of it.

Q. Would you say that all the things you've said about Auschwitz are true?

A. I would think so, within the frame of possibility of a reference.

Q. I now produce and show to you a book entitled, "I Cannot Forgive". Are you the author of this book?

A. I am a co-author.

Q. Did you check it and see that all the contents were true?

A. Which year has this book been {1387|1388} published?

THE COURT: Would you answer the question, please, sir?

Q. MR. CHRISTIE: Could you answer the question?

A. Which year has the book been published?

THE COURT: Show him the book.

Q. MR. CHRISTIE: 1964 March by Grove Press. It attributes the authorship to you and to a Mr. Alan Bestik [sic]. Did you read that book?

A. Yes. Certainly. I wrote the book.

Q. All the contents are true?

A. I wouldn't answer in a direct way, to this question, because this is a work of literature, and not a document, and therefore I would like to make certain remarks on the background of the book which will make it more clear to you what the book is about. Please don't interrupt me, because I cannot work this way.

Q. Would you let me ask a question?

A. I didn't finish your previous question.

Q. Pardon me.

A. I did not yet finish your previous question.

Q. Fine. Carry on.

A. The background of that book started with my discussion with a doctor who was examining judge in the Frankfurt trial in which the criminals who committed the horrible crimes in Auschwitz were tried, and I was {1388|1389} supposed to help him. He showed me eighty volumes of material which he collected about the S.S. in Auschwitz on his shelf, and he told me in a rather exasperating voice, he said he has collected over years eighty volumes and he still doesn't know the full truth of Auschwitz.

I agreed with him and I arrived at the conclusion that if he is right, I would have to write not eighty, but at least eighty-one volumes in order to give a picture of the horrible crimes which were committed in Auschwitz, and if I would write eighty-one volumes, it is very unlikely that a person who is not specializing in this field but needs the basic knowledge about his field would be able to read eighty-one volumes. And I arrived at the conclusion that it is necessary to write one volume, and I used a special technique which is used also in this Court, where in this Court is forbidden to photograph. However, I have seen my picture and the picture of His Honour the Judge yesterday on the television. Anybody who looks at those pictures will get some rough idea what was happening in this Court, but neither I nor His Honour, the Judge, would be in the position to cut out from that picture his picture, his face, and use it instead of a passport photograph.

Consequently, what is in the book is a condensed story written in a style which should enable especially a young person, untrained and unprepared for the horror of this century, without too much trouble, to understand to what lowness some parts of mankind as represented by the Nazis were able to descend.

Therefore that book should not be considered as a document, but as an artistic picture of {1389|1390} the events which has got not more value than the artistic picture of the artist who is here now painting or drawing this courtroom to show to the masses of people who cannot come here to give them some idea what was happening here. And this is approximately my answer in print to explain you this book.

There were, after this book was published, a number of essays published about the book, and I have a number of that, perhaps a hundred, two hundred, like Times Literary Supplement, like the New York Times

and the Book of the Month, etcetera, etcetera, which were published, and the various messages which were contained were discussed.

However, it is understood that it is only an attempt for an artistic depiction of those catastrophic events, and the discussion of the book would therefore belong into the realm of a literary afternoon, which I am perfectly prepared to spend with you, Mr. Counsel.

Q. I can see that.

A. But —

THE COURT: Dr. Vrba, this is not speech-making time. You have been given a lot of latitude. Is your answer going to go on for much longer?

THE WITNESS: No. I need two more minutes, Your Honour.

THE COURT: All right. Then do it and get on with the next question.

THE WITNESS: I have been called in as an expert witness not on literature, because I am neither good as Dostoevsky, or Tolstoy, but I am layman in {1390|1391} literature. However, I am acquainted with events in Auschwitz which took place there from 30 June, 1942, until 7 April, 1944, and those events I am prepared to discuss with you not on the level of a literary essay, but within the frame of the law.

Should you wish to discuss a book, in spite of my advice, it would be very difficult to discuss the book in front of the jury who didn't read the book. Under the condition that the jury is prepared to read the book, we can then discuss the book so that the jury knows what we are talking about, and I am protected from distortions which your friend have published about this book. Thank you, Your Honour, for giving me the opportunity to explain it.

THE COURT: Go ahead, Mr. Christie.

Q. MR. CHRISTIE: Are there falsehoods in the book?

A. As I explained to you and gave you answer to your question, you are only re-formulating the question. The book is an attempt, artistic attempt to create truths, and an artistic attempt is subject to shortcomings. And you can say that the shortcoming is a falsehood. I would say that there might be shortcomings in the book. I would say that certainly there are shortcomings in the book for which I had limited time to write, but I wouldn't say that there are falsehood, and I would demonstrate it to — prepared to discuss the book in this courtroom.

Q. Did you say things happened in the book that did not actually happen in fact? {1391|1392}

A. I am not aware of that.

Q. Did you say things that you say that you saw in the book that you did not actually see?

A. The book is not a court case, and therefore in the book could be incorporated such parts of knowledge which are obtained from friends to whom I trusted.

As you know, every art piece in literature is written by people who use not only their own eye witness abilities, but draw also on experience of others for one reason or another.

Q. Did you put in the book statements which you did not see?

A. I am not aware of that.

Q. So do I take it from your answer that when you say you saw something in the book, you actually did see it?

A. I will discuss with you the book on the literary afternoon at your disposal. At the moment I am not prepared to discuss this book unless the book has been read by the jury.

Q. Well, I think with respect, unless I am wrong, unless His Honour directs you not to answer the question, I am entitled to ask you, and I did ask you whether you said things in the book that you said you saw, things in the book that you did not see. Now, is that the case or not?

THE COURT: Members of the jury, you will excuse us, please.

— The jury retires. 10:20 a.m. {1392|1393}

THE COURT: Dr. Vrba, I am going to say this once and once only. You are here as a compellable witness. You are here to testify as a witness under oath. You are not here to give orders as to what this jury will do and what you will do or not do. You will answer counsel's questions unless I tell you not to. Do you understand?

THE WITNESS: Thank you very much.

THE COURT: You will do it.

THE WITNESS: Thank you very much. In that case, can I ask your



permission, if I find the question unsuitable, if I should, can I take your advice?

THE COURT: If you find them unsuitable, you can say so. Hopefully you will say that shortly. I don't propose that Mr. Christie's cross-examination is going to be interrupted by you taking a multitude of objections to his questions, however objectionable you may find those questions to be.

In a democratic country you should know by now, and I am sure you do, that in a Court of law an accused person, regardless of who he or she is, is entitled to full answer and defence. That includes the right of cross-examination. Your evidence is tested in that way before the triers of fact, which is the jury.

If you take objection I will listen to the objection; if it contains merit, I will say so; if it does not, I will say so. I do not want Mr. Christie's cross-examination, however, to be unduly interrupted for no reason at all.

Do you understand?

THE WITNESS: Perfectly well. {1393|1394}

THE COURT: Thank you. Bring back the jury.

THE WITNESS: May I ask a question, Your Honour, before the jury comes in?

THE COURT: Yes.

THE WITNESS: Quotations from a book tore out from its general context may create a false impression.

THE COURT: I don't deny that.

THE WITNESS: And may be used for distortions.

THE COURT: Yes.

THE WITNESS: Such distortions have been used from this book and I have turned attention of the Crown that there are distortions on even the subject of study of some respectable Professors of History in University.

THE COURT: No one is restricting your answers to counsel's questions, providing they are relative and responsive to the question that is put.

THE WITNESS: Wouldn't it be, of course, to the advantage of the procedure, Your Honour, if the jury, who finally is supposed to say yes or no to the guilt of the accused, would be acquainted with the content of the book and not with particular pieces torn out from them which would suit the defence?

In other words, the danger of distorting a work by showing only a part of the work is considerable, in my opinion, especially knowing the tactic of a certain political group, and therefore I am worried that the jury might be easily, in the mind of the jury, easily created {1394|1395} a wrong impression and might be misled from the right path of justice if the jury is being served juicy bits from the book instead of being acquainted with the book as a whole. It is just like they would show to the jury a picture, but only a small part left, a small part right, instead of showing the whole picture. The book is only 250 pages long, and as far I know, it took nobody more than one day to read it.

THE COURT: I repeat only what I said, that you are not being told what answers you may give to counsel's questions will be, provided they are responsive to the questions.

Bring back the jury.

— The jury enters. 10:25 a.m.

THE COURT: Proceed, Mr. Christie.

MR. CHRISTIE: Thank you, sir.

Q. I would just like to ask you if this part of the book is true. It's attributed, on page two, to your co-author, Alan Bestic, and it says —

THE COURT: Page ...

MR. CHRISTIE: Sorry. Page 2.

Q. It says:

*"I would like to pay tribute to him ..."*

and that was you, sir, wasn't it?

A. Yes.

Q. Okay. "... for the immense trouble he took over every detail; for the meticulous, almost fanatical respect he revealed for accuracy; and for the courage which this cold-blooded survey of two ghastly {1395|1396} years demanded."

Have I read correctly, sir, from that?

A. Yes, you did.

Q. Would you say that was true for the degree of respect you had for accuracy?

A. That was true for Alan Bestic who estimated my accuracy in his own personal way. You may question now Alan Bestic if my accuracy can stand up to your requirement or not.

Q. Well, would you say that in your opinion that was true about your respect for accuracy?

A. Out of modesty, would you kindly allow me not to make judgments about myself?

Q. Okay. In things that you said in this book that you said you saw, were you telling the truth?

A. To the best of my knowledge, ability, the truth as I could perceive it, being in Auschwitz for two years.

Q. So when you said you perceived things, or saw things in this book, you actually did see them with your own observations.

A. This is nowhere stated in the book that I actually saw them. In the book there are a number of things which I heard from my friend and I have included it in the book, because a book was not meant to be a testimony to the Court which I have to sing, but impressions which I collected from number of friends, some of whom are dead, for whom I wanted the voice to be heard even after their martyr's death.

Q. I'm sorry, I still don't understand {1396|1397} but do you mean to say, for example on page 10 where you say:

"This time I was glad to see him arrive", for example, and I will read the rest of it, if you wish — do you mean that you actually did see this?

A. I see arrive what?

Q. Well, here is what you said in the book.

A. Yes.

Q. "Heinrich Himmler visited Auschwitz Camp again in January, 1943. This time I was glad to see him arrive".

A. Yes.

Q. Now, I can read the whole thing, or two pages, or ten pages.

A. Yes, continue, because I don't know what it should mean.

Q. You don't know. You don't know.

A. No.

Q. I will ask you, do you mean to say, when you saw him arrive, that you actually saw him arrive in January '43, or is this just —

A. In September. '43 or in January '43?

Q. Well, the book says January '43.

A. No. I saw him arrive in July 1943, and then at one occasion in 1943 —

Q. It says here, "January '43".

A. It must be an error.

Q. It's an error?

A. Yes.

Q. Oh. But you did see him arrive on {1397|1398} this occasion?

A. On the first occasion I saw him arrive, because he was approximately in the vicinity as you are to me.

Q. He was as close to you as I am.

A. Approximately.

Q. I see. And you were —

A. He took one step further out of politeness to me.

Q. I see.

A. However, on the second occasion, I saw him going by in a car which was the same car I saw before. He used a black Mercedes with all the sycophants around that he carried around, but I saw him only for a distance of about six hundred yards, and I have heard it is him; but he didn't, on this occasion, come to shake hands with me and introduce himself. So it might be him; it might be someone who stood in instead of him, and don't think that it makes a great difference.

Q. Was this the occasion when he was as far from you as I am?

A. No. That's the second occasion. The second occasion when he was as far from me as you are, almost as far, this was in July 1942.

Q. '42.

A. Yes.

Q. And that was in Auschwitz camp?

A. That was in Auschwitz Camp I.

Q. In your book you say:

"Heinrich Himmler visited Auschwitz camp again in January 1943. This time I was glad to see {1398|1399} him arrive." Right?

A. Probably I wasn't glad of him seeing him arrive as my best friend. Read on in the book. I cannot remember now why I should be glad to see him here. Maybe I said it tongue-in-cheek, where I have a right to say it in the book; not in the Court, but in the book I can.

Q. Would you tell the public something in the book that wasn't true?

A. I would say in the public in a way when the truth is complicated, I would use the technique of the painter, which is here working, that the general impression should come as close as possible to the truth within the requirements of my abilities which are, of course, limited.

Q. As Dostoevsky or Shakespeare, yes, I understand. You don't —

A. I said I don't have.

Q. All right. I will ask you some questions. I will read you pages ten, 11 and 12 and I will ask you some questions about that.

A. And you are not going to miss some paragraphs?

Q. Well, you watch me and see that don't.

A. Can we have a copy of the book?

Q. I am producing for you, provided by the Crown, a hardcover copy. I hope it is the same as mine.

A. I hope so, too.

Q. Well, I have another copy. Do you {1399|1400} recognize that as the paperback version of your book; do you?

A. Yes. It was published without my permission and without my perusal.

Q. So it's without your permission and your perusal?

A. That's right. You see, I would have to sue the people who done it, and I couldn't afford to sue; but for this book I peruse. This is the first edition.

Q. So you figure this one could be false, then — somebody might have twisted your words around?

A. I didn't have any influence on it, and I didn't see the proof of the book, and I didn't see the account for it, either, for your private information.

Q. You've never read it?

A. I would say no.

Q. You would say no.

A. No. But I read the original.

Q. What do you mean? You haven't read —

A. This is the first edition. You see, I have never signed any contract with the publisher of this paperback.

Q. This Grove Press edition published March 1964, copyright [sic] by Rudolf Vrba and Alan Bestic, this is not yours?

A. This is not Grove edition.

Q. This is published by Bantam Books.

A. That's right. {1400|1401}

Q. So you say this is a pirated edition, do you?

A. I didn't use those words. They are your words.

Q. Let's find the part in your edition, then, so in case it is different we can see how it's different. I am going to have to give this book to someone to look at while I cross-examine.

A. Good advice.

Q. Well, I will ask you specifically questions of fact which you can tell me if these statements are true or not.

Do you believe that Heinrich Himmler visited the camp in January '42? Okay, now I think I found the spot where I wanted to begin. I am going to read and you read along with me. Make sure I don't make any mistakes. I am going to read two, almost three pages okay? — and I am going to ask you some questions about it.

A. Yes.

Q. "Heinrich Himmler visited Auschwitz Camp again in January 1943". Is that the same in your book?

A. Yes.

Q. All right.

A. If there is a difference I will turn your attention to it.

Q. All right. Thank you very much.

"This time I was glad to see him arrive, though not because I still nursed any faint-hope that he would improve our lot through benevolence or any sense of justice. His presence was welcome to us all {1401|1402} merely because it meant that for one day there would be no unscheduled beating or killings.

"Once more we were lined up, spic and span, with the sick in —"

A. Excuse me, please. Would you read it in a way that everybody can understand the sense of the sentence?

Q. I'll try, sir. Okay. If anybody doesn't understand the sense of the sentences in the jury, please hold up your hand and I will stop. Okay? And if you find that I am not reading sensibly, you will tell me too, won't you?

A. Yes.

Q. Thank you. Okay.

"Once more we were lined up, spic and span, with the sick in the rear and the healthy well to the front. Once more the band played and the heels clicked and the jack boots danced in the luster shed by the master. Once more he inspected the camp inch by inch running a podgy pedantic finger over the mantelpiece of Auschwitz and examining it for dust. And this time there was no Yankel Meisel to drop his tiny personal grain of sand into the smooth machinery.

"Though he conducted his tour of the camp with his usual thoroughness, it was, however, no more than an aperitif for the meal that was to follow. The main purpose of his visit was to see for himself the bricks and mortar which had sprung from the plans he had outlined in Auschwitz seven months earlier.

"He was to watch the world's first conveyer belt killing, the inauguration of Kommandant {1402|1403} Hoess' brand new toy, his crematorium. It was truly a splendid affair, one hundred yards long and fifty yards wide, containing fifteen ovens which could burn three bodies each simultaneously in twenty minutes, a monument in concrete, indeed, to its builder Herr Walter Dejaco."

Am I reading correctly?

A. Quite right.

Q. "Auschwitz survivors who, like myself, were the slave labourers who built it —"

A. "Who worked to build it".

Q. Yes. "... who worked to build it, ..." Sorry, I made a mistake. "... may be interested to learn, incidentally, that Herr Dejaco still practises his craft in Reutte, a town in the Austrian Tyrol. In 1963 he won praise from Bishop Rusk of Innsbruck for the fine new presbytery he had built for Reutte's parish priest.

"In 1943, however, there was a war on and he was concerned with more practical demonstrations of his skill. The extermination industry was still in its infancy, but thanks to his efficiency, it was about to make its first really dramatic stride towards greatness that morning when Himmler came to visit us.

"He certainly saw an impressive demonstration, marred only by a timetable that would have caused concern in many a small German railway station. Kommandant Hoess, anxious to display his new toy at its most efficient, had arranged for a special transport of 3,000 Polish Jews to be present for slaughter in the modern, German way.

"Himmler arrived at eight o'clock that {1403|1404} morning and the show was to start an hour later. By eight forty-five, the new gas chambers with their clever dummy showers and their notice 'Keep Clean', 'Keep Quiet' and so on, were packed to capacity. The S.S. Guards, indeed, had made sure that not an inch of space would be wasted by firing a few shots at the entrance. These encouraged those already inside to press away from the doors and more victims were ushered in. Then babies and very small children were tossed on to the heads of the adults and the doors were closed and sealed.

"An S.S. man, wearing a heavy service gas mask, stood on the roof of the chamber, waiting to drop the Zyklon-B pellets which released a hydrogen cyanide gas. His was a position of honour that day, for seldom would he have had such a distinguished audience and he proba-

bly felt as tense as the starter of the Derby.

"By eight fifty-five, the tension was almost unbearable. The man in the mask was fidgeting with his boxes of pellets. He had a fine full house beneath him. But there was no sign of the Reichsführer [Reichsführer] who had gone off to have breakfast with Kommandant Hoess.

"Somewhere a phone rang. Every head turned towards it. A junior N.C.O. clattered over to the officer in charge of the operation, saluted hastily and panted out a message. The officer's face stiffened, but he said not a word.

"The message was: 'The Reichsführer hasn't finished his breakfast yet.'

Everyone relaxed slightly. Then another phone call. Another dash by a perspiring N.C.O. Another message. The officer in charge swore to himself and {1404|1405} muttered to those of equal rank around him.

"The Reichsführer, it seemed, was still at breakfast. The S.S. man on the roof of the gas chamber squatted on his haunches. Inside the chamber itself frantic men and women, who knew by that time what a shower in Auschwitz meant, began shouting, screaming and pounding weakly on the door; but nobody outside heard them because the new chamber was sound-proof as well as gas-proof.

"Even if they had been heard, nobody would have taken any notice of them, for the S.S. had their own worries. The morning dragged on and the messengers came and went. By ten o'clock the marathon breakfast was still under way. By half past ten the S.S. men had become almost immune to false alarms and the man on the roof remained on his haunches even when the distant telephone rang.

"But by eleven o'clock, just two hours later, a car drew up. Himmler and Hoess got out and chatted for a while to the senior officers present. Himmler listened intently, as they explained the procedure to him in detail. He ambled over to the sealed door, glanced casually through the small, thick observation window at the squirming bodies inside, then returned to fire some more questions at his underlings.

"At last, however, everything was ready for action. A sharp command was given to the S.S. man on the roof. He opened a circular lid and dropped the pellets quickly on to the heads below him. He knew, everyone knew, that the heat of those packed bodies would cause these pellets to release their gasses in a few minutes, and so he closed the lid quickly. {1405|1406}

"The gassing had begun. Everything waited for a while so that the poison would have circulated properly, Hoess courteously invited his guest to have another peep through the observation window. For some minutes Himmler peered into the death chamber, obviously impressed, and then turned with new interest to his Kommandant with a fresh batch of questions.

"What he had seen seemed to have satisfied him and put him in good humour. Though he rarely smoked, he accepted a cigarette from an officer, and as he puffed at it rather clumsily, he laughed and joked.

"The introduction of this more homely atmosphere, of course, did not mean any neglect of the essential business. Several times he left the group of officers to watch progress through the peep hole; and, when everyone inside was dead, he took a keen interest in the procedure that followed.

"Special lifts took the bodies to the crematorium, but the burning did not follow immediately. Gold teeth had to be removed. Hair, which was used to make the warheads of torpodeos [sic] watertight, had to be cut from the heads of the women. The bodies of wealthy Jews, noted early for their potential had to be set aside for dissection in case any of them had been cunning enough to conceal jewellery – diamonds perhaps – about their person."

I will stop there.

A. Well, it is only very little —

Q. — to the end? I will read to the end.

A. I will appreciate it. {1406|1407}

Q. Sure. Certainly:

"It was indeed, a complicated business, but the new machinery worked smoothly under the hands of skilled operators. Himmler waited until the smoke began to thicken over the chimneys and then he glanced at his

watch.

"It was one o'clock. Lunch time, in fact. He shook hands with the senior officers, returned the salutes of the lower ranks casually and cheerfully and climbed back into the car with Hoess.

"Auschwitz was in business. And on a scale that would have made little old Yankel Meisel shake his head in wonder and disbelief. He had never been a very ambitious man and the thought of streamlined mass-destruction would have been quite beyond his simple mind.

"But then he had never heard of the Final Solution, let alone of the part which Auschwitz was to play in it."

Now, have I read correctly from the point where I ended?

A. Yes, you did.

Q. All right. And that is a statement. Do you say that that was the true statement?

A. I would say that it was as true as true is the picture which is depicted by the artist in this room.

Q. Okay.

A. This means —

Q. Never mind what it means.

A. You asked me one question, if you {1407|1408} will allow me to finish my answer.

Q. Yes, sir.

A. This means it conveyed truthfully the atmosphere existing in Auschwitz during the gassing procedure in the presence of a very highly positioned VIP.

Q. Mm-hmmm.

A. What was missing for the explanation and which distorts the sense of your carefully selected passage is that in your passage, twice the name of Yankel Meisel has been mentioned, and because the listeners do not know who that Yankel Meisel actually is, but that Yankel Meisel is named in the same chapter, some confusion might arise from your whole reading, or so it conveyed reasonably well as far as possible for a second-grade artist to describe the atmosphere which existed during the gassing of those unfortunate victims.

Q. Right. Okay. Now, you used an analogy by saying that the artist in Court, drawing his picture, was in the same way you were writing this article.

A. About. Otherwise —

Q. Yeah. Okay.

A. Otherwise I would have to be in the position of the Judges in Frankfurt who had to write eighty books in order not to be in the position of the artist; but to be in the legal position where he can stand up behind every word of the eighty books.

Q. Let's not worry about some judge in Frankfurt. You used the analogy of the artist in Court, and I put it to you that the artist has seen a real {1408|1409} man in a real stand — namely, you. Right?

A. Right.

Q. And you are telling this Court you actually saw Heinrich Himmler peeping through the doors of the gas chamber; you told us that?

A. No, I didn't say I was present when he was peeping through the gas chamber, but I have put together a story which I've heard many times from various people who were there present and who related it to me. What I could see was the following, that a transport of eight thousand Jews from Krakow on that occasion —

Q. Eight thousand, eh? You counted them?

A. By knowledge of the trucks, as I explained to you yesterday, and by knowledge of the number of wagons which arrived to Auschwitz, we knew reasonably well how many of the victims arrived on which day.

Q. Where does it say that there were eight thousand Jews arrived that day in your book?

A. Well, if it doesn't say, I remember it.

Q. Ah.

A. But I do not say that I have written in the book all I remember, because if I would have write [sic] in the book all I remember, I would have had to write those eighty-one books.

Q. Well, what I am asking is about this specific incident that you described in your book.

A. Yes.

Q. You describe it as saying, "*This {1409|1410} time I was glad to see him arrive*", and then you go on and tell us what you say happened.

A. Yes.

Q. Well, I put it to you, you were what – eighteen or nineteen years old?

A. At that time it was in '43. I was nineteen years old.

Q. Well, do you tell us that you are standing between Heinrich Himmler and Hoess and hearing their conversation and looking with them or somewhere in the area where they were looking onto a gas chamber? Is that what you are telling me?

A. No. I am telling you that they were looking into the gas chambers, that there were a number of Sonderkommando present, that there were a number of S.S. present.

Q. Were you present?

A. No. I was in the quarantine camp at that time and I spoke with a number of them and listened to them, and I knew that those unfortunate victims were being gassed with a great delay because the VIPs didn't come, so they were being kept in the gas chamber.

Q. Well, in your book you indicate that you saw, and you don't indicate that you heard from other people the story that you related.

A. In this particular case the story is related.

Q. And you say that these things happened as you described, even though you acknowledged they were on the basis of hearsay; right?

A. Yes. {1410|1411}

Q. Okay. The quarantine camp you described now, if I may, looking at Exhibit "H" for identification, would you agree that's a map of the camp?

A. What about we project the map so the jury can see?

Q. Well, I can hold it.

A. Well, I have the same map and we can just project it.

Q. Well, all right. If you have the same map, let me do it my way just for once. Okay?

A. You be my guest. But just make it in such a way that the jury sees what you are trying here to do. This may be an exhibit.

Q. Well, let's just be – as long as we can be satisfied that we are not misrepresenting the camp, can we do that?

A. I would prefer if the jury is trying to see exactly what you are trying to say.

THE COURT: Doctor, you will find that when the cross-examination is concluded, counsel for the Crown, if he chooses to do so, will re-examine you. You will please answer the questions as Mr. Christie puts them to you.

THE WITNESS: Thank you for being enlightened on that point. Go ahead, Mr. Christie.

Q. MR. CHRISTIE: I have showed you Exhibit "H" for identification. I ask you if that isn't the case that it is the same map that you presented earlier.

A. Yes. It suffices for its purposes.

Q. It's bigger. {1411|1412}

A. Yes.

Q. The quarantine camp was "BIIA". Right?

A. Yes.

Q. And you are talking about an area of KII, Krema II. Right?

A. Yes.

Q. This is where you say this happened?

A. Yes.

Q. Did you ever go in the area of KII?

A. In the area of KII, I could watch from Block 27.

Q. Yes.

A. But if you took notice, Mr. Counsel, the date was January 1943; but yesterday, if you would have listened what was going on in this court, you would have taken notice, in your notes, that I was in quarantine camp only after June 8th, 1943; therefore I could not observe it from the quarantine camp but from the mortuary of Fred Wetzler from where I later escaped, and this was distance of fifty yards from the crematorium – January '43.

Q. Well, didn't you just tell me a few minutes ago that when this event with Himmler happened you were in the quarantine camp? I thought I heard you say that.

A. Well, once I realize that it was in January, I realize that I have seen it from here.

Q. Oh. So when you found out the date in the book you decided that you saw it from Block 27.

A. That's right. But I don't say in {1412|1413} the book from where I see it, did I? You tried to impute to me that I have seen it somewhere. You impute it to me that I have seen it from the quarantine camp. I did write about it in the book.

Q. No, but you said, "*I saw*", in the book, and I got the impression that you are describing firsthand observation.

A. What I saw from the book, if you allow me to explain to you if it is of interest to you – you can stop me if it is of no interest –

Q. I wouldn't ask you if it wasn't of interest.

A. If it was of interest for you, is that I saw part of the procedure, obviously from the mortuary, which is April '43.

Q. Maybe we can show it to the jury. Block 27 is there?

A. Yes.

Q. And the quarantine camp is there?

A. Yes. And it was empty in January 1943. There was nobody.

Q. Thank you very much.

A. So I could see it only from Wetzler's mortuary, and I didn't write in the book from where I saw it.

Q. No, you didn't; that's right.

A. But you tried to impute that I saw it from –

THE COURT: All right. Next question, please.

Q. MR. CHRISTIE: Now, I just want {1413|1414} to ask you a couple more questions about this aspect of the story. Are you saying that you saw Heinrich Himmler peer through a window and hear him have a conversation, or is that just what you heard from other people?

A. That I heard from other people.

Q. And you agree with me that in the part that I read to you, it certainly doesn't indicate that this is information received. It puts it in the first person as if you are standing right there, doesn't it?

A. No. Where is it written that it is in the first person?

Q. When you say, when I read to you, "*This time I was glad to see him arrive, though not because I still nursed any faint hope ...*"; and then you go on to describe the situation without reference to any information received.

A. Well, the word, "*I was glad to see him*" refers to my naivete of that time when I still thought that the horrible murders in Auschwitz are being done behind the knowledge of the leading Nazis.

Q. Thank you.

A. And therefore I thought that if he will see those murders, and that's why I was indicating "*glad*", that if he will see those murders, then he will see that here something illegally is happening behind the back of the highest officials of the German Government. That is why I was glad to see him. That is what it refers to. And I was disappointed when I have heard that on the same day as gassing under exceptionally brutal conditions took place, and that he expressed, as I could hear by the grapevine in the camp, his full satisfaction of it, and {1414|1415} that the gassing went on with even greater intensity after he left. And that is what his message tried to convey.

Q. So you had hoped at this stage that he was going to stop it; was that your hope?

A. Because the crimes which we were seeing was so outside any human imagination, we still have hoped, or had hoped quite naively, quite inexperiencedly, I admit, but we had hoped that Auschwitz was run by beings like Hoess, underworld types in military uniform who are murdering en masse behind the back of the high German, highly positioned German Government.

Therefore the visit of someone so close to the German Government enveigled [sic] in us false hopes. You know, when people are in horrible situations, they are apt to have false hopes, false hopes that when those highly-positioned people come and see the horrors of Auschwitz,

they will see that it is incompatible with the cultural history of a civilization like Germany and will stop it. That is why I said I was glad that he came.

Q. Well, immediately after you say, "This time I was glad to see him arrive", you say, "though not because I still nursed any faint hope that he would improve our lot through benevolence or any sense of justice." Are those your words?

A. This refers, of course, to beating.

Q. I see. Not to the gassing.

A. Not to the gassing.

Q. Okay. So all the account there is hearsay, but it isn't put as such; right?

A. Well, it is referred to the beating, {1415|1416} because the beating, I didn't hope any improvement because it was known to us that beating and torturing of individual prisoners in Sachsenhausen, in Mauthausen, in Dachau, in Buchenwald, Ravensbrück, in Flossenbürg, was a very well-known and accepted method by which the leadership of the Nazis knew. In Auschwitz took something different, mass gassings, and therefore we expected or thought that mass murder, especially against children and old women and pregnant women on such a scale, might possibly be done by depraved fanatics behind the back of the German government.

Q. Had you, at that time, knowledge of all these things about those other concentration camps?

A. Very good knowledge.

Q. So there must have been knowledge coming in and out of all the various concentration camps.

A. Yes. Before I came to the concentration camps of Auschwitz there were a number of books published by German refugees who have seen various concentration camps like Dachau.

For example, Bruno Bethlehem from Chicago, who was in Dachau in '33, '34, and then was released and came to America and wrote a book about it, such books were in general knowledge in Czechoslovakia even before the Germans, the Nazis, occupied our native country.

Consequently, we were pretty well informed that beating and torture of prisoners in German concentration camps takes place on a great scale. Braun Buch, which translated means the Brown Book, and it doesn't relate to Lichtenstein, it relates to a number of {1416|1417} survivors of German concentration camps who published a great amount of material in 1933, 1939, and I was reading that materials, and therefore knew that this is common in German concentration camps. But there was nothing yet about gas chambers.

Furthermore, in Auschwitz there were a number of prisoners from those concentration camps who were transferred to concentration camp Auschwitz.

I myself, was not in Auschwitz – this was not my first concentration camp. I came from Maidanek. Consequently, we were informed, in Auschwitz, about events in other concentration camps. We knew that in other concentration camps torture of prisoners takes place and irregular beatings, but we knew, as far as we could see, that mass gassings of completely innocent and unregistered people takes place only in Auschwitz.

Q. I see. Is that all you want to say on that?

A. If that is satisfactory for you for a literary discussion about my modest product, yes, unless you have more questions.

Q. Oh, I do. Are you familiar with the Calendarium of Auschwitz?

A. I know that such a Calendarium exists, but I have never seen one.

Q. Records the events of the camp.

A. Yes, it was used. I have seen it in court in Frankfurt where the Chief Judge, presiding judge, Dr. Hofbauer, showed it and —

THE COURT: Just a moment, Doctor. Go on to the next question. {1417|1418}

MR. CHRISTIE: Thank you.

Q. Is this a record of your escape on the 7th of April, 1944?

A. Austerlager —

THE COURT: Doctor, this is a trial in the English language. Would you please look at it and then answer counsel's questions?

THE WITNESS: Right. Would you formulate your question kindly once more?

Q. MR. CHRISTIE: Is that your account of the escape or the escape from Auschwitz that you claim you undertook?

A. Here is one paragraph called Paragraph 7.4, in which it is in two and a half —

Q. Just listen to the question. Okay? Is that the account or a record of an escape on the 7th of April involving Alfred Wetzler and Walter Rosenberg?

A. Here is nothing about April 7.

Q. Well, four seven is the seventh day of the fourth month, isn't it?

A. No. 4407 is the number which is tattooed.

Q. No. 7.4.

A. Oh, this is a date.

Q. Seventh day, fourth month?

A. There is no year written.

Q. Go back further and you will see that it is 1944. Look at the book. Here we go. Can you see yourself that that pertains to 1944?

A. Published in 1964 by the Museum in Poland. {1418|1419}

Q. Yes. The Auschwitz Museum, right?

A. Right.

Q. Now, did you want to see yourself that that is for the year 1944?

A. I believe you.

Q. You believe me? All right.

A. With this document in your hands I believe you.

Q. All right. Let's turn back to where we had your date on the 7th of April.

A. Yes.

Q. Does this not report the escape of an Alfred Wetzler and Walter Rosenberg?

A. That is perfectly right.

Q. That is what it says occurred on that date?

A. Yes. And it also records our numbers tattooed on our hand.

Q. On your hand, eh?

A. Yeah.

Q. Which hand?

A. On the left hand.

Q. So that's when you say that your escape occurred; is that right?

A. On 7 April, 1944. Start of the escape.

Q. Did you say also that when you left, Kanada had not been established in Birkenau?

A. To the best of my knowledge, no, but Kanada was stationed in Birkenau for the night. In other words, they lived in the barracks in the night in {1419|1420} Birkenau since 15 January, 1943.

Q. I am now going to show you the Calendarium for 1943. Are you satisfied that's the Calendarium for 1943?

A. Yes.

Q. The first half of the year.

A. Yes.

Q. I now turn to the second half of the year, actually, the 14th day of December, 1943.

A. Yes.

Q. I am going to read to you in English and I am going to put it to you that that is what that says in English, and I am going to ask you if I have provided you with the correct translation.

A. Mm-hmmm.

Q. It says: 14th day, 12th month, 1943, in Birkenau, they finished the section "BII", the construction of the storage buildings which was called by the inmates Kanada. In the storage buildings there have been thirty-five barracks. In thirty of them the belonging of Jews were stored and selected. In two barracks inmates did live which did care for the store. In the rest of the buildings the administration was located.

Have I read that translation correctly?

A. I understand correctly now the German text. Would you now read me the translation?

Q. All right: In Birkenau they finished building the section "BII", the construction of the storage section which was called by the inmates Kana-

da. In the storage buildings there have been thirty-five {1420|1421} barracks. In thirty of them the belongings of Jews was stored and selected. In two barracks inmates did live which did care for the store. In the rest of the buildings the administration was located.

Have I read it correctly, sir?

A. That's right.

Q. All right. That indicates that on the 14th of December, 1943, the area called Kanada was finished, and you said that it wasn't finished before you left.

A. To my recollection it wasn't finished before I left. So, also to my recollection, Kanada command which I saw frequently on the street in section "BIID", they were there as usually, but I was away from that command for a long time, and that command was from that time on of smaller interest to me. Now, if this particular thing refers to finishment of plans or to finishment of barracks or to actual transport of the prisoners into those barracks, this is a question.

I am not quite sure, with all respect to Polish researchers, if their records are better than my memory.

Q. Mm-hmmm. Would you say, sir, that you told us yesterday about burning pits?

A. Yes.

Q. Would you say that yesterday you told us there were pits that were six meters wide, six meters long and six meters deep?

A. I also made the remark that I didn't make a measurement with a tape, but it was my {1421|1422} judgment of that measures.

Q. You gave us an example by referring to the panels on the wall, and you pointed up to, I think, the top of the first panel; didn't you?

A. Yes, that would be it.

Q. Mm-hmmm. Well, how do you explain the method by which the Germans could burn bodies under water in this marshy ground where the water level was about – well, you described it as marshy ground. Tell us how they did that.

A. Well, they didn't invite me for technical consultations. And if you accept that I'm not speaking only as a witness, I saw only when it was finished; but if you want my technical advice, I would think, without having seen how they have done it and without me having consulted how they have done it, that I could have do it myself given three, four hundred slave labourers. There's no problem.

Q. Well, tell me how – you agree you described the ground all around there as marshy ground, or do you say otherwise?

A. The ground all around was marshy. This means as a countryside.

Q. Because it was between two rivers.

A. It was between two rivers, but as you probably have been in your life in a marshy country side, you know that even in marshy countryside there are occasional visitors around and fishermen. So in marshy land I would say that there are some quite dried out, well-prepared pieces of land by the administration of the Auschwitz-Birkenau camp which were not marshy or which {1422|1423} were not to be considered too marshy, especially when I was in winter 1942 it was heavy frost, and you know, it was sort of solid earth.

Q. Mm-hmmm. It was frozen earth?

A. Frozen earth.

Q. Well, how does the fire keep the water from melting?

A. How does fire ...

Q. How is the fire arranged so that the water in this marshy ground did not melt and fill up the pit that was as high as that top panel on the wall over there? That's a long way down, isn't it?

A. Yes. Well, you are asking me again something which I do not know, neither from eye witness account, nor have I consulted on technical problem, and I suppose that anybody with a slight technical education will explain to you that if you are in a marshy land and dry out that marsh on, say, one kilometer square, then you get completely different conditions within that kilometer square than in the rest of the marsh. I would think so.

Q. You would think so.

A. But you are asking me not eye witness account.

Q. What do you mean?

A. You are asking me I should speculate here how Germans have done something, whereas I am only telling you what I have actually seen.

Q. Yes. You have actually seen a pit as deep as the top panel of that wall in the courtroom in which there was a fire in the bottom. {1423|1424}

A. No. The fire was extinguished. I said, if you listen to me carefully, that the pit was not in use when I have seen it, but it was in use a short time before, because heat was still coming out of the pit.

Q. Yeah

A. And by looking into the pit saw residues of children's bones.

Q. Mm-hmmm. Residues of children's bones.

A. Yes. Head bones.

Q. Head bones. Now, is it the case, then, that you say that the remnant of the fire from which you warmed yourself was down in the bottom of the pit?

A. Well, if you keep in that pit a considerable fire for two or three days and then go away, it leaves a fire, so to say, extinguished, and come after two days – this was a big fire, four or five hundred bodies were burned there, say.

Q. All right, we will say that.

A. And say after two days it is very cold and you put on gloves and you put your hand over that ...

Q. The fire?

A. Not the fire, over that hole ...

Q. Embers.

A. Yeah. You will feel that warmth come up.

Q. I'm sure you would.

A. And that is what I felt.

Q. You felt that.

A. That's why I was standing there, you {1424|1425} see. The view of the children's heads was not sort of too enlightening or pleasing my heart.

Q. So you described it as a pit that was that deep. I suppose you mean to the part where there was solid or some evidence of the children's heads, they were down —

A. — at the bottom of the pit.

Q. Six meters.

A. Yes. At the bottom of the pit.

Q. Six meters down?

A. Yes. But it was only four meters and not six meters, because I didn't have a tape, and my measures would be very sort of lost, and perhaps in view of the awesome situation it might have appeared to me bigger than it was, you see, within a meter or two.

Q. Within —

A. I know you will blame me that I didn't use a yardstick, but it wasn't technically possible.

Q. No, I don't blame you at all. I am just asking you questions, and perhaps if you will answer them, that will be a good idea.

A. I will be pleased.

Q. So if I understand you correctly, the six by six by six meters you say might be out by one or two meters?

A. Might be out by one or two meters.

Q. Mm-hmmm. You don't understand or know any reason why there would be no water in the bottom of this pit; you have no explanation for that at all.

A. Of course I have an explanation. If the pit was heated up, and if there was a lot of bodies {1425|1426} burning, everything – and if it was not used once but many times, then the water from around would have long time dried out.

Q. I see. Is it true that what you said earlier was the case that it was marshy ground?

A. The marshy ground was general around Auschwitz. In other words —

Q. Not around Birkenau?

A. Around Birkenau. In other words, how marshy Birkenau was, I, the first time realized only after I left Birkenau and had to cross the com-

mon camp area.

In other words, Birkenau was build up in a marsh area, but Birkenau itself was not marshy any more.

Q. Oh, you say that it was built up above the level of the land.

A. I do not say that it was built above the level of the land, but proper and simple ameliorative measures were taken so that Birkenau and the Birkenau installations will not be succumbed by the swamps. The swamps were there, otherwise you will have to ask for the technical administration of Auschwitz camp house. I am not a builder, but I knew how to build things.

Q. What ameliorative measures do you say were taken?

A. Yes, ameliorative measures. Which translated means measures to regulate unexpected flood of water. It is used quite frequently by great agricultural enterprises when they want a piece of their {1426|1427} agricultural dry, and a piece wet. This is achieved by amelioration.

Q. What ameliorative measures do you say were taken to prevent water from being a problem in Auschwitz? Do you say that they raised the level of the land?

A. The camp administrations did not inform me about those technical details. I have no knowledge.

Q. Now, you gave a description of a gas chamber. I think, if I interpreted you correctly, that you saw from Block 27 —

A. Right.

Q. — Alfred Wetzler's mortuary —

A. Right.

Q. — the wooden building that isn't on the plan.

A. That's right.

Q. Did he build it himself?

A. No. It was built.

Q. Could you, taking this map, Exhibit "H", be so kind as to make marks, and I'd like to give you a coloured pen to do it with.

A. Yes. And you want me to make certain marks?

THE COURT: No. Just a moment, please. Here is a red one.

MR. CHRISTIE: Thank you very much, Your Honour.

Q. Could you just show us, by circling on this Exhibit "H" — do you want to move that? Now, {1427|1428} could you circle the block where the mortuary was?

A. Yes.

Q. Okay.

A. The mortuary — this was Block No. 27.

Q. Right. It's marked right on it. Just mark a circle around it if you would.

A. And the mortuary was there, wooden annex. So that the one wall of 27 was one wall of mortuary which was wood. In other words, it was a duplex.

Q. Do you mind if I draw an arrow and you can label it? Just label that and label it may I do it? If I can write it, it may be a little bit clearer.

A. It's your property. You can write what you want.

Q. And that's where Alfred Wetzler ...

A. Has his office and his mortuary until 8 June 1943.

Q. And that is where you made your observations, right?

A. Right.

Q. Okay. Can you just put your initials right there so that I am confirming that that's what you've told me and I have written it down according to your instructions?

A. Yes. But the direction in which I looked was completely different from where you have —

Q. I put the arrow there just because of the paper, not for direction.

A. And because you are a stickler for {1428|1429} accuracy, it is Wetzler (phonetic) not Wetzler (phonetic), and you might blame me that I gave you a false name.

Q. No, I wouldn't do that. Now, you might tell us, then, where you saw this man dump, when you said, the Zyklon-B through the hatches.

A. I beg your pardon?

Q. You said you saw an S.S. man dumping Zyklon-B through the hatches. Now, if you could make a specific mark where you saw that, maybe a zero or a circle or some mark.

A. Mm-hmmm.

Q. What would you use?

A. I think I would use either here or here.

Q. So there's two possible places?

A. Yes, because my memory is not bad. It is not perfect ...

Q. So you put it in two places and you put three dots in each place.

A. That's right.

Q. Could you take and draw an arrow up to here and then identify in the piece of paper what it is you saw there? This is where you saw, what, the S.S. man dump the Zyklon, right?

A. S.S. man dumps Zyklon.

Q. All right.

A. Into vents of bunker protruding from Krematorium I, Krematorium II in a way that was clearly in line of sight when I was looking from the window.

Q. Well, we don't want to write the whole story there. You'd better stop.

A. You want to be exact. When I was {1429|1430} looking from the window of the mortuary next to Block 27 Birkenau IB.

Q. Mm-hmmm. Good.

A. Should I initial this, too?

Q. You might as well.

A. Yes. You got an autograph.

THE COURT: That exhibit will now be Exhibit 21.

— EXHIBIT NO. 21: Map of Birkenau. (Formerly Exhibit "H")

Q. MR. CHRISTIE: Now, Mr. Vrba —

A. I am, for the last thirty-five years, accustomed to be called Dr. Vrba, but if it is not suitable for you, you can call me sir. It is shorter.

Q. Thank you very much, sir. Would you agree with me that I am now pointing — you had better check and see that I am pointed in the right place — to the protruding portions that you've identified, and there's two places where you put three dots. Is that right — two places where you put three dots?

A. Yes. Yes. But I have specified that it was protruding from the crematorium [sic] as a bunker. That should cover the situation.

Q. All right. I would just like to show that to the jury.

Now, Dr. Vrba, just tell us once more how it was that you saw the S.S. man get up onto that bunker.

A. You mean I should repeat my state-{1430|1431}ment from yesterday?

Q. Just the part about getting up to the bunker. Just describe that. Let me say to you that you said he put one can up on top ...

A. Yes. He first put the cans down because he brought them not with carriage; he brought them under his arms, and there might have been five or six.

Q. Five or six cans.

A. Yes.

Q. And he picked one up and put it on top?

A. First one down and he started to put them up on top, and he crept up on it like a monkey, which surprised me.

Q. You say he hooked his arms over the edge and pulled himself up?

A. Yes. He sort of climbed like a monkey.

Q. He had to reach up to the edge of the bunker?

A. Yes. Or, you know, to get a hold with his hand.

Q. Yeah.

A. And then he was climbing over the cement, which is rather smooth, but he managed to get up.

Q. Well, the last time you said he was rather sporty in the way he pulled himself up, yesterday.

A. Yes.

Q. Now, how high was it that he had to reach up? {1431|1432}

A. I would say it was high enough that he couldn't walk up, but he could make an exercise.

Q. He could make an exercise?

THE COURT: Just a minute. Just stay where you are.

THE WITNESS: He had to make an effort. He couldn't walk up or jump up. It was higher than that.

Q. MR. CHRISTIE: Did he have to reach higher than I am reaching

now?

A. Possibly.

Q. And then, getting a hold of the edge of the roof and pulling himself up?

A. Possibly, but possibly his hands were in this position. This I wouldn't, after forty years, to say, or so. You can say, then, of course, if my memory is imbecile, but after forty years this difference in movement I couldn't guarantee.

Q. Well, I suggest to you, sir, that – were you talking about a flat roof?

A. Yes.

Q. And this roof, you say, was fixed with vents, there were vents on it – three?

A. Three or four.

Q. On your picture you drew three.

A. Yeah.

Q. And you led us to believe that he was rather sporty, and you remember yesterday you used that term?

A. Yes.

Q. You said it was unusual for an S.S. {1432|1433} man to do that?

A. Yes, because they had a pathological condition of his self dignity. And here I saw he didn't care.

Q. So am I clear in understanding you that the wall that he had to climb up on was a cement wall?

A. Yes.

Q. Are you sure of that?

A. Pretty sure.

Q. Pretty sure?

A. Yes. I didn't touch it, but as far as I can see cement from a distance of fifty yards, I would say pretty sure. I had no doubt in my mind about it.

Q. Do you know what a Leichenkeller is?

A. Yes.

Q. You know what is?

A. Yes.

Q. What is it?

A. It is a mortuary.

Q. I suggest to you that what you are talking about is the roof of the mortuary, and the mortuary was underground.

A. Have you been there?

Q. No, I haven't, sir. Have you?

A. No, but I've heard that it was a gas chamber from those who worked there.

Q. You say you haven't been there.

A. No, not inside. Usually those who were inside didn't come out, so I was lucky not to be in there. {1433|1434}

Q. You are very amusing, sir, but please answer my question. Do you say that the roof of the building was above the ground, or parallel [sic] to the ground level?

A. The roof was above the ground, but you could see that it was a roof of something which goes deep down, and mortuary was not necessary there for camp inmates because we had, at maximum, in Birkenau, only three hundred or four hundred daily dead, and they were taken in every night to Auschwitz for burning. So why would they have a mortuary of the size of thirty yards long for four hundred dead which had perfectly good place in Fred's little cabin?

Q. So in Fred's little cabin you kept three or four hundred dead every day.

A. Yes.

Q. And from there they were taken to the crematoria.

A. That's right. And the cabin wasn't bigger than this here, you see, and I can show you how three hundred people can be put within this space.

Q. With enough room for you to drink coffee?

A. And enough room for us to drink coffee on table on top of it, yes, with a white serviette under us.

Q. Now, you gave us reason to believe that if a person was sick they went to hospital and there was no treatment and they would die. Right?

A. Usually, but sometimes there was treatment. {1434|1435}

Q. Yes. Well, was it the case that they tried to keep people alive?

A. In that hospital?

Q. No. In the camp at all. My impression from you yesterday was that if somebody got sick and couldn't work, they were either put on the ground and a bar was put across his throat and then the Kapo would jump on both sides of the bar and break his throat ...

A. That's right, if he was in the mood, or —

Q. ... or — just a moment — he would be killed by the Blockeltester for not standing or if he was in the mood, he would send him to the hospital, which was not a hospital but Krankenbau; Krankenbau, translated, did not mean hospital but it means a building for the sick.

A. That is what it was called.

THE COURT: Mr. Christie, I think we will adjourn. Twenty minutes.

— The jury retires. 11:30 a.m.

THE COURT: Doctor, you can step down. Please do not discuss this case with anyone until this case is completed.

— The witness stands down.

— Short adjournment.

—— {1435|1436}

— Upon resuming.

— The witness returns to the stand.

THE COURT: Is there anything, gentlemen, before I call the jury?

MR. CHRISTIE: No. Thank you.

THE COURT: Bring in the jury, please.

— The jury enters. 12:00 p.m.

THE COURT: Go ahead, Mr. Christie.

MR. CHRISTIE: Thank you.

Q. I was asking you, Dr. Vrba, about whether people who were sick ever received medical treatment.

A. There were exceptions that they did receive medical treatment.

Q. You were one of them; in fact, you had a surgical operation and were anesthetized and, obviously, recovered. Is that right?

A. That is so.

Q. You developed, I understand, some kind of infection in the area of your posterior; am right?

A. That's right.

Q. And it obviously resulted in you being unable to work at all, right?

A. This as a consequence of beating.

Q. Yes, because you were beaten. You suffered an injury and you were beaten by a Kapo?

A. No. By an S.S. man. {1436|1437}

Q. And you suffered an injury and then you were taken to a hospital where you were anesthetized, and before you were completely under the anesthetic I gather they had begun operating on you.

A. That's right.

Q. And you recovered.

A. That's right.

Q. So I suppose that there was some kind of septicemia [sic] or blood poisoning [sic] from your previous injury; is that right?

A. The beating on the buttocks usually results in destruction of a number of tissues connected to it, and that cells are liable to infection which then spreads. The surgery was therefore necessary to prevent a general poisoning of blood.

Q. You went to the hospital; you got the surgery and you recovered.

A. Yes.

Q. I suppose they had to apply stitches to the wound.

A. Possibly.

Q. You don't know?

A. I don't know. The wound is still there.

Q. Now, I'd like you to turn to page 209 of your hardcover book. I'd like you to read the third paragraph with me and make sure I don't miss a word. It begins with the words, "His physical strength".

Have you found it? Page 209 your edition.

A. I am looking for it.

Q. It is actually the third full {1437|1438} paragraph from the top. The first part of the paragraph begins from the previous page, so it begins



with the words, "His physical strength".

A. On page 208.

Q. 209.

A. 209?

Q. Yes.

A. "His physical strength was such", yes.

Q. "... that even the Monkey Tyn, the Camp Senior, was afraid of him. His contacts among the influential prisoners in general and the Sonderkommando, who had access to the valuables of the gas chamber victims, in particular, were closer even than those of Fero Langer." Am I pronouncing that right?

A. Yes.

Q. "He was a millionaire even by the standards of Birkenau, where I have seen twenty-dollar bills used as toilet paper; ..."

A. Yes.

Q. "... and he used his wealth to gain power over the S.S. by the simple expedient of bribery."

A. That's right.

Q. So it is right that you have seen \$20 bills used as toilet paper in Birkenau?

A. I used them.

Q. You used them.

A. Yes, so that they don't get into the hands of the Germans.

Q. So that's the truth, then.

A. Yes. {1438|1439}

Q. Thank you. These are \$20 American bills, or Canadian bills?

A. I have seen only American money and English pound. The English pounds were much more suitable for this purpose because they were printed only on one side.

Q. So you've seen people use these for toilet paper as you say.

A. Yes.

Q. You watched them use them for toilet paper?

A. Well, they usually were in a certain amount of privacy and I didn't take the look so close, but I knew that sometimes money which had to be delivered to the S.S., when we were sorting out the property, has been disposed of instead of being given away, into the toilets, so that the Nazis don't get hold of Western currency. It was a type of sabotage.

Q. I see. Why not just rip the money up?

A. Because by ripping the money up it is rather a long process, and if somebody would see it, you would lose the life of it.

Q. Well, it would easier to smuggle it into a latrine and use it for toilet paper?

A. Well, if you go to the toilet you might use it for toilet paper, or if you are worried, you can throw it in. Sometimes I threw bundles of hundred-dollar notes.

Q. I see. Whole bundles of hundred-dollar notes. {1439|1440}

A. That's right.

Q. And you also seemed to indicate that bribes in the region of hundred thousand British pounds were used in the camp, don't you?

A. This is quite possible, yes; but such bribes were not paid in currency. They were paid, usually, in diamonds – you know, a tin-full with diamonds is sometimes worth hundred thousand pounds or more.

Q. Well, I understood you to have said, at one point, that somebody bribed an S.S. guard with a hundred thousand pounds.

A. Well, I didn't refer to cash. I referred to valuables valued at hundred thousand pounds.

Q. The way I understood the story you told was that the S.S. guard would be paid from somebody outside the camp.

A. I don't understand now to which story you refer.

Q. Mm-hmmm. You don't remember that?

A. Would you please remind me? There were several stories, bribery of S.S. The S.S., apart from being murderers, were also thieves. This goes together.

Q. Sure. You don't recall the story of the hundred-pound bribe that you used in your book? There were more than one?

A. The bribe that Charles Ungel paid in order to smuggle him out from

the camp?

Q. Mm-hmmm.

A. Yes, I remember the story, and remember that money was supposed to be paid. It was in {1440|1441} tins. So this means that I assume that there were gold and \$20 pieces and various other gold monets, and mainly diamonds with considerable size of carats, and it would be roughly valued to a value of half a million dollars or hundred thousand pounds.

Q. Mm-hmmm. Do you agree with me that many people escaped from Auschwitz?

A. I have no statistics about it.

Q. Are you familiar with the book, "Fighting Auschwitz", by Joseph Garlinski?

A. Yes.

Q. Are you familiar with that book?

A. I think I perused that book, yes.

Q. Sorry?

A. I perused that book. I even met Mr. Garlinski in Paris once in 1972.

Q. Yeah. Do you agree with me that he indicates that altogether there escaped from Auschwitz and its sub camps, chiefly Birkenau, 667 prisoners of whom sixteen were women in 1942, in 1941, six —

Q. Does he refer to successful attempts or escapes of attempts?

Q. Well, later on he deals with how many were successful, but I am dealing with escapes.

A. Well, you see, here you must take it with a pinch of salt, because Germans considered attempts escapes, they hang. For example, I saw a political prisoner hanged because he had two shirts under his tunic, and he said he wear two shirts because he is feeling cold, and the answer was, if others can feel one shirt without feeling cold and he wears two shirts, then {1441|1442} this is obviously a preparation for escape and he was hanged for that. Now, in the statistics it would go as execution for attempt to escape, so I don't know, therefore, how the statistics correlate for attempts to escape.

Q. So you don't know whether there were other people who escaped or not.

A. I know that there was a major outbreak of sixty-five Russians under special circumstances, and I have been present on numerous amount of hangings of people who were supposed to have tried to escape.

Q. Mm-hmmm.

A. But I have got no personal knowledge of anybody who successfully escaped without being brought back into the camp.

Q. I see. So nobody successfully escaped.

A. To my knowledge.

Q. So that is why, I suppose, nobody but you would have raised the extermination allegation. Is that your explanation?

A. No. Some people escaped, perhaps, and went into hiding. And so that they are perfectly satisfied with the achievement that saved their lives from the hands of those murderers, but I felt that I have to do more, and that is why I wrote the report and tried to allow the events which are occurring in Auschwitz.

Q. You had a deep and abiding hatred for the Germans, I would imagine.

A. I am perfectly fluent in German as well as in Russian, and I love Goethe [sic] and I love Pushkin {1442|1443} and I am an enemy of anything that smells of hatred against a nationality. I had a perfectly human hatred against Nazis because these were anti-human organization against whom the whole world was fighting for bloody six years, and I was no exception in the will and decision to do everything possible to get this evil down from the face of the earth.

Q. Mm-hmmm. So it's a political organization you hated, not the people themselves.

A. To hate the people as a nation I consider a criminal matter.

Q. Mm-hmmm. You hated the Nazis, though, I assume from your answer; is that right?

A. I would say so.

Q. And you hate them enough to lie about them?

A. I beg your pardon?

Q. Do you hate them enough to lie about them?

A. I have sworn on oath that here I will say the truth, and you will make an innuendo that I have lied in anything, then you would have to support it with some evidence, otherwise I would think badly about it.

Q. Well, I suggest to you that in your previous evidence you gave us to believe and told us as a fact that when the S.S. man climbed up on the long bunker, he had to reach up six and a half to seven feet. I put it to you that that is exactly what you said, sir, isn't it?

A. Is it?

Q. I put it to you, and you are the {1443|1444} witness, and you have the memory and you testified, I put it to you that's what you said.

A. I said, basically, that he had to reach up upon that bunker, and that bunker was, as far as I remember, certainly up to here if one would stand nearby, perhaps higher. So in other words he had to reach up and he had to climb. I didn't go there with a tape to measure if it was five or seven. You must understand that if I use such approximations, I am using them in order to make it more understandable to the jury and to the court of what approximately was involved, but they are not identical with engineering measurements.

Q. Well, you gave us to believe and you told us, as a matter of fact, and I put it to you that you said six and a half to seven feet.

A. Yes.

Q. That's what you said.

A. Yes, that would be approximately the height of a grown-up man.

Q. Aha.

A. Yeah.

Q. Now, I put it to you that the roof of the Leichenkeller to which you referred on the map ...

A. Yes.

Q. ... was actually parallel [sic] to and very close to the ground.

A. That is what you are putting to me?

Q. Yes. That's right.

A. How do you know that?

Q. Because I have seen the plans, if you want an answer. Have you seen the plans? {1444|1445}

A. No.

Q. I will show them to you. I now produce and show to you George Wellersleigh's [Georges Wellers] "Gas Chambers" – or "Les Chambres a Gas ont Existée" - The Gas Chamber Do Exist.

A. Did exist.

COURT: Ask him if he knows about the book and the plan.

Q. MR. CHRISTIE: Have you seen this book before?

A. I have never seen this book before, but I have seen the author, George Wellers.

Q. Have you seen these plans before?

A. I have not seen the plans. May I make a remake?

Q. You described the death of Josef Erdelyi, on page 149, 152 – 193 of my book, and then on page 170. Can you tell me why you described it?

A. Could you once more tell me the numbers?

Q. On page 149, 152 and 153 you describe the death of Josef Erdelyi from typhus, and then on page 152 you describe him as being with you. Can you explain that?

A. Numbers up to 153?

Q. Yes. Those are the pages and they are identical. You are using the hardcover edition; I am using the soft edition.

A. Well, I don't need to go into the matter to explain this, because I remember it quite well. What happened is the following: {1445|1446}

I described in the book the death of Erdelyi, and then, later, Erdelyi appears as a hanging as a witness; is that right?

Q. That is what I recall.

A. That's right. That was in the book. You are recording it quite right. This means that I described how my friend, Erdelyi from Banowce (ph), a friend of mine, from childhood, in approximately September or October 1942, but in later part of the book, until then, I haven't written anything about the procedures which are applied in Auschwitz for attempts to escape. And the first time when I saw such procedures was approximately in July 1942, in the first week when I was in Auschwitz. At that

time Erdelyi lived. In other words, what I have used in this book is what is a general technique of many who write books on literature, that it is a flashback.

Q. Yes. Okay. So it's a flashback, right?

A. Yes.

Q. Okay. Now, in the book you give narrative. You give words to people and you create situations.

A. Words to people who create situations?

Q. Yes.

A. No, I don't create situations. I describe situations.

Q. Can you tell us how, in this book, you describe the words uttered by people at the time?

A. I certainly didn't have a stenographer nearby to record the words exactly, neither did {1446|1447} I have a dictaphone to —

Q. But I suggest you have a good imagination, so I suggest you created the words.

A. You can call it imagination or you can call it good memory.

Q. Yeah.

A. In other words, I have created the situation in an artistic way, if you allow me to count myself on account of this book as an artist or as an artistic attempt.

Q. I suggest, also, that you falsified to some extent as well, because throughout the book you referred to someone by the name of Rudolf Vrba, and you attribute the name Vrba to the conversations, and Rudi, meaning you, and in fact, there was nobody by that name in the camp, sir. Is that right?

A. That is perfectly so, but I would take a great objection against your word "falsify", because I would say, then, that the artist drawn my moustache in a different way has falsified something. This is not a document, but literature, and literature has been meant mainly for young people and it would be for young people a considerable confusion to explain to them all the methods of clandestine work and how it came that the names have to be changed.

Moreover, I would have to explain my real ground and reasons why I changed my German name to the name of my native language, and this would have transferred, perhaps, a national hatred to the reader, which I wanted to avoid, against the Germans.

In other words, I used my licence of {1447|1448} a poet, it is called *licencia poetarum*, to put in the book only those facts and events which will enable a young person to understand the general situation.

Q. Mm-hmmm. So for you it's poetic licence?

A. Poetic licence in this particular case.

Q. Yeah.

A. In other words, I am not bound to make of it a document, but recreates the situation as close as possible to the truth without complicating it.

Q. Without complicating it. Without quoting from the book that you have, I am quoting from one that you acknowledge is attributed to you. Maybe we should check the foreword, the preface in the one you have.

A. Yes.

Q. See if it's the same preface.

A. Mm-hmmm.

Q. Will you agree with this statement about this writing: "There is no chip on his shoulder; and bitterness, where it exists, is controlled carefully by undeniable facts, not by fancies ..."

Do you agree?

A. Where bitterness ...

Q. No. "... and bitterness, where it exists, is controlled carefully by undeniable facts, not by fancies".

A. That is perfectly so. In the first line, as far as the bitterness, it is absolutely unimportant in this Court whether I am bitter or sweet. The fact is, whether I am right or wrong about the gas chamber {1448|1449} in Auschwitz, as far as the preface which is written about Mr. Alan Bestic, you have to discuss the literary merits of Mr. Bestic with him personally.

Q. I am interested in discussing the facts with you, and I want to know if you say that it is an undeniable fact contained within this book.

A. This book describes that Auschwitz was a place of mass extermination, that during the time when I was, 1,760,000 men, women and children were murdered in a low way.

Q. In the gas chamber?

A. In the gas chamber and otherwise.

Q. I have a question for you.

A. Please don't interrupt – and to this extent, the book, naturally, is true.

Q. You say 1.7 million people were gassed in Auschwitz, and that is truth?

A. 1.7 million —1,760,000 plus, in the time of my being there, because many others were killed when I wasn't there, but I wasn't an eye witness and I have no right to talk about that.

Q. You say 1.75 —

A. 1.765, according to my count.

Q. Of people gassed while you were there.

A. Yes.

Q. That includes Jews and gentiles and everybody else.

A. That's right.

Q. Isn't it true that in the War Refugee Report that you provided at the time, that you {1449|1450} said 2.5 million people were gassed while you were there.

A. I've got the War Refugee Board here in front of me, and it is come from the Office of the President of the United States of America, and has a seal of the Criminal Division of the Office of Special Investigations.

Q. I am wrong. I will withdraw that question.

A. You are wrong again, or should I prove that you are wrong?

Q. No, that's fine. I'll admit I am wrong.

A. Because according to here —

THE COURT: Just a moment, Doctor. Defence counsel has said, as I heard him, that he was wrong. I don't think there is any need for you to prove it unless he asks you again.

A. Thank you.

Q. MR. CHRISTIE: You say 1.765 million, is that right?

A. 1.765 thousand.

Q. Right. Did you see one person being gassed yourself?

A. I saw 1.765 thousand people walk into the space between Krematorium I and Krematorium II, Krematorium III and Krematorium IV, were in front of my eyes knowing that the space is absolutely closed, because there is no road out from there except coming back the way they went in, and nobody came out from there except smoke. If you, perhaps, suggest that they are still there, that's a different thing. {1450|1451}

Q. Well, we will discuss that in a moment, but we will find in your book where it says – and I am using page ten, but your book is slightly different – I am just going to read it to you:

"For the machinery that sucked in 2,500,000 men, women and children in three years and puffed them out in harmless black smoke ..."

Was that what you said?

A. Which page is that?

Q. Mine was ten. Yours is around there in your hard cover.

A. Well, this is a very simple calculation, Mr. Counsel, because when I escaped on April 7, 1944, the main message which I was carrying was that everything is prepared for the mass murder of Hungarian Jews. At that time there was one million Hungarian Jews, and as you can find from historical documentation which is presently available, in the time of July 15 to May 15, 1944 to July 7, 1944, not less than 437,000 Hungarian Jews were deported to Auschwitz, of which ninety percent were gassed at arrival.

Now, if you add to 1,765,000 those Hungarian Jews which were deported to Auschwitz immediately after my escape, plus as we know many thousands of Jews who were brought to Auschwitz for process of mass murder from the ghetto of Loge and from the ghetto of Theresine [Terezin] in the month after my escape, you will find that my figures are as true as possible or as close as possible to the historical records.

Q. So you are telling me about the facts that you gathered from other

sources and you are {1451|1452} telling me that it is —

A. Plus my judgment, with my accuracy, with trusting to what I have seen, and with knowing what happened in Hungary, because many of my relatives perished at the same time, and with knowing, studying the history of this period. I arrived at a figure of two and a half million dead in Auschwitz, saying that this figure is pretty close to the truth, but the truth cannot be established with my means better than with a maximum possible error of truth minus ten per cent. That is clearly stated at the end of this book. And in my affidavit, which I have put under oath, the Embassy of Israel 1960 the Eichmann trial, and if I am allowed to quote the exact —

THE COURT: Not at the moment.

Q. MR. CHRISTIE: It was a simple question as to whether you estimated 2,500,000, and I think you said yes, and you've told us why. Maybe I will go on to another question unless there is something you want to say.

A. And you have got here everything how I came to the 2,500,000. You are confusing us here because the jury did not read the book, and therefore you are again pulling out things which I have to repeat and which are here on this page, and I can tell you on this page is written that I have seen only one million three quarters to die until April 7th, and I have also said that the figure two and a half million is made up by the addition of the final value of my statistics in April 1944 plus a known figure of 400,000 Hungarian Jews killed in May, June and July 1944, plus official figure {1452|1453} of about 350,000 registered prisoners who died in Auschwitz.

Thus, as far as I could recollect, according to my memory, observations and opinion, the number of victims in Auschwitz was two and a half million. Thus, my estimation of the death roll in Auschwitz and the estimation of the death roll made by Rudolf Hoess, the commander of Auschwitz, made independently of each other and using different methods, were nevertheless in good agreement, and I declare by Almighty God that this is my name and signature and that the contents of my affidavit are true.

So you see what is the difference between you tearing out a statement and between presenting the statement in full as I suggested.

Q. I suppose the only difference is, you confirm that your figures now agree with those of Rudolf Hoess. Right?

A. As far as I could see. I read the figures of Rudolf Hoess and I arrived at the same conclusion as Rudolf Hoess. Also, Rudolf Hoess statistics, his method of observation is different than mine, and he came to the same figure. But I gave my figure in April 1944 when Rudolf Hoess was still commander in Auschwitz and that figure was reached the President of the United States in November 1944, when Rudolf Hoess was still commander in Auschwitz, and it is therefore obvious that it is not likely that I copied my statement from Rudolf Hoess.

Q. No. I quite agree with you. But how do you explain the fact that the estimate given by {1453|1454} you coincided with a statement given by Hoess two years later?

A. Because Hoess knew the truth, and I knew the truth.

Q. How do you explain the fact that experts like Dr. Raul Hilberg dispute that figure and say it is closer to one million, or, in Reitlinger's case, 800,000 at Birkenau?

A. It is not for me to explain the scholarships of Reitlinger or Hilberg, because they have different methods of scholarships. For them, if they do not have documents of considerable value and amount, which are very difficult to obtain, they prefer not to include that figure in their final calculation, because they are bound by historical discipline whereas my figure is based on eye witness account.

Q. You claim that you then were an eye witness to the gassing of 1,765,000 people, right?

A. Right. And I think that in this respect both Hilberg and Reitlinger has made an under estimate. Similarly, both Reitlinger and Hilberg have stated that the number of Jews killed in Einsatzkommandos – this means by shooting and not by gassing – was 1,400,000, but three years ago I have written a new study by Professor Krowsnick from Germany, Professor in Cologne and Director of the Institute ... and this

professor Krowsnick, on the basis of exclusivity, German documents, without investigating any of the survivors but investigating only the German officers and their correspondence about it, was able to reconstruct that it was not 1.4 million, but two and a quarter million {1454|1455} who were murdered by the Einsatzkommandos.

So you can see that in spite of the great effort which the Nazis have made to cover up the incredible and unbelievable crimes, modern scholarship is constantly improving with more than scientific methods the truth. The truth is not so simple. So you can —

Q. Now, sir —

A. So you can see it is not criticism of Hilberg and Reitlinger. It just shows that better scholars with better methods and better access to sources can give more exact figures and those figures are most close to mine, based on observation, than the figures close to scholars who spend their lives only in limited amount of libraries.

Q. So your experience, then, supersedes your knowledge on the basis of what you said.

A. This would be natural, because I was there.

Q. And you counted 1,765,000 going into the gas chamber.

A. That was told to you twice.

Q. Thank you. You also described the situation where you said that the guards forced the prisoners to sing “Silent Night” and beat them to death if they didn’t. Is that right?

A. I beg your pardon?

Q. You, in your book, describe a situation where the guards forced the prisoners to sing- “Silent Night” at Christmastime, and if they didn’t sing properly they were sent to bed without supper. Is that right? {1455|1456}

A. That is right partially. Others were murdered.

Q. They were murdered for not singing “Silent Night” properly.

A. That’s right. And if I may add another legal point of view, I have been approached by the German Embassy, German Consulate in Vancouver three I months ago on the case of investigation of the well-known event in Auschwitz I and Birkenau, that during Christmas of 1942 they put up a great Christmas Tree and brought there a number of prisoners, killed them and hanged them over that Christmas Tree and proclaimed that this is a suitable ornamentation at this period in this place. This became an investigation. The perpetrators of the crime are known by name to the Consul General of the Federal Republic of Vancouver, and I am sure he will be more than willing to provide you with the documentation.

THE COURT: Just a moment, Doctor. We are getting far afield here. What is your next question?

Q. MR. CHRISTIE: Is it your observation that prisoners would be singing on their way to work from Birkenau?

A. Yes.

Q. And they would go out and work in the fields from the women’s camp — the women would go out and work in the fields? Do you deny that?

A. I haven’t seen that. I have seen them marched to various places of work.

Q. Singing.

A. Singing. On order. German songs. {1456|1457}

Q. Yes.

A. But I have never seen them working in the fields. I saw them working in Kanada — this means during sorting out of the goods which were stolen from the victims, and I have seen them being marched into the armaments factories of Krupps and Siemens and of German armament factories DAW, but I didn’t see them working on any fields. There might have been such a thing, but I was not aware of it and I was not an eye witness to it.

Q. Sure. Are you aware that in your book you described an air raid upon Auschwitz-Birkenau in April of 1944, two days after you escaped?

A. April ...

Q. April ‘44.

A. Which day?

Q. I think you said the 9th of April, two days after you escaped.

A. That’s right.

Q. Is that right?

A. That’s right.

Q. I was going to ask you if, in view of the fact that you dispute what Reitlinger and Hilberg said — because they are not at the scene — whether you agree that other authors who were at the scene and lived in the concentration camp say there was no air raid until August of ‘44 — months after you were gone.

A. This I can easily explain his apparent discrepancy, by simply showing you a map.

Q. Please do. You know what I mean, don’t you, when I say — {1457|1458}

A. Very well.

Q. You know that Primo Levy, who claims that he was a survivor of Auschwitz, claims that there was no air raid until later until after you left?

A. Pretty well. I will explain where the discrepancy arose.

Q. Before you get the explanation, let me put on record what I suggest he says. You know that he says, quoting page 107 of his book, “Survival in Auschwitz”, by Primo Levy, he says:

But in August ‘44 the bombardments of Upper Silesia began and they ... pauses and renewals in the summer and autumn until a definitive crisis ...

Now, you read about that and you are aware of it?

A. Beg your pardon?

Q. You know about that passage, don’t you?

A. Yes, I do.

Q. Now, can you explain:

On the night of April 9th we had a shock of a distant nature. About eight o’clock we heard the rumble of distant air planes, something we had not known in Auschwitz. They came closer and closer and then bombs began to scrunch not far away.

You agree that is what you wrote?

A. Yes.

Q. One other question. There is no doubt about Auschwitz-Birkenau being in Upper Silesia and Primo Levy is talking about Birkenau in his book.

A. Yes. {1458|1459}

Q. Now, will you explain it?

A. I allowed to go to the projector?

THE COURT: If you feel that is the best way to explain it, you may do that.

THE WITNESS: On April 7, 1944, I went into hiding. This was for my escape. And I stayed there for three days and nights covered by many layers of wood. Here, at this place, approximately at the northeastern corner of Birkenau camp, were situated a battery of anti-aircraft artillery.

When I was hidden in my place here, it wouldn’t be possible for me, due to the position of this anti-aircraft battery that I never heard before, to distinguish if it was a bombardment or if the artillery has been activated. As far as I know it has been published recently that the first air planes flew over Auschwitz already on 1st April 1944, and as far as I remember I heard a plane overhead and I heard strong explosions which were shaking the bunker in which I was. It is quite likely that the artillery fire which was opened on the 9th against the air plane in the situation in which I was, I consider for bombardment.

Q. Thank you.

A. In which case I made an error.

Q. So really, what you said as to bombs falling, was the anti-aircraft guns going on?

A. If there were no bombs, then it was anti-aircraft guns which were in close vicinity

Q. Mm-hmmm. But anyone else who was in the camp would have heard the same guns, wouldn’t they?

A. I would think so. {1459|1460}

Q. Same noise.

A. I would think so.

Q. And you don't dispute what Primo Levy, a prisoner, says, then.

A. Well, I don't dispute it, but Primo Levy, if you read carefully his book, he was in Auschwitz III at that time, which is further in the Buna-works than I was from the artillery which was operated about a distance of two hundred yards, whereas he was in a distance of about six miles. So he might have heard something different than I did.

Q. Oh, I see. Thank you.

A. You didn't take notice that Primo Levy was in Auschwitz III.

Q. No. I'll check that, though.

A. Please do.

Q. You describe that you went to the hospital and recovered and had surgery and you had an operation. How do you explain your miraculous value as opposed to others who you say were not given treatment?

A. I will explain in a minute. Your Honour, can I leave the room for two minutes?

THE COURT: Yes. Members of the jury, you are excused for five minutes.

— The jury retires. 12:45 p.m.

— The witness retires.

— Short adjournment.

— Upon resuming.

— The witness returns to the stand.

— The jury enters. 12:50 p.m. {1460|1461}

Q. MR. CHRISTIE: I think, Dr. Vrba, you were telling us why you were of exceptional value that you should have been given a surgical operation to save your life.

A. I am quite sure I didn't tell it in those words.

Q. No. I asked in those words. I suggested to you that that could be the only explanation why you would be saved and given a surgical operation and nobody else, and everybody else be killed when they are sick.

A. Well, you are again misrepresenting something which was written in the book, and if you will allow me, and if Your Honour allows me, I am rectifying this misrepresentation.

Q. Well, I will be glad to hear your explanation.

A. When I became very sick I wasn't able to go to work any more and I was put into the Krankenbau where I was for about one week, and it was known, there were in Auschwitz I, there were eight hundred or nine hundred dying people there from various diseases [sic] and during that time I have made some connection with someone who has got flu among the prisoners in the camp, there was a German prisoner called Bruno who was the head of Kanada —

Q. Just a minute. Kanada didn't exist in Birkenau — remember?

A. No. This was in Auschwitz. The operation took place in Auschwitz. You would help me if you do your homework. {1461|1462}

THE COURT: Just answer the question, Doctor.

THE WITNESS: And after a week of time I have found the connection of this Kapo, Bruno, who was obliged to me for a personal favour. This means that I didn't give away that he stole something from somebody else under torture, in consequence of which I suffered this reversal in my health. And this Kapo, Bruno, had access to the properties in Kanada which were confiscated from the murdered Jews and found ways to get them into his pockets before they reach the pockets of the S.S. He was a thief, too, and he used that to bribe a certain doctor, a Dr. Derring, who was surgeon formerly before the War, on the medical school in Warsaw, and for proper reward he took the risk to operate, make a serious surgery on a Jewish prisoner. So this was against the rules.

So he performed this surgery and he performed it successfully. It was an excellent surgeon who, unfortunately, wasn't too well equipped; but the situation is different, and you managed to misrepresent it as if I would say that I am somebody unusual.

Q. Mm-hmmm.

A. I had only luck that somebody helped me in a critical moment.

Q. Mm-hmmm. And your evidence is that nobody else got that kind of treatment, is it?

A. I wouldn't say that nobody else. I would only say that such a treatment was available under suitable star constellation, if I may put it that

way.

Q. Star constellation? {1462|1463}

A. Constellation of stars. It is a bit of luck, with connections, and not sufficient control from the S.S. who is being operated on it was possible, occasionally, to make a successful operation on a Jew with a risk.

Q. Well, you were considered a Jew?

A. Of course.

Q. You were considered a political prisoner?

A. No. I was considered a Jew.

Q. You were not considered a political prisoner.

A. No.

Q. You never indicated that at any time.

A. In my book?

Q. At any time.

A. I indicated in my book that I have been taken to the concentration camp Maidanek from the concentration camp in Novaki (phonetic) with one thousand other Jews in a family transport of Jews to the concentration camp of Novaki. I mentioned even a number of Jews who were with me, and I mentioned that from the people who were sent with me, I was the only one who was sent alive, and if you will read the book carefully, I am sure you will be able to confirm what I said here under oath.

Q. So you did not claim to be a political prisoner.

A. No, I did not claim to be a political prisoner.

Q. And in the War Refugee Report that {1463|1464} you were supposed to have prepared it said the words, and I quote:

"Finally we were issued a set of prisoners' clothes similar to those we had worn in Lublin and were enrolled as political prisoners in the concentration camp of Auschwitz."

Was that you?

A. I must first check on it. It is my copy which I received, because you might, by error, give me something to read which is not quite so.

Q. That's possible. Page 29 of the War Refugee Board Report.

A. Yes..

Q. Lublin is where Maidanek is, isn't it?

A. That's right.

Q. And that is you, isn't it?

A. That's right. And which line are you referring to?

Q. The last line on page 29.

A. Yes. Political prisoners in the concentration camp of Auschwitz. Now, this is the Report as I wrote it, it was in the Slovak language from which it was translated into German language, from which it was translated into the English language, and there is an error in translation which I can explain if I am allowed to go, again, to the projector.

THE COURT: Just a moment. Mr. Christie?

MR. CHRISTIE: I have no objection.

THE COURT: Yes. {1464|1465}

THE WITNESS: As I explained to you as your question, or as the question of Mr. Crown Attorney, all prisoners, apart from the number, were marked. The political prisoners were marked with a red triangle. The Jews were marked with a red triangle over which was overlaid a yellow triangle, so that the whole thing, together, makes — I don't have yellow colour — a Jewish star. This meant a Jewish prisoner.

Q. A Jewish political prisoner.

A. It meant a Jewish prisoner. However, it was the habit, when one spoke about prisoners, it didn't say there were five hundred prisoners, but used the word Schutzhoftlinge [Schutzhäftlinge]. This is a German Nazi euphemism which, translated, means preventive imprisonment. And in my original I have said that we were Schutzhoftlinge which, due to the several translations, obviously, by the time it was translated, meant political prisoners; but notice that the word "political prisoners" is written in quotation marks. So because Washington, they didn't have a dictionary which didn't contain the Nazi lingo, they translated freely as political prisoners and put on it quotation marks, a sign that they are not quite sure of the translation. And this, you can see, I would like to present that — to whom should I present this evidence?

THE COURT: If you are finished with that, you can come back to the

box, please. Now you can finish your answer.

THE WITNESS: You will agree with me that the word "political prisoner" in this American G translation is in quotation marks, whatever that means.

Q. Yes, I will agree with you. I will {1465|1466} just ask you if you were a political prisoner, and your answer is no.

A. No. I was a Jewish prisoner.

Q. Your answer is that it is a mistranslation by those of the War Refugee Board in English?

A. Schutzhoftlinge into English, and translated it into "political prisoners", and my answer is that they didn't know how to translate it.

Q. Now, we were talking about the Gralinski book about Fighting Auschwitz. Have you heard of this book?

A. I have heard about the book.

THE COURT: Just a moment. You were asked, Doctor, whether you were familiar with the book.

THE WITNESS: I am not familiar with the book, but I heard about the book.

Q. MR. CHRISTIE: I wonder if I can ask you if you could address your mind to this particular statement in the foreword to the book, and maybe I can quote it to you.

A. Yes, please do.

Q. Okay. It says:

"Escape from Auschwitz was more common than from camps that were within German-speaking territory. Over 600 escapers are recorded of whom about a third got away."

Is that true or false?

A. This means that Mr. Gralinski is saying in his book?

Q. I didn't say Mr. Gralinski said {1466|1467} that. It is printed in the book by M.R.D. Foot.

A. Yes.

Q. I want to know if it is a false or true statement.

A. It might be true or it might be false. Ask Mr. Foot.

THE COURT: We will adjourn till two thirty.

— The jury retires. 1:00 p.m.

— The witness stands down.

— Luncheon adjournment.

— Upon resuming.

— The jury enters. 2:35 p.m.

— The witness returns to the stand.

THE COURT: Go ahead, Mr. Christie.

MR. CHRISTIE: Thank you, sir.

Q. I'd like to now produce and show to you what appears to be a drawing that was made, I suggest, by you in your 1944 War Refugee Board Report; is that correct?

A. Yes. I have shown it yesterday.

Q. Would you look at each one and make sure that they are all identical? Then I may ask another question.

A. You say they are identical?

Q. I am suggesting they are. {1467|1468}

A. Okay.

Q. Okay? I've made many copies.

MR. CHRISTIE: Your Honour, may I give one to each of the jurors?

THE COURT: Have you seen these, Mr. Griffiths?

MR. GRIFFITHS: Yes, Your Honour. I am familiar with the drawing. I have no objection if my friend wishes to do that.

MR. CHRISTIE: It's just a diagram made, I think, in 1944.

THE WITNESS: Yes.

THE COURT: Yes. One of them may be made an exhibit, and then they can be distributed.

THE REGISTRAR: Exhibit 22.

EXHIBIT NO. 22: Diagram from War Refugee Board Report.

Q. MR. CHRISTIE: That's your best recollection when you were giving your report to the Czechoslovak authorities. Right?

A. Yes. That's about how I recollected the situation.

Q. Would you like to keep it?

A. Yes. Thank you.

Q. I'd like to distribute one of these to each member of the jury.

THE COURT: Yes.

Q. MR. CHRISTIE: Now, you agree with me, sir, that that's quite different than the evidence you {1468|1469} presented in-chief as your recollection of the camp; would you agree?

A. No. Not at all.

Q. Okay.

A. That's untrue.

Q. I now produce and show to you what appears to be a photographic kind of schema of the camp as I believe you presented it on your overhead projection.

Was that not the way you presented it before, sir?

A. That's right. Except that this is dated 25th April, 1944, and this is a later graph which I have taken out from literature, because it shows certain developments which took place after my escape. However, at the same time, the two graphs are not significantly different, considering that this is done by engineers and this by an amateur from memory.

Q. Recollection, yes.

A. Yes.

THE COURT: The second document you showed him, Mr. Christie, is what?

MR. CHRISTIE: Actually, Your Honour, I can tell you that it is a photocopy out of the book, "Eye Witness Auschwitz" by Filip Muller, "Three Years in Gas Chambers", published Stein & Day, New York, 1979.

And with your permission I'd like to show that to the jury as I have several copies of that as well.

THE COURT: As I recall it, Dr. Vrba has identified it as being, in his view at least, accurate.

THE WITNESS: Yes.

THE COURT: Is that correct, Doctor? {1469|1470}

THE WITNESS: I said that in my view this has been done after my escape, this second map, and with considerable changes which I was not aware my map. However, the changes were not so significantly different so that the pictures were a reasonable semblance.

THE COURT: Yes. All right. Then you can do that, Mr. Christie.

THE WITNESS: It is like looking, if I may add, of a picture of a three or four-year-old child. You can recognize both, but it's not the same.

THE COURT: All right. Thank you.

MR. CHRISTIE: I then would offer this, Madam Registrar, this copy, and if I may I would like to show copies of this to the jury.

THE COURT: Exhibit 23.

— EXHIBIT NO. 23: Map of Auschwitz II-Birkenau.

Q. MR. CHRISTIE: Now, if I could, Doctor —

A. Yes, please.

Q. I think maybe there is an extra one.

A. Thank you very much.

Q. I'd like, if you would, to put this one in your right hand, and the one that you drew in 1944 in your left hand, so we can discuss them in that way.

A. Yes.

Q. Is that all right, then? Okay. {1470|1471}

Now, looking at the right hand, sir, I put it to you that the actual location of the bathhouse is No. 9, called the Sauna.

A. Yes.

Q. You have indicated a bathhouse on the diagram in that general area.

A. Yes.

Q. On your diagram of 1944; is that right?

A. Right.

Q. Yeah. So at least as far as that is concerned, we are not talking about something that wasn't there at the time, are we?

A. I beg your pardon?

Q. When we talk about a bathhouse, we are talking about only one in that area of the camp, which in the righthand drawing is No. 9. Right?

A. Yes.

Q. And it seems to be drawn in your diagram in 1944. Right?

- A. Yes.
- Q. It is drawn in a totally different place, though, isn't it?
- A. No, it's not drawn in a totally different place. You've got, excuse me, you've got there quite clearly on the righthand side shown that the two crematoria and the one bathhouse are in one complex, and the same you can see on my drawing, that the two crematoria and the bath are in one complex.
- In other words, my drawing hasn't got the engineering precision of fifty or sixty yards, but {1471|1472} these two pictures both identify that the two crematoria and the bath are enclosed in barbed wire electric fences together.
- Q. Yeah. I put it to you that the area just below the number 9, sauna, or bathhouse, is the area known as Kanada in the drawing; isn't it?
- A. That's right. And that area was not there when I was escaping on 7 April, or at least, I couldn't see it because it is a long time before my escape that I visited the crematoria.
- Q. Oh, you visited the crematoria.
- A. Yes.
- Q. When?
- A. On several occasions.
- Q. Where did you go?
- A. I went to have a look between the two crematoria and have a look what is happening there.
- Q. Oh, yes. And what was happening there?
- A. I could see people being taken into the crematoria.
- Q. And this is not the occasion when you were at Fred Wetzler's mortuary. This is another occasion, is it?
- A. Perfectly another occasion.
- There was occasion when I was in – Registrar in "BIIA", and my job was to go to "BIID", and because I am a little bit of an inquisitive nature, and also took a little bit of a risk, I simply pretended that I've got some business there and walked on.
- Q. Oh, so you walked between the two crematoria. {1472|1473}
- A. That's right.
- Q. Between Krematorias I and II?
- A. No. Between Krematoria III and IV.
- Q. Oh, between Krematoria III and IV, down the roadway.
- A. That's right.
- Q. They are marked 5 and 6 on the diagram, aren't they, on the righthand diagram.
- A. I think that the right, or the righthand diagram, the crematoria are denoted as 4 and 5, whereas in my diagram they are denoted as III and IV. Now, this is because there were two types of nomenclature of crematoria in Auschwitz. There was a smaller crematorium in Auschwitz I.
- Q. You saw that one too?
- A. I saw, yes. I was inside there.
- Q. Were you inside that, too?
- A. Yes, being inquisitive, I was in there on occasion.
- Q. And were the people gassed at one time?
- A. Just a moment, please. Don't interrupt me. I would like to explain to you the nomenclatures, because there is a discrepancy between nomenclatures on your and my graph.
- Now, the habit was that when crematoria were built in Birkenau, the prisoners called them I, II, III, IV in the order in which they were built, but the Bauleitung – this mean the Official Administration of Builders – took into consideration that there is already one crematorium in Auschwitz and called the new crematoria {1473|1474} II, III, IV and V.
- Consequently, on my map what is called III and IV, which is unofficial map because I gave it my own nomenclature, there is a small difference between the map, the more official map and which denotes the crematoria on the northern side of the map as IV and V, whereas I denote them III and IV.
- Q. I'm sorry, I don't think you've given me the answer to my question as to whether you were in Krematoria No. I in Auschwitz.
- A. No, I was not in Krematoria – oh, in Auschwitz.
- Q. Yes.
- A. Yes, I was.
- Q. Were people being gassed there at the time?
- A. No, they were not gassed, and there was a particular occasion when I went into that crematoria and —
- Q. I see.
- A. There must have been a particular reason, because it was not a walking sort of distance.
- Q. Mm-hmmm.
- A. When I was working in Kanada, in November 1942, I have been taken to the dumping truck to Krematoria I in Auschwitz. The Krematoria I in Auschwitz was on yard – that yard on the lefthand side had, to my recollection Krematorium I, and to the righthand side there was a hospital for S.S. The best would be, again, if I show it on a – do I have permission?
- Q. What I would really like to do is {1474|1475} deal with the diagram we have in our hands. This is Birkenau we are dealing with.
- A. Yes.
- Q. I asked you if you had been in Krema I in Auschwitz when people were being gassed, and I think the answer is no. Correct?
- A. The answer is no. I went there for collecting their clothes from the gas chamber in Krematorium I.
- Q. From the gas chamber?
- A. Yes.
- Q. Were you inside?
- A. Yes.
- Q. What did the gas chamber look like?
- A. It was originally a garage which connected the S.S. barracks with that small crematorium.
- Q. Mm-hmmm.
- A. And there were garage doors.
- Q. Mm-hmmm.
- A. And the roof was reinforced with earth. The inside was dark. The door was opened —
- Q. How wide were the doors?
- A. Like a good garage door, and two side opening to two sides.
- Q. Mm-hmmm.
- A. We went in under the pretext that we are collecting – not under the pretext, under the order to collect all the clothes which were there.
- Consequently, as I understood, the people had to undress before they went into that gas chamber. {1475|1476}
- Q. You are telling us —
- A. Then they were gassed, and then, because there were clothes in the yard in front of the hospital, they were shoved in the gas chamber before they were taken out. So I understand that was my job at that time, so I collected the clothes.
- Q. The clothes were in the gas chamber.
- A. Right.
- Q. Yes.
- A. So we collected the clothes from there, and at that moment I saw through the window of the crematorium a friend of mine from Slovakia, Phillip Mueller.
- Q. Who was he?
- A. Phillip Mueller.
- Q. Phillip Mueller in Auschwitz I?
- A. In Auschwitz I crematoria.
- Q. Yes.
- A. And I was also very well acquainted with his father.
- Q. Yes.
- A. Consequently, there was sort of an affinity between us because I took a little bit of care of his father before he died in Auschwitz. We came together from Maidanek. I spoke with Phillip Mueller through the window. Phillip Mueller explained to me —
- Q. Is this in the crematoria part, or the gas chamber part?
- A. No. On the yard, between the – on the yard in front of the crematorium, in front of the {1476|1477} gas chamber, and in front —
- Q. Now, let's go to find on the map on Auschwitz I where this is then.
- THE COURT: That's Exhibit 21, I believe, isn't it?

MR. CHRISTIE: Yes, sir. I'm sorry. It is marked "P" for identification. Maybe we can deal with that now.

Q. Would you like to show us on this map where the crematorium was in Auschwitz I?

A. On this map, which is not dated, it would be here, in this region.

Q. All right. Let's mark that.

A. And it is marked something like KI.

Q. KI.

A. Yes. In this region.

Q. Would you like to just mark an arrow and mark it to that area there?

A. Yeah. Not to that area there.

Q. Well, you do it.

A. I will show you this area.

Q. Okay.

A. Because I don't know the date of the map, and how many building changes have been made since.

Q. Sure.

A. So since I have saw it in 1942 and since this map is not dated, there might have been certain changes which I cannot clearly recognize.

Q. But you are prepared to identify {1477|1478} that building.

A. But I would prefer to say that the crematorium, here is the entrance to Auschwitz, here is a Block 1, here is Block 22. Yes, it was here in this region.

Q. Okay. So you just draw a circle on there, then, eh?

A. Yeah. And you can now mark it, please.

Q. So you want to put a mark on it to identify it?

A. What would you like me to write? Region of Krematorium I and gas chamber I?

A. Yes. Go ahead.

Q. And you don't mind if I add that this was as recollected from November 1942.

Q. Put it down.

A. Because how it look in November 1943, I don't know.

Q. Mm-hmmm.

THE COURT: Exhibit 24.

— EXHIBIT NO. 24: Large map of Auschwitz I (Formerly Exhibit "E")

Q. MR. CHRISTIE: How do you explain the fact that you've drawn on the diagram that I showed you every crematorium the same shape in 1944, when you drew the diagram upon your escape.

A. Because I had only two days to write the whole report, and to try to depict the crematoria.{1478|1479} There was a great urgency with that plan, because the objective of the plan was to get it to Hungary and to use this whole report towards the Hungarian Jews of imminent deportation.

Under that conditions I didn't lose much time with details like what is the difference between Krematorium I and II and Krematorium II and III, but I limited myself to depict the position of the gas chambers and crematoria one side, and the geographic position of the whole murderous complex on the other side.

Q. Sure. I now produce and show to you a diagram which came from, I suggest, your War Refugee Report of 1944 in which you depicted a crematoria. Correct?

A. That's right.

Q. Is it accurate?

A. This I cannot say. It was said that as we were not in the large crematoria, we reconstructed it from messages which we got from members of the Sonderkommando working in that crematorium, and therefore, that approximately how it transpired in our mind, and in our ability to depict what we have heard.

Q. That is what you depicted, though?

A. Yes.

Q. And it is accurately depicting what you depicted?

A. That's right. It is accurately depicting what I heard that it might look like.

Q. Okay. So you were never inside any of the crematoria, then?

A. Except for Krematorium I in Auschwitz

Q. Krematorium I in Auschwitz. {1479|1480}

A. Yes.

Q. So this wasn't a drawing of that. This was supposed to be crematoriums, two types, I and II, in Birkenau. Right?

A. That's right. And this was much more important because Krematorium I in Auschwitz, at that time was of minor importance. It had a capacity in several hundred people a day. This one had a capacity of two thousand people a day, and there were two of them.

Q. Two thousand people day?

A. That's right. Capacity. And there were other two that had a capacity of thousand people a day. This is all written in my report.

Q. Yes. And in your report you say twelve thousand people a day were killed at Birkenau. Right?

A. You will have to show me a passage before we draw some conclusions.

Q. I will. Let's deal with this. Can I ask you, if that accurately sets out what you reported at the time?

A. Yes. In scheme.

Q. In scheme, yes.

MR. CHRISTIE: Could I file this, please, Your Honour?

THE COURT: Yes. Exhibit 25.

MR. CHRISTIE: I've got copies for the jury, if I may.

THE COURT: Yes.

— EXHIBIT NO. 25: Map of Krematorium I and II, Birkenau. {1480|1481}

MR. CHRISTIE: And a copy for the witness.

Q. I put it to you that you did say in your book in 1944 that twelve thousand bodies were dealt with in twenty-four hours.

A. Could you please show me which page?

Q. I don't know, because it's in the first chapter, page ten my book, but you've got a hard cover edition.

A. First chapter?

Q. Do you remember saying that?

A. Well, I do not have the whole book by heart and I first would control what you are saying if it is true.

Q. Okay.

A. Or how far it is away.

Q. Mm-hmmm.

A. Would you please kindly turn to the chapter you've got in mind?

Q. I think it is the first chapter. That is where you were.

A. First chapter. Chapter 1.

Q. Just before the Heinrich Himmler incident.

A. Yes.

Q. Now, top of the page, Chapter 1, page 10:

"And so he gave orders for the greatest, most efficient extermination factory the world has ever known. For the modern concrete gas chambers and the vast crematoria that could absorb as many as 12,000 bodies in twenty-four {1481|1482} hours and, in fact, did so. For the machinery that sucked in 2,500,000 men, women and children in three years and puffed them out in harmless black smoke."

Have you got that paragraph? Do you recall writing that?

A. I would like to see if there are no changes from your version and mine.

Q. Okay. Now, it's before, "Commandant Hoess's brand new toy".

A. Is it on the end?

Q. No. Before that.

A. Yes. You see, if you don't find it in my original, then I will have doubts about the papers which you present.

Q. I see.

A. With all respect to you.

Q. Sure. Now, we will have to find it for you.

What I am going to suggest to you is that your diagrams presented at the time are certainly not consistent with your knowledge related in your later book. Would you agree? Do you understand the question?

A. Yes. Please. I am listening to you.

Q. I said your diagrams presented in 1944 are totally inconsistent with the information you presented in your later book. Would you agree?

A. No, it is not true.



Q. All right. I now present and show to you the portion of your book.

A. Yes. {1482|1483}

Q. Dealing with the twelve thousand bodies a day.

A. Mm-hmmm.

Q. Right there. Page 15.

A. Page 15. Right. Yes:

"For the modern concrete gas chambers and the vast crematoria that could absorb as many as 12,000 bodies in twenty-four hours and, in fact, did so. For the machinery that sucked in 2,500,000 men, women and children in three years and puffed them out in harmless black smoke."

Q. Right. Now, you said in your book further on that there were fifteen ovens that could burn three bodies each simultaneously in twenty minutes.

A. Where is it written in the book?

Q. Next. Two paragraphs down from the one that you just read.

A. Two paragraphs.

Q. Three paragraphs down.

A. "And so he gave orders for the greatest, most ..." "Heinrich Himmler visited Auschwitz Camp again ...", next paragraph, "This time I was glad to see him arrive ..."

THE COURT: A little louder, please. I can't hear, Doctor. The jury has to hear this and so do I. The jury is more important than I am.

THE WITNESS: Next paragraph:

"Once more we were lined up spic and span ..." Next paragraph, "Though he conducted his tour of the camp with his usual thoroughness ..." Next paragraph, "He was to watch the world's first conveyor belt {1483|1484} killing ..."

Q. Okay. That's the paragraph. It says in there:

"It was a truly splendid affair, one hundred yards long and fifty yards wide, containing fifteen ovens which could burn three bodies each simultaneously in twenty minutes ..."

A. Yes.

Q. That is what you said when you wrote your book.

A. Yes.

Q. When you prepared your report to the War Refugee Board, you described a gas chamber with a railroad track leading to nine ovens. Right?

A. A railroad track leading to several ovens.

Q. Just a moment. You drew the diagram to indicate nine ovens.

A. Mm-hmmm.

Q. With four openings each, or how many?

A. There are no openings recorded.

Q. None, eh?

A. None.

Q. But you say in the report four openings each.

A. Do I say it in the report?

Q. Well, it's your report. Don't you remember?

A. Well, I do remember. I've got a reasonably good memory, but if I mention a report which I {1484|1485} wrote exactly forty-two years ago, I'd like to check on it, if you don't mind.

Q. Yes. But the point is, Doctor, that at the time you made the report you were supposed to have a better memory, I suggest, because of the closeness to the event, than you had when you wrote your book.

A. Not necessarily, because at the time when I wrote the report I was not interested in the details too much, but I was interested in getting the message that crematoria exist, gas chambers exist, and the henchmen's axe is prepared for a million Hungarian Jews. So I gave some sort of depicting of geographic situation as well as I could, some of my memory, like this exhibit here. I saw things from inside and from friends got some rough idea what is inside. I saw it from outside. I added to it what it might look like, and in principle it is that the message was right. The crematoria were there. They had roughly the capacity described in the report. The geographic position of the crematoria was depicted with great exactness.

Q. In the Refugee Board Report I suggest to you that it indicates that it took an hour and a half to burn a body.

A. One moment. In which page?

Q. Well, first of all I ask you, do you not recall writing that?

A. Well, I recall, and it is in the files of the Crown Attorney, that there was a German publication recently published by somebody very similar to your defendant in which his paragraph was grossly distorted and embellished with lies which I have never written. {1485|1486}

Q. Well, did you or did you not say that it took an hour and a half to cremate a body?

A. I will first find it. If I said so, if you claim that I said it in my report, then find it.

Q. Look at page 14, last paragraph of your report, War Refugee Board Report:

"Each opening can take three normal corpses at once, and after an hour and a half the bodies are completely burned."

Is that in your report now I found it for you?

A. "Each opening can take three normal corpses at once, and after an hour and a half the bodies are completely burned."

Q. Yeah.

A. Right.

Q. Now, is that correct?

A. That is correct.

Q. Why do you say in your book that it takes twenty minutes with fifteen ovens and three bodies each, in twenty minutes you can burn them all? Why do you say two different things at two different times?

A. I beg your pardon?

Q. Why do you say two different things at two different times?

A. I say one thing. What is the second thing?

Q. One thing was nine ovens.

A. Yes.

Q. The other thing was three bodies in an hour and a half {1486|1487}

A. Yes.

Q. Now, in your book you say fifteen ovens, and three bodies in twenty minutes.

A. I don't see those three bodies in an hour and a half. Excuse me.

Q. All right. Well, we will go over it again. The War Refugee Board Report made in 1944:

"Each opening can take three normal corpses at once, and after an hour and a half the bodies are completely burned."

A. Right.

Q. The book which we were reading together – yours is a different page than mine:

"... fifteen ovens which could burn three bodies each simultaneously [sic] in twenty minutes ..."

Now, do you see the difference?

A. No.

Q. None. You don't see the difference?

A. No, no. In both cases I estimated that one crematorium of that type can burn at full capacity two thousand people per day.

Q. I am not talking about two thousand people. I am talking about the number of furnaces which in one case, in the WRB, is nine furnaces, and in the book is fifteen ovens [sic]. In the WRB it says nine furnaces each having four openings, which is four nines, as far as I can figure, is thirty-six, and according to your book, made some fifteen, twenty years later, fifteen ovens which could burn three bodies simultaneously in twenty minutes. You can't see the difference?

A. No, I can't even see where it is written. {1487|1488}

Q. You can't see where it is written one hour and a half the complete burning of three bodies in the WRB, and you can't see that that's different than saying you can burn three bodies simultaneously in twenty minutes?

A. No. Will you show me on my copy if you have it?

Q. Page 14, if you've got it, on your WRB Report. Last paragraph. All right? It says:

"Each opening can take three normal corpses at once ..." You got it?

A. Each opening.

Q. Yes.

A. Can take three normal corpses.

Q. At once.

A. At once.

Q. "... and after an hour and a half the bodies are completely burned."

A. Yes.

Q. Now, your book which we discussed – have you lost your page?

A. Yes. One moment. This corresponds a daily capacity of two thousand bodies.

Q. Yes. Now, we go back to your book.

A. Yes.

Q. And we read the paragraph where you said, "He was to watch the world's first conveyor belt killing, the inauguration of Commandant s Hoess' s brand new toy". We were over this quite a few times now. You lost the part? {1488|1489}

A. Yes. Okay.

Q. All right:

"It was a truly splendid affair, one hundred yards long and fifty yards wide, containing fifteen ovens which could burn three bodies each simultaneously in twenty minutes

A. Yes.

Q. Now, fifteen ovens which could burn three bodies each simultaneously [sic] in twenty minutes

A. Yes.

Q. So it seems from the time you were giving your best recollection, shall we say, to the War Refugee Board, it changed substantially to, from an hour and a half, to twenty minutes. Right? Do you understand that?

A. Hour and a half.

Q. Yes. An hour and a half becomes twenty minutes.

A. Is ninety minutes.

Q. An hour and a half is ninety minutes. Twenty minutes is twenty minutes. So there is a difference of seventy minutes. A little problem?

A. One moment. I am calculating something. I would think that what I had in mind wasn't perfectly formulated, but my experience was that knowledge, not experience, but my knowledge was that three bodies were being burned always simultaneously, and that this took about an hour or more. That's what I recall.

Q. Not twenty minutes.

A. Now, if you divide an hour by three, because three bodies were burned, you might come {1489|1490} to the result of twenty minutes.

Q. Okay. And as far as the difference between four times nine are thirty-six ovens, and fifteen ovens, how do you explain that difference?

A. Which difference?

Q. Well, in the book, you agree, you say it's fifteen ovens, and I suggest to you that's exactly what it was – fifteen ovens.

A. Yes.

Q. Because you've had a chance to read some of the literature from Phillip Mueller and others you knew the plans when you wrote your book. Right?

A. Well, I wrote the book twenty years before Phillip Mueller did, so how could I consult Phillip Mueller?

Q. Because the plans were known to exist before you wrote your book.

A. That's right.

Q. So you consulted the plans finally, didn't you?

A. Well, if I had consulted the plans, I would have published the book at that time, but my intention was to keep the book as free as possible from technical detail —

Q. How about facts?

A. — and giving the fundamental facts. The fundamental facts was that there were four crematoria, that two were large and two were small, that the large could, consume two thousand people a day and the small consumed a thousand people a day, and that the theoretical [sic] capacity of all four crematoria, provided there is no breakdown and {1490|1491} provided that there is constant influx of victims, is six thousand per day. And that is exactly the same in the book and in the report.

Q. Is it?

A. Yes.

Q. Let's go back and find out, then, about that, because I think you are wrong. Let's go back to the previous paragraph in your book that we discussed where you say twelve thousand bodies in twenty-four hours.

A. Yes.

Q. Well, you say six thousand bodies in the WRB Report, the paragraph that says — and we've read it once —

A. One moment. Where is the twelve thousand bodies?

Q. Well, we'll just have to go back. Three paragraphs before the one we just finished reading.

A. Yes. That's perfectly all right.

Q. Is it?

A. Yes.

Q. Tell me —

A. Because when I was writing this book, as I explained to you at the start, I was not writing only what I saw, but I included also things which I heard or learned from reliable sources.

Q. Mm-hmmm.

A. And we know that although the theoretical capacity of all the crematorias are depicted in my original report in '44, before the annihilation of Hungarian Jews, could consume maximum only twelve thousand victims a day, it became known later that Hungarian Jews {1491|1492} were transported at such a speed to Auschwitz that some days up to twenty thousand units were, if I may paraphrase the Nazi vernacular lingo — were processed. And this is perfectly true.

In other words, I included into this twelve thousand not just what happened during my time, but also during the time following shortly my escape.

Q. Mm-hmmm.

A. And sufficiently information for a young person who has never heard about such things to understand that the murder was in many thousands. And I will leave it to you to decide if it is five thousand four hundred or seven thousand three.

Q. Why did you say in 1944, at the time of your escape, on page 16, at the bottom of the first paragraph:

"Thus the total capacity of the four cremating and gassing plants at Birkenau amounts to about six thousand daily?"

A. That's right.

Q. Then why did you say in your book:

"For the modern concrete gas chambers and the vast crematoria that could absorb as many as 12,000 bodies in twenty-four hours and, in fact, did so?"

A. What I had to add, that it did so with the help of additional equipment which has been build up in May and June 1944, after my escape. You might blame me that I haven't this made quite clear in this introductory chapter, but as I told you, this book is an artistic sort of conveying of the facts —

Q. I am interested — {1492|1493}

A. — and is sufficiently giving the picture of what actually happened, without going into the fine toothpoint number game of which I have seen is a neo-Nazi literature ridiculous examples.

Q. Well, is your book classified as fiction, or is it classified as history?

A. My book is classified as recollections of Rudolf Vrba, free recollection of Rudolf Vrba as an educational book for young people who should realize what Nazi depravity is able to. It is not supposed to be a textbook of how to build crematoria.

Q. Well, your explanation, then, for the doubling of the numbers from the WRB to the book you wrote later is basically that it was from information acquired of the existence of some of the apparatus.

A. Right, which has been added after my escape.

Q. Yeah. With these new buildings.

A. No.

Q. No new crematoria?

A. No.

Q. Okay. Are they the six meter deep crematorium pits? Is that what you mean?

A. New pits were build [sic].

THE COURT: Excuse me. Yes.

MR. GRIFFITHS: Your Honour, I hate to interrupt, but the drawing of the crematoria that the jury has, we have heard it was based on hearsay at the time from Dr. Vrba, not an eye witness. Now he is being cross-examined about things that happened after he was there and again he is not competent to talk about those things. {1493|1494} He wasn't there at the time. He may have acquired information from books subsequently, but that really isn't his function here, and I object to these questions.

THE COURT: Mr. Christie?

MR. CHRISTIE: I was trying to look at the realm of credibility and the basis of statements made by this witness in other circumstances. Often, this does involve a fact. In this case I don't think it is represented as hearsay, but now the War Refugee Board Report is the subject of the cross-examination, and it's not put forward as hearsay. In fact, if you look at the front of it, it says, "Nothing passed on from hearsay".

My friend knows that because he gave me a copy. It says, "Nothing passed on from hearsay".

MR. GRIFFITHS: That was not written by Dr. Vrba what my friend is describing. It is in a foreword.

MR. CHRISTIE: Well, I took it that it was to be the truth.

THE COURT: Any ruling that I could make, gentlemen, would, on this subject, when the issue is cross-examination, would, in my view, be dangerous and might appear as if I were restricting the right to cross-examine. I have no intention of doing that. You may proceed. Crown counsel may employ, if he so wishes, his thoughts in this regard when his turn comes to address the jury.

MR. GRIFFITHS: Thank you, Your Honour.

MR. CHRISTIE: Thank you, sir.

Q. Do you adopt the War Refugee Board Report as being true? {1494|1495}

A. As being true as close to the truth as I was able.

Q. Mm-hmmm.

A. With best of my knowledge, ability and conscience and responsibility to reproduce, while aided minimally with other normally used aid. This means that the report consists of a complex statistics which has been produced in a clandestine way and manner by observing the misdeeds of Nazis in Auschwitz, and under conditions that, if something would transpire that I am recollecting such a statistic, it would cost me at least my life.

Q. Why would it cost you your life?

A. Because anybody who was compiling anything about Auschwitz was punished by death, to say the least.

Q. You left Auschwitz, you say, on April 7, 19 —

A. It was considered espionage.

Q. You said you left Auschwitz on April 7, 1944.

A. Perfectly right.

Q. You said you left with Alfred Wetzler.

A. That's right.

Q. And at the time you were known as Walter Rosenberg, according to you.

A. That's right.

Q. And you, at that time, left in the nighttime.

A. I didn't say that it was in the nighttime on 7 April. I started my manoeuvres [sic] of my escape {1495|1496} at two o'clock p.m. on Friday, and left Auschwitz after nine o'clock p.m. on Monday, the 10th.

Q. Of April 1944.

A. Of April 1944. In other words, it wasn't —

Q. What time?

A. 9:00 p.m.

Q. Just after dark.

A. I would say I waited well after dark.

Q. So it was well after dark on the 9th of April, 1944, when you left and you are hiding in the woodpile.

A. That's right. When I opened the woodpile.

Q. Did you carry lights?

A. Of course not.

Q. And no doubt, you'd managed to acquire a watch.

A. Yes, I had a watch.

Q. Aha. That is how you knew you crossed the Czech border at ten o'clock on a given day, I suppose.

A. No. By that time I didn't have the watch any more.

Q. Well, you told us you crossed the Czech border at ten o'clock one day.

A. That's right.

Q. How did you know when you crossed the border?"

A. Because when I was crossing the {1496|1497} border I knew that I am very close to the border, and I didn't know if I am still on the Polish or on the Czechoslovak side, but on both sides were working farmers of the border, and to ask a farmer what is the time in Polish, it is half past nine. I continued my journey and I asked a farmer again, "What's the time?" And he answers me in perfect Slovak, "It is ten o'clock."

Q. I see. That's how we know you crossed the border at ten o'clock.

A. Right. In the morning on Friday 21st January.

Q. Of what?

A. On Friday, 21st April.

Q. Mm-hmmm.

A. I beg your pardon for that.

Q. So you were travelling at night and you had a watch when you left the woodpile which you hadn't when you crossed the Czech border?

A. That's right.

Q. And you had a compass, too?

Q. No. You were travelling in unfamiliar territory.

A. Yes.

Q. In the dark.

A. Yes.

Q. And you certainly didn't want to go near the camp.

A. Yes.

Q. And you didn't have a compass.

A. No. {1497|1498}

Q. And you hadn't been over the ground that you went over that night before, because you had never been outside the inner circle, or the outer circle of the guards.

A. That's right.

Q. But you were outside the outer circle.

A. That's right.

Q. And was it a moonlit night?

A. I appreciate that you can see the difficulties of this manoeuvre [sic].

Q. Well, you are so far ahead of me, you know what the problem is, don't you?

A. I beg your pardon?

Q. You know what the problem is, don't you?

A. No. I know what the problems were that night, and I wonder which particular one you were interested in.

Q. Well, just wait for the question before you give us the answer. Would you agree that in those circumstances it would be difficult to be sure precisely over what ground you had passed?

A. Not quite.

Q. Oh?

A. Because — not quite sure, but not quite unsure, either, because the camp Birkenau — and this again I could use a map, please. May I — may I project the trip how I went?

THE COURT: Well, just a moment.

You certainly can if you must answer it that way and you {1498|1499} should it answer that way. Mr. Christie, do you seek the answer?

MR. CHRISTIE: Yes. he has given it once, but if he wants to give it again.

THE COURT: Well, I don't know about that. That is why I am asking you.

Q. MR. CHRISTIE: Well, it seems to me you drew a diagram once where you went. Isn't that right — on the big screen over here?

A. No, I didn't do a diagram. I gave an indication.

Q. You moved your hand around and said —

A. That's right.

Q. You said, "I went this way and —"

A. That's right.  
 Q. Without a compass.  
 A. That's right.  
 Q. In the dark.  
 A. That's right.  
 Q. Over territory you had never been before.  
 A. That's right.  
 Q. I don't think I need to ask you us to show us again.  
 A. Oh, yes, you should. You might learn something, how one has to behave in a Nazi-occupied territory and what one can do in order to beat the Nazis, no matter how clever they are. You might learn something. I am perfectly prepared to show it how it's done.  
 Q. You consider you are still able to {1499|1500} beat the Nazis at everything, I suppose?  
 THE COURT: Apart from what consider that to be a supercilious exchange, gentlemen, do you want the answer or don't you, Mr. Christie?  
 MR. CHRISTIE: No. I am satisfied with the answer.  
 THE COURT: Then it is your cross-examination and you proceed with the next question.  
 MR CHRISTIE: Thank you, sir.  
 Q. Let's get back to this diagram, sir, that you have drawn in 1944. You agree that as far as the crematoria is concerned, you've given us a diagram with a railroad track.  
 A. Which diagram are you talking about?  
 Q. This one that has the crematoria in it. There.  
 A. Yes.  
 Q. You have given us a diagram in 1944 with the railroad track leading right to the ovens.  
 A. No, it wasn't meant to be a railroad track.  
 Q. What is it meant to be?  
 A. If you read carefully that report, which I hope you did, you will find that this is an indication of the fact. that the bodies inside the crematoria were shifted from the gas chambers to the ovens using an inside narrow-gauge rail with wagons on which the bodies were loaded in the gas chamber, and then pushed to the ovens.  
 Q. Yeah.  
 A. And this was schematically depicted {1500|1501} this information as being inside the crematoria, a narrow-gauge line for manual propulsion of little wagons —  
 Q. Rather than go too far, would you just tell me, then, that you mean that all of the furnaces and the gas chambers were on the same level?  
 A. No. This I couldn't assume, but I knew that there were involved partially lifting of bodies on lifts, and partially shifting of bodies to and from the lifts and to and from the ovens on narrow-gauge lines.  
 This position of those lines was not known to me and I have given the whole crematoriums the picture in more or less a schematic which have sufficed at that time, being such a great novelty.  
 Q. Have you seen the plans, sir, of the crematoria?  
 A. No, I have not.  
 Q. Okay. I'd just like you to — correct me if I am wrong, but is the calendarium on the 11th of November, does it indicate that there were eight boys born in the gypsy camp?  
 A. Yes.  
 Q. Okay. Children were born in Auschwitz?  
 A. Yes.  
 Q. In fact, would you think it unusual that 3,000 or more babies could be born in Auschwitz?  
 A. There were not only born there in this particular case, they were also gassed there.  
 THE COURT: They were ...  
 THE WITNESS: They were gassed there.  
 Yesterday you asked me if there were any children in Auschwitz, {1501|1502} and I assure you that there weren't, but before I could specify to details, because if I go to details I am accused of being longwinded and if I am not going to details you will come up with some missing detail, so now I want to explain it to you in a complete detail — sorry to be so longwinded.

It will involve the deaths of eight or ten thousand people, most of them children, and you will then understand, sir, what I have been missing yesterday with two words when you interrupted me and I was stopped from specifying certain exceptions.

I would like this occasion, Your Honour, the permission to show on the map the fate of those 3,000 childrens [sic] to which the counsel is referring here.

THE COURT: We will take a recess, before that is decided, for fifteen minutes.

— The jury retires. 3:30 p.m.

— Short adjournment.

— Upon resuming.

— The jury returns. 3:55 p.m.

THE COURT: I believe, gentlemen, there was a question put and not answered concerning children in Auschwitz. Is that correct?

MR. CHRISTIE: Yes.

THE COURT: Would you like to go to the screen, Doctor?

MR. CHRISTIE: My specific question, for the record, is whether the witness considered it likely that there could be three thousand children born in Auschwitz. {1502|1503}

THE COURT: Yes, sir. Go ahead.

THE WITNESS: So it was, as I yesterday mentioned, a rule that all children or old people who arrived to Auschwitz on the ramp, which I showed yesterday, that rule had two prominent exceptions from using, from sending the children straight into the region of crematoria and gassing. There's two exceptions.

The first exception took place on September 7, 1943. As I had the honour to explain yesterday, on June 8, 1943, this male camp, IB, Birkenau IB, has been transferred to IID, and after a short time in IID I was transferred to IIA as a Blockschreiber[r], translated barrack scribe, in one of the barracks here. Interestingly, at that time, the camps "B", the camp IIB, camp IIC and camp IIE were completely empty, and we didn't know what they are for. Also, during the months that I was since June in this camp, I have seen every day, as usual, the women, children, old folk being trucked into this road which was shorter than a mile, perhaps a kilometer long, into this crematorium complex, or they went in front of my eyes not here into the gate, but went down here — there was no other road at that time — and down here, and went into this block of Krematoria IV and V. On September 7, 1943, I was woken up in the midnight —

Q. MR. CHRISTIE: That's September 7, 1943, you were woken up at midnight. Did you ever make note of this?

A. Will you please kindly leave your questions when I finish?

THE COURT: Doctor, please listen to me. I will decide when counsel can ask questions, and if {1503|1504} I don't say anything, you don't say anything.

THE WITNESS: I see.

THE COURT: You will please answer his question and continue with your narrative. What was the question again?

MR. CHRISTIE: I just wondered if he had made a note of that at the time.

THE WITNESS: Mental note.

Q. MR. CHRISTIE: And you escaped without a note, either.

A. That's right.

Q. Go ahead. September '43.

A. And because between Block 2A and — Camp IIA and Camp IIB there was nothing but an electric fence, I could see that they are bringing in families. These families were speaking in Czech language. There were 4,500 people.

Q. You counted them?

A. No, but I was one of the parts of the people who were present, you know, in block scribes, and I know immediately that the number went up to 4,500 people being a block scribe myself and having access to the Chief Block Scribe. The number was roughly 4,500, but it might have been 4,700, in this region. And here were two barracks and there's people went into the camp with their luggage, with their children, with their grandchildren, with everything, and started something

which was called family camp.

THE COURT: Something what?

THE WITNESS: Family camp. It was a considerable surprise and something completely new, and {1504|1505} especially interesting for me because people were from Czechoslovakia. They were my countrymen and they were for several years in the ghetto of Theresine [Terezin] where it was still accumulated, as it was understood from them, well over a thousand Jews who were become nervous over the fate of deported people.

Q. You are talking about the 7th of September, 1943, now? Excuse me, I just wanted to confirm that.

A. Yes. Quite right.

Q. The 4,500 people that arrived.

A. I guessed, to my recollection, around 4,500 people.

Q. Mm-hmmm.

A. In those barracks. And here up on Barrack 15 they made a special barrack for children. There were approximately a hundred children there of age two to ten, or two to twelve, and these children were supplied with a special diet. This means they got milk and they got white bread and sort of a human, more human attitudes was prevailing in that camp, especially because the women and the men were not shorn; they could keep their hair, and cremation or deportation camp was suddenly created.

Mind you, the next day, as the next camp the children went here and were here, were leaving and starting to create their own life. This was going on until December, I would say now, 21 or 22, when another transport, also from Theresine, also having approximately 3,000 people – but here I might be mistaken – but in the region of three or four thousand, was added to this transport so that on the whole we had in this family camp {1505|1506} up to seven or eight thousand people to start with.

In spite of them being given a little bit better treatment and they could keep their things, due to the general – there were a lot of criminal Kapos and so on – in other words, the mortality was considerable, even in spite of the better treatment.

Another thing which was peculiar was that I've heard that they had on their cards written, especially mark – I have to write this down –

MR. CHRISTIE: Your Honour, I don't really mind the lecture, but I did ask a specific question as to whether there was a likelihood in his mind of three thousand children born in Auschwitz. I really don't like to interrupt, but I don't want to go on more than fifteen minutes on this.

THE COURT: Are you able to answer that question, Doctor?

THE WITNESS: Yes. In fifteen minutes.

THE COURT: What is the answer to the question?

MR. CHRISTIE: I don't want the answer in fifteen minutes.

THE WITNESS: The answer to this question is that these people were having – please, the picture – they were having Sonderbehandlung, which means special treatment after six months quarantine.

Q. Okay. I assumed this is the answer, because I would really like to get on with another question.

THE COURT: You can return to the box now, Doctor. {1506|1507}

Q. MR. CHRISTIE: You specifically mentioned the 7th of September, 1943, and I put it to you that on that date no transports arrived from Theresienstadt, and no transports involving 4,500 people or anything approaching that number. Would you like to take a look? Now, we agree, you are talking about the 7th of September, 1943.

A. Right.

Q. Okay. I put it to you that the Calendarium does not indicate from Theresienstadt or anywhere else a transport of 4,500 people on that day.

A. Well, it was not on the 7th September; but it was recorded here on the 8th September, and it is written here that on 8th September that there were deported, brought to Auschwitz, five thousand Jews from the camp ghetto in Theresien[stadt], out of the 2,293 men and boys who received the numbers 146694 until 168986.

Q. Yes.

A. And the women and girls were 2,713 and were women and girls,

and they got the numbers 58471 up to 61183.

So I have made, to summarize, an error of one day in my memory, and instead of four thousand five hundred, the real number is five thousand or six.

Q. Thank you very much. So you say they were to be Sonderbehandlung in six months.

A. Right.

Q. It doesn't say that in the Calendarium at all.

A. This is not my fault what is missing from the Calendarium. {1507|1508}

Q. Well, with respect to this, particular people more proficient than the notes you made at the time –

A. Because previous to decisions of S.S. men and –

Q. And they confided it into you?

A. And they confided it into lower commissioned S.S. men, and they were taking money from us and diamonds in the crematorium and they were talking.

Q. And you, as a prisoner, knew that.

A. I was that clear to collect it.

Q. I see. Can we put the same thing back on that the good Doctor had on a minute ago? I will stay here and ask you the questions. You stay here using your pointer, because it happens to be simple, you gave us this as the location for the bath, sir.

A. Excuse me, please. Now, I am a little bit confused. Are we talking about the family camp or about baths?

Q. I am talking about the baths.

A. So now we are not talking about the family camps.

Q. You can understand what I mean. I am speaking about the bath.

A. I see.

Q. The baths

A. Nothing with family camp any more.

Q. No. We are talking about baths.

A. Thank you.

Q. We understand each other. {1508|1509}

A. I hope so.

Q. Well, the bath is located this end of the camp; is that right?

A. Yes.

Q. There is only one bath we are talking about, not ten baths we are talking about.

A. That's right.

Q. Now, actually, the picture that you prepared didn't have a bath marked or sauna on the Phillip Mueller one.

A. Yes.

Q. So it was really not actually there. This is just a rough approximation. Right?

A. Yes.

Q. Now, if you look at the Phillip Mueller diagram, I suggest to you that the transported people had to go down there, actually, between these two Krema where the road went and to the bath, or they can go down this way through the Scribe and down here and to the bath, on the actual map that you agree is the correct one. That is where they had to go, isn't it, to have a bath?

A. Those who were going to have a bath.

Q. Right. And after everybody got off the train, that is where they went, isn't it?

A. Well, I wouldn't quite agree with you.

Q. No, I am sure you wouldn't; but tell me, sir, if there was any other bath in the camp, where do you put it now?

A. That's correct. {1509|1510}

Q. It is here, isn't it?

A. I can show it to you.

Q. Just tell me before you get off the stand, is there some other bath in the map that you drew in 1944?

A. In 1944, yes, there was a bath in Camp IB.

Q. Right there?

A. Right in that corner.

Q. And when the camp was divided into these areas, this bath was

used, right?

A. Very likely.

Q. So when you left the camp that was the bath you were using?

A. In that region was the bath.

Q. You don't know where it was?

A. It was in the region where the Krematorium II and Krematorium III were positioned.

Q. Right. So you were in this camp here?

A. Yes.

Q. You couldn't go out there except to report to the Chief Scribe.

A. Pardon?

Q. You couldn't go out of this area except to report to the Chief Scribe?

A. Up to "D".

Q. Up to "D". You couldn't go here or here or there?

A. Unless I risk something.

Q. Yes. Well, let me put it to you {1510|1511} that these people that got off the trains could very well have gone to the bathhouse which we now recognize to be No. 9, and no other 9, in this picture of Phillip Mueller. Right?

A. Yes.

Q. Thank you.

A. Some of them actually went there

Q. Well, you —

A. And the rest went to the gas chamber.

Q. Well, you, from your position, wouldn't be able to tell us whether they went there or not, sir;

A. Certainly I would. I will explain it to you later.

Q. Well, yes. You do that.

THE COURT: Do you want him to do it now or later?

MR. CHRISTIE: If he could now, sir, is it too late?

THE COURT: Go ahead, Doctor.

THE WITNESS: Then I would, if you kindly permit, Your Honour, to return to the previous question about the children, about the three thousand children.

Q. MR. CHRISTIE: No. You want to tell us if there is any other way to return to the bath.

THE COURT: Is there a connection, Doctor?

THE WITNESS: Yes, there is a connection. {1511|1512}

THE COURT: Then you may give the answer.

THE WITNESS: Thank you.

Q. MR. CHRISTIE: Do you want to look at the diagram? Here is the pointer.

A. All those people, after six months, the children, the grown-ups, the old and the young, were on March 7 transferred to "IIA" where I was Blockschreibe.

Q. March 7th what year?

A. 1944.

Q. You are sure of the date?

A. I am quite sure it was the 94th birthday of the founder of Czechoslovakian Leader —

THE COURT: The answer is yes, Doctor. Proceed, please.

THE WITNESS: On the night from 7th to 8th March, these people who were transferred here, the first transport from Theresienstadt who were here stayed here one night in the Camp IIA, then trucks came and they were taken to their execution from here; here into the Krematoria III and IV were all children, etcetera, etcetera, were gassed.

Q. I put it to you, sir, that you didn't draw any lines for roads on that map in 1944

because you didn't know where the roads were in 1944.

A. I knew perfectly well where the roads were in 1944, but my draftsmanship was not very good, I assure you, and I accept the criticism of that.

Q. I put it to you that actually you were unsure as to where the Krematoriums No. I and No. II {1512|1513} on that diagram were because you put them on the same side of the railroad [sic] track area when, in fact, they were on opposite sides.

A. The railroad track when I escaped Auschwitz wasn't even there.

Q. It wasn't even there?

A. No. It wasn't there on 7 April, 1944. And as I told you, this whole map is giving only a rough scheme, without detail, that there are four crematoria and bath, and that they are in this region.

Q. Just let me ask you this. In 1944 you couldn't provide us with the detail, but in 1984 you are going to tell us all about it. Right?

A. That's right.

Q. You may go back to your seat.

A. Thank you. May I add something, Your Honour?

THE COURT: Up here first, Doctor.

THE WITNESS: Yes. In 1944 —

THE COURT: Just a moment. Just come up here first.

Now, then, Mr. Christie, do you have any further questions on this subject to put to this witness?

MR. CHRISTIE: Not really, Your Honour, no.

THE COURT: The answer is no. If you want to add something, I am sure Crown counsel will make a note of it and if it becomes appropriate at the time he will, undoubtedly, ask you the question. In the event that it is not, he won't and you may not.

Proceed. {1513|1514}

Q. MR. CHRISTIE: Did you ever go back to look at the Auschwitz Museum or anything like that?

A. In 1949, as a student in Prague, I was studying chemical engineering and I was interested in a new drug which was called paramine acetacetic acid.

Q. Please answer my question. Were you ever —

A. Please don't tell me what to answer what words to choose.

Q. I don't have time to find out what drug you discovered. I just want to know whether you went to Auschwitz after the War or not. Simple.

A. I was taken to Auschwitz as a student on that occasion for my education.

Q. All right. Did you go to Krema I, II, III or IV according to the diagram?

A. No.

Q. You didn't. All right. What partisan group were you in in Bohemia after you escaped?

A. I was in the Czechoslovak party in group of Captain Milan Uher. He was a sergeant when he started, and the brigade was called Hurban Brigade.

Q. Thank you. Were you in Prague at the time of the Prague Revolution, May 5th and May 9th, 1945?

A. No, because my group operated in Western Slovakia, and the operation of the group were brought to a halt on 7 April, 1945, when the Russian units reached us and send us immediately into hospitals.

Q. Thank you. Do you speak Czech?

A. I speak Czech, Slovak, Polish, {1514|1515} Hungarian, Russian, German and a little bit of English.

Q. Yeah. Did you live in Prague after 1945?

A. That's right. I studied in Prague chemistry.

Q. Which part of Prague?

A. I lived on various places as a student for the first four years, in digs, and it was every year another place. Would you like all addresses?

Q. No. Thank you very much. Do you believe, sir, that it is possible that a thousand children left Auschwitz and went to Buchenwald? Among them was — well, do you believe that's possible?

A. Not to my knowledge. And not during the time I was in Auschwitz.

Q. I see. So not before April 7th, 1944?

A. That's right.

Q. And after you arrived?

A. Not before 30 June, 1942 and not up to 7 April, 1944, not to my knowledge.

Q. There were thousands and thousands of people in that camp; right?

A. That is quite right. The amount varied, of course, from time to time. Depend how many died and how many were added to it; and if it was called typhus or what it was, or vermin.

Q. And you got typhus?

A. I got typhus only once. You don't survive two.

Q. Thousands of people got typhus? {1515|1516}

A. In 1942 there was a typhus epidemic during which thousands of people died from prisoners.

Q. You don't know how many died, I suppose?

A. No, I couldn't say because the death was mixed with selection. They tried to —

Q. Well, you say that somebody selected groups of people and you went through a typhus test of running twenty-five yards, as you said in your book.

A. That's right. That's right.

Q. But you don't know how many people died of typhus in 1942.

A. No, but I would say several thousand.

Q. Several thousand. Right. You say also that your document, the War Refugee Board Report, was used at the International Military Tribunal, and I think you are right, in Document L022. Is that correct?

A. That is quite possible.

Q. You don't know?

A. I wasn't on the tribunal present.

Q. You weren't a witness.

A. No.

Q. You didn't testify then, and you didn't testify at the Eichmann trial, even though you were in Israel, I believe, at the time?

A. No, I wasn't in Israel during the Eichmann trial. I was a member of Scientific Staff of the Medical Research Council of the United Kingdom.

Q. You didn't testify at the American {1516|1517} Military Tribunal or the International [sic] Military Tribunal?

A. At which tribunal, you mean, in which year?

Q. 1945, '46.

A. No, I didn't.

Q. And in fact, you didn't reveal your identity publicly as being Walter Rosenberg until some time considerably later. I think probably when you wrote your book; is that right?

A. I don't understand this question.

Q. When did you reveal your identity as being actually Walter Rosenberg, the escapee of Auschwitz on April 7, 1944?

A. In 1944, '45, after the War, my friend, Wetzler, has written a report about Auschwitz for the general public, and he wrote it in general terms and under a pseudonym, Joseph Lanik.

Q. In fact, there were two other Jews beside yourself who participated in forming or writing the War Refugee Board Report — there was Mr. Wetzler, yourself, Mr. Rosen and Mr. Mordecai.

A. No. Mr. Mordovitch not Mordecai.

Q. Well, none of them were identified in the report, right?

A. In the report they were not identified because against each of us there were international warrants issued which were, a copy of it is in Crown prosecutor's hand, in Crown Attorney's hands, in Auschwitz and Allies reproduced, in which these warrants say that the escape from Auschwitz, that we should be caught for that, and in the case of success Himmler should be notified immediately. So under those conditions we didn't use our {1517|1518} previous names under which the warrants were issued.

Q. And you never used that name again, ever, I gather.

A. Oh, no, of course not, because the warrant was valid as long as was valid a German rule in Slovakia.

Q. Well, after the War that certainly didn't exist.

A. No. After the War that didn't exist, but under the name of Rudolf Vrba I fought the Nazis and was given under that name the medal for bravery, the Order of Slovak National and the medal of honour of Czechoslovak partisan for my services to my country in fighting the inhuman enemy, and they were given to the name Rudolf Vrba alias Walter Rosenberg. The document is here.

Q. So that's the proof that you actually are Walter Rosenberg.

A. That is the proof that I was Walter Rosenberg before I changed my name officially by an official act.

Q. What official act?

A. Official act of the Ministry of Interior.

Q. Of Czechoslovakia.

A. Of Czechoslovakia, that it was incompatible with the honour of a Czech soldier to have a German-sounding name who murdered in the camp and robbed us. In other words, it was an act of the de-Germanization of my name.

Q. Well, your name was German, wasn't {1518|1519} it?

A. Walter Rosenberg, a nice German name.

Q. Well, isn't it the case that there was a German major who was involved in the escape and who has never been identified — sorry, a Polish major?

A. He is Professor Tabeau, doctor of medicine in the University of Krakow. I can show you his picture, if you wish. Please, Mr. Crown, can I have the book which I brought with me, because I might give him a wrong name.

Q. You need the book to be sure of the name?

A. Yes, because I didn't know him personally.

Q. Don't worry about it, I am not going to worry whether you gave me the right name or not.

A. Certainly.

Q. But can you tell me something else, sir? Can you tell me if you, yourself, believe what was written by him in that part of the report?

A. Mm-hmmm.

Q. You take that as true, too?

A. Well, I studied this part of the report the first time in 1975.

Q. Yes.

A. It was given to me in the Department of History. I didn't know about this report or anything until 1975.

Q. You mean to tell me, sir, that this {1519|1520} report, which you sent to the President of the United States, didn't have this portion on it when you completed it?

A. When I completed it, no.

Q. So it was added by somebody else later, right?

A. This portion came to the office of the President of the United States, to the office of Strategic Services, by different ways about which I have no idea.

Q. I see. And it became a famous document and made you a famous person, right?

A. I don't know if you would like to consider me famous.

Q. Well, it made you, certainly —

A. But the Bible says that the fame doesn't last longer than grass, and I don't like such words.

Q. I'm sorry, I didn't mean to imply anything by calling you famous, but isn't it true that you, at nineteen years of age, having escaped from Auschwitz, became somewhat of a celebrated person?

A. I am not aware that I have, been somewhat celebrated, because I went immediately after I have done my job and notified the proper authorities in Switzerland and in England and in United States about the misdeeds of Nazis in Auschwitz, I took up the gun and joined the fight of all civilized people against an uncivilized enemy.

Q. Do you think the Polish Major's report is correct when he talks about a hydrocyanic bomb being thrown in the gas chamber?

A. I have studied the report of the {1520|1521} Major in 1975 and was asked by the Department of History to give my opinion.

Q. Yes, your opinion. I am interested in your knowledge and your experience.

A. And in my experience the report of the Polish Major was excellent as far as Auschwitz I is concerned, but from reading the report, I could see that he was not in Auschwitz II, in Birkenau, and therefore knew Birkenau only from hearsay.

Q. Yes. Well, now —

A. Therefore his information about the hydrocyanide bomb was hearsay and obviously a distorted information.

Q. So that distorted information was inaccurate but the rest of the report is correct?

A. His report of the description of Auschwitz I I found creditable.

Q. Right. I want to refer you to your declaration sworn and exhibited in your book, sworn on the 16th of July, 1961.

A. Yes.

Q. In which you say that your statistics compiled during the War were part of the material of the prosecution at Nuremberg under document NG1061.

A. Mm-hmmm.

Q. That's what you say.

A. Yes.

Q. You swore that to be true.

A. Yes.

Q. And I put it to you that NG 1061 has nothing to do with Auschwitz, but is a letter from – have {1521|1522} you seen that document that you swore about?

A. I swore to the document of my document of the Auschwitz report which we can call now Vrba-Wetzler report, which Vrba and Wetzler together compiled.

Q. But I think in the affidavit that I showed you —

A. And the affidavit was to the Israeli Embassy, and I had to make an affidavit in a hurried way and I was told that a number of the document in which the Court in Eichmann is interested, and which refers to my report, has got such a number.

Q. Yeah.

A. So I put in such a number which they suggested.

Q. All right. Let me correct you.

A. It might be an administrative error.

Q. So because somebody told you it was the right number to put in, you put it in and you swore it to be the truth?

A. In that case I made an error in good faith, that I can't see why it should distort the oath, because nobody had any difficulty, during the Eichmann trial, to find the document, in spite of the wrong number of the document.

Q. Now, I want to just go over one point with you. You say that when you left Auschwitz you had nothing but a watch.

A. That's right.

Q. Which you later lost. No compass, {1522|1523} no light.

A. I didn't lose it. I gave it as a present.

Q. You gave it away. Now it, in fact, the last page of your report, the War Refugee Board Report itself, contains numerous statistics, numbers, information of a detailed nature, doesn't it?

A. It does.

Q. Yes. And on the last page you give what's called the careful estimate of the figures, and you come to a total of 1,765,000, which you now tell us you counted going into the area of the two crematoria and never returned. Right?

A. That's right.

THE COURT: Show him the document.

THE WITNESS: Quite right.

Q. MR. CHRISTIE: And I'm sorry if I haven't shown you this, but this is the last page, isn't it, of the WRB Report?

A. This page, this last page, has been not done by myself, but when I have written the full report, the lawyers who were there calculated what I have written in the full report and made this final statistic.

Q. So is that the same kind of information you provided when you provided the wrong document number that the lawyers gave it to you and then you say that's it?

A. I don't understand your question.

Q. Okay. When we were discussing this document number you referred to in your affidavit and swore that was the document ... {1523|1524}

A. Yes.

Q. You told me that the lawyers or somebody gave you that information and you stuck it into there and you made a mistake. Right?

A. Well, it's not quite so, you see, because a real number, NG — a real number as I know now might be NG 1062, so it might be a typing error.

Q. You think it is?

A. It might be.

Q. Well, I suggest to you it isn't. What do you say?

A. Well, that suggestion suits you better than me.

Q. Well, let me put it to you this way. The "NG" stands for "Nazi Gov-

ernment", and nothing about concentration camps came into that document at all.

A. So perhaps it was "NL".

Q. So you guess and tell me it was something else?

A. So it is quite possible that the typist made an error.

Q. So what I am asking is, do you swear by these statistics here?

A. That they are right?

Q. Yes.

A. I would swear that within ten per cent they are right.

MR. CHRISTIE: May I then exhibit this, then, Your Honour?

Q. You swear that they are correct within ten per cent, and they are the back page that you {1524|1525} used in your report.

A. That's right. So I didn't make the final statistics.

THE COURT: I wonder if the Doctor write in correctly "within ten per cent" so that when they are reviewed they won't necessarily be taken at their face value.

THE WITNESS: This is specified in the document, Your Honour.

THE COURT: Is it?

THE WITNESS: Yes.

THE COURT: Where? On the page that we are looking at?

THE WITNESS: Not on that page, but in the document from which this page has been torn out.

THE COURT: Doctor, I don't want to write on it myself. I do not want a document coming in that you say is within ten per cent unless the document shows it on its face.

Q. If you want to write on there, as long as I can get the photocopy back.

A. What are you asking? What is the question? What is your problem?

Q. I am asking you if you accept those or swear those to be true, and you say within ten per cent. So write it on, "within ten per cent", and we will file it.

THE COURT: You don't have to do that. If you don't want to do it, Doctor, please don't. I will ask our Clerk to clip something onto it so that when it comes time for the jury to look at that document, if they wish to do so, they won't look at the face — they will look {1525|1526} at the face and they look at your evidence that it is within ten per cent right. Do you see what I mean?

THE WITNESS: Yes, Your Lord, and would like also to turn your attention that counsel didn't sort of inform us that it is written here not 1,765,000, but approximately 1,765,000. So he tried to imply me an absolute count when I made it clear that it was an approximation to the best of my knowledge and ability.

THE COURT: Madam Clerk, would you please mark that as the next exhibit, and add to it these words that I will dictate to you: "According to the evidence of the witness, correct within 10% of the figure." Do you agree to that?

THE WITNESS: Yes.

THE COURT: Thank you.

THE WITNESS: If I may add, Your Honour, that also, in the original, it was written, "approximately".

THE COURT: Yes. It says that right on the face of it.

THE WITNESS: Yes.

THE COURT: Members of the jury, it's been a long day. Have a good evening. Please keep an open mind. The puzzle does not become clear until the last word has been said. Please don't discuss the case with anyone beyond your number. Ten fifteen tomorrow morning, please.

— EXHIBIT NO. 26: Document — (estimate of number of Jews gassed in Birkenau April 1942 — 1944).

— The jury retires. 4:50 p.m.

— The witness stands down.

— Whereupon the hearing is adjourned to January 24, 1985.

— {1526|1527}

## JANUARY 24, 1985

— Upon the hearing resuming.

— The jury enters. 10:40 a.m.



**RUDOLF VRBA, previously sworn.****CONTINUED CROSS-EXAMINATION BY MR. CHRISTIE:**

Q. Witness, you told us that you had been to what you called the gas chamber in Auschwitz I and you had been inside and saw some clothes. You told us that you saw the crematorium in Birkenau. I am now going to specifically ask you to name one specific instance in which you saw one single Jew gassed. Tell us.

A. May I have, please, the map of Birkenau projected?

All the people who were brought to Birkenau in order to be gassed during the time I was in building Section 2a went to the crematorium either by this route or entered – did not enter the gate, went by this route, went by this route, and entered these two places. They was [sic] led into the crematoria. They were ordered to enter that building, Krematorium II and —

Q. Did you see them ordered from here – did you see them ordered from here?

A. No, I wouldn't see them ordered from here.

Q. Did you hear them ordered from here?

A. No. But I saw them going in.

Q. Just a moment. You saw them going {1527|1528} in here from here?

A. That's right, because I was quite frequently, not only here, but I was frequently also here. I moved quite freely along these roads, relatively free.

Q. So you say —

A. And in Auschwitz there was a habit that nobody went where he wants, but everybody goes where he's ordered to go. Consequently I make a logical assumption that the people in the mind of Nazi supervisors, they all decisions what to do to enter the crematoria, and the crematoria they never left.

Q. You watched them come in and watched them not coming out?

A. Yes. A quarter million people go in and I never saw one civilian come out. So it is possible that they are still there, or that there is a tunnel and they are now in China; otherwise they were gassed.

Q. You say you saw —

A. I have not been invited to be present.

Q. You say you saw 1,765,000 people go into one of these four buildings and not come out.

A. That's right.

Q. You watched them all go in and no one came out.

A. That's right.

Q. So I think, if you are answering my question as to whether you saw anyone gassed, the answer is no, but you say you saw 1,765,000 people go into those four buildings and not come out.

A. That's right. And since there was {1528|1529} no way out of those buildings because they were surround by electrical wires and by watch towers —

Q. Mm-hmmm.

A. — and during the twenty-one months and seven days, I never see [sic] one civilian walk out from these [sic] perimeter.

Q. You never saw one civilian walk out.

A. That's right.

Q. What is a civilian?

A. A civilian is a person who is not a prisoner in the camp, don't wear prisoner garb, don't have a registration number, is brought into the camp and disappears into one of those four buildings and is never seen again.

Q. Well, I put it to you that it is patently ridiculous for you to tell this jury and this Court that you could see 1,765,000 people go into those buildings on any day or all the days you were in there, the four months you were in Auschwitz and the seven months you were in Camp B on the top and other times you were in Camp A on the far left, and unless you maintain you were standing by the four crematoria, I suggest to you it is ridiculous that you can say you saw 1,765,000 people going into those crematoria.

A. It is your statement that it is illogic, because when I was in Camp B, I was not further away from here than a hundred yards, and when I was

in Camp A I saw them going in big truck either this way or this way, a distance of not more than five hundred yards; further-more, I saw the trucks going back from there, so that if I wasn't present exactly when they marched into the crematoria, {1529|1530} I could have observed it either from here or from here or from these roads or from the ramp where I worked. Please, can I have the ...

Q. How long were you in hospital?

A. Please let me finish.

Q. You were going to tell us about the ramp where you met the prisoners as they came off the train. How long were you in hospital —

A. Moreover, the distance from here to here is not bigger than about three quarters of a mile. So if I see that the trucks go with hundreds and hundreds of people in this direction and come empty back, my logical conclusion was what we all knew, and you can only blame me that the S.S. didn't invite me in, like they invited Himmler.

Q. Yes. Well —

THE COURT: All right, Doctor. You can come back now.

Q. MR. CHRISTIE: Doctor, you say that you were in the hospital for a while — what, a couple of weeks?

A. No.

Q. How long were you in the hospital after your operation?

A. I would think that the whole would last about ten days.

Q. Ten days. All right. And you painted skis, I understand, although you never told us about that before. Is that true? You were painting skis for some time? That was your job?

A. It is quite clear that I was in {1530|1531} Kanada. I painted skis in the first two months and was in Buna in Auschwitz, and that my recollection is of direct observation of the mass murder which took place in Birkenau started.

Q. I just asked you if you painted skis.

A. Don't confuse me, please.

Q. Did you paint skis?

A. Yes, I did paint skis.

Q. How long did you paint skis?

A. Two or three days.

Q. Two or three days?

A. Yes.

Q. How long were you in Buna?

A. Perhaps ten days. Perhaps three weeks.

Q. That's where you told us that the death rate was ten per cent a week?

A. Roughly.

Q. Or was it a day?

A. A day.

Q. Oh, that's right, a day. What did you do in Buna besides twist wire?

A. Carrying cement.

Q. Did you carry cement all the time?

A. Yes.

Q. You never twisted wire?

A. I did occasionally twist wire. I worked on a building site.

Q. Yes, I understand.

A. Various things. I did what I was {1531|1532} ordered to do because who didn't do what he was ordered to do was dead.

Q. And if someone didn't work he was killed, right?

A. Not necessarily killed. There were [sic] the special German word which was called Fertigmachen; this is a contribution of the Nazis to the German language. This means to beat somebody so long that he is not dead but he will die — translated it means to finish him off.

Q. Now, did you say you were witness to a visit by Heinrich Himmler in January 1943?

A. I was witness to two visits by Heinrich Himmler — one was in July 1942 when I saw him from quite close.

Q. Where?

A. In Auschwitz I. And the second visit took place some time in '43, but I did not see him directly. I saw his cavalcade, so if it was Hitler or someone else sitting in the car of similar significant dignitary —

Q. Well, I put it to you that Heinrich Himmler, in the Calendarium of the

camp that you so far accepted as accurate, visited on the 7th of March, 1941, and the 17th of July, 1942; but he did not visit the camp of Birkenau or Auschwitz in 1943, as you allege in your book.

A. I was informed at that time by grapevine in the camp that Himmler is coming to visit the camp again, and then there was a cavalcade equipped as if it would be Himmler – in other words, the standard Mercedes and the standard sycophants constantly around, but he didn't {1532|1533} come to shake hands with me and to introduce himself to me or to say, "I am Himmler", or he didn't tell me, you know, "Himmler didn't come this time but I am instead of his and this is my name."

So you might be quite right that that information might be not perfectly exact, only close to exact.

Q. You prepared also and agreed with the contents of the War Refugee Board Report and it says, and I show you page 38 and I quote:

"According to the statement of a Jew from a special kommando, Reichsführer Himmler was said to have visited Birkenau on the 16th or 17th of May."

A. Right.

Q. Right? And this is from the War Refugee Board Report of which you were the co-author.

A. Now, yesterday you have shown me — I have to check on this because yesterday you have shown me a report which contradicted my statement —

Q. Never mind yesterday. Just read that.

A. — of the 7th of September, and then it turns out on the next page it was explained that it was on the 8th of September. So I would prefer, dealing with you, to check on every word.

Q. Do that. Page 38.

A. "According to the statement" —

Q. "According to the statement of a Jew from a special Kommando, Reichsführer Himmler was said to have visited Birkenau on the 16th or 17th of May."

A. Yes, but here it said in my {1533|1534} testimony that I do not guarantee for it, but I say, according to the statement, you know, it was War time, and one had to collect each statement very carefully if one wanted to inform a foreign government of what is happening there. One can rely only on your own two eyes with limited movement.

Consequently it was quite right of me to have specified the same as with Wetzler, because we are the author of this report both, what we saw directly and what was according to some statement.

Q. Well, in your book you say that you saw Heinrich Himmler visit the camp in January '43; you were glad to see him arrive not because of any faint hope that he would improve your lot, etcetera; and now you say, well, it could be and it might not be.

A. What?

Q. It might be Himmler and it might be somebody else.

A. Which passage are you reading now?

Q. I read it yesterday from page 10 of the book that I have, attributed to you, although it's not the hardcover edition. Are you denying that is what you wrote in your book?

A. Excuse me. This is first of all, there is a considerable difficulty. I suggested yesterday that the book should be shown first to the jury in order that they can see through the manipulations which you are making by tearing out individual sentences out of its context.

I have read quite a few of products of Neo-Nazi literature, and this is a standard method to take {1534|1535} out one sentence or two sentences completely off its context, quote only this and not quote what was before and after and twist those things and then say that because a sentence is not perfectly logical, nobody was gassed.

Q. Dr. Vrba, excuse me for interrupting your speech, but all I wanted to deal with was whether you said that in your book. If you feel that I have taken it out of context, I will read the whole thing again.

A. Please read three paragraphs before and three paragraphs after so I'll know what you are saying.

Q. All right. I will read three paragraphs before that remark, and three after.

A. And can I have, please, a copy?

Q. In your book, the hardcover edition, I think my friend says it's page 15. In mine it's page 10. In order to get three paragraphs before the reference to Himmler, I will start in my page 9 with reading the statement:

"In fact he was far from satisfied with what he had seen, but it was not the appalling conditions which worried him. It was the grossly inefficient methods which were being used to exterminate the Jews who were beginning to arrive in their thousands from all parts of Europe.

"The gas chambers were no more than make-shift affairs. The burning of the bodies in open trenches wasted valuable fuel and caused the Germans who by that time occupied the nearby Polish town of Auschwitz to complain of the stench. To a former teacher of mathematics, the whole business was just too haphazard for words. {1535|1536}

"And so he gave orders for the greatest, most efficient extermination factory the world has ever known. For the modern concrete gas chambers and the vast crematoria that could absorb as many as 12,000 bodies in twenty-four hours and, in fact, did so. For the machinery that sucked in 2,500,000 men, women and children in three years and puffed them out in harmless black smoke.

"Heinrich Himmler visited Auschwitz Camp again in January, 1943. This time I was glad to see him arrive, though not because I still nursed any faint hope that he would improve our lot through benevolence or any sense of justice. His presence was welcome to us all merely because it meant that for one day there would be no unscheduled beatings or killings.

"Once more we were lined up, spick and span, with the sick in the rear and the healthy well to the front. Once more the band played and the heels clicked and the jackboots danced in the lustre shed by the master. Once more he inspected the camp inch by inch, running a podgy, pedantic finger over the mantelpiece of Auschwitz and examining it for dust. And this time there was no Yankel Meisel to drop his tiny personal grain of sand into the smooth machinery.

"Though he conducted his tour of the camp with his usual thoroughness, it was, however, no more than an aperitif, for the meal that was to follow. The main purpose of his visit was to see for himself the bricks and mortar which had sprung from the plans he had outlined in Auschwitz seven months earlier.

"He was to watch the world's first conveyor belt killing, the inauguration of Commandant Hoess's {1536|1537} brand new toy, his crematorium. It was truly a splendid affair, one hundred yards long and fifty yards wide, containing fifteen ovens which could burn three bodies each simultaneously in twenty minutes, a monument in concrete, indeed, to its builder, Herr Waiter Dejaco."

Now, I read three paragraphs before the paragraph in question, the three paragraphs after. Do you still maintain there is any danger about the context?

A. No. I think the context —

Q. Then I am going to ask you a question. All right?

A. Yes.

Q. Good. Now, you say as a fact that Heinrich Himmler visited the camp in January 1943. Yes or no?

A. I say I was informed that he visited, the camp in January 1943, but I would like to turn your attention —

Q. I would like to turn your attention to a question.

A. I am answering your question.

Q. Well, I am asking you another.

A. You are asking me another question before I answer the first question. Don't try and confuse me, the Court and the jury. I cannot work this way. You are in the court. I cannot work this way.

Q. I am and so are you, sir. And I am asking you a question as to whether you said it was a fact that Himmler was in the camp in January 1943, and I want a simple answer. {1537|1538}

A. To my information he was there.

Q. All right. Did you write it as if it was a fact?

A. I wrote that it was to my information a fact.

Q. Where does it say to your information it was a fact?

A. This is understood in a book which doesn't claim to have scientific

significance but it is meant to give to a population which is not versatile in all details of this complex mass murder.

Q. Yes. Thank you.

A. A general idea.

Q. Good.

A. But I would like to add, to make your question more clear, the following: Heinrich Himmler visits were not always done in such a public way that they could be recorded. For instance, his first —

Q. Was this one public?

A. I can give you an example when others were not public.

Q. Well, this is the one I am asking about. Was this public?

A. Well, probably it was not published in general press.

Q. You said, "I was glad to see him arrive".

A. Yes.

Q. Did you say that in public?

A. All I can say is that he didn't {1538|1539} shake my hands, so I saw him on the second occasion only from a distance of three or four hundred yards, but as far as his first visit is concerned, not only I saw him from a distance much closer than you are from me, but his adjutant general, Herr Berg (phonetic) who was the head of the German spy organization, and his closest adjutant who published a book after the War, after he was imprisoned by the Allies, and in a book which has five hundred pages, he claims that in July, in 1942, he was every day, together with Himmler, but he was never in Auschwitz. So it is characteristic for the murderers that they try to obliterate their traces as much as possible.

The fact that you don't have recorded where Himmler was on the particular day doesn't mean that my information was wrong.

Q. Well, I am just interested in whether you claim your information is right or wrong.

A. In the first case I saw Himmler from three steps, and therefore I am quite sure that I am right. In the second instance I saw him from a larger distance, and therefore I can only say that it is likely that I am right, or possibly that I am right, because the information which I received pointed to that, that it is him, and the general cavalcade looked like Himmler's cavalcade which I saw as the first occasion.

Q. You gave us to believe that there was forty-six ovens in the Krematoria No. II in your War Refugee Board Report in 1944. Isn't that right?

A. In the War Refugee Board of 1944 I made it quite clear to you, and we made it quite clear that that report, that we know the exact location of the {1539|1540} crematoria, but we were not allowed to go inside because usually who was inside didn't come alive out from there.

Consequently, we had to rely on rough information which we got from the Sonderkommando who worked inside; and to reproduce a map without being trained in architecture, from hearsay descriptions of the other eye witnesses, of course, is not such a simple thing.

I think that the War Refugee Report, or the Vrba-Wetzler Report, if you wish to call it, for which we two are responsible, has given reliable information where the crematoria are, and roughly how they are equipped, without claiming that we were inside.

Q. Did the people in the camp with whom you lived — that is, the secret international resistance group referred to in some of your correspondence, regard you as a person who is a volatile, impulsive individual, who is unreliable?

A. Well, when I was of the opinion that it is not possible further to wait —

THE COURT: Just a moment. I wonder, Mr. Christie, if you could rephrase that. The way you have put it makes it very difficult.

MR. CHRISTIE: I appreciate that. I am going to refer to a book in which this statement is made.

Q. Is it attributed to you, Dr. Vrba?

A. First kindly explain to the jury whose book it is.

Q. "Auschwitz and the Allies" by Martin Gilbert. {1540|1541}

A. Who is Martin Gilbert?

Q. Well, you mentioned him before in your evidence in-chief. Don't you know who it is?

A. No. Please explain.

Q. I am not interested in —

A. Perhaps the jury —

THE COURT: Doctor, I don't have to ask this jury to leave again while you and I have a talk, do I?

THE WITNESS: I got the hint, Your Honour.

Q. MR. CHRISTIE: Now, if I ask you if he says, and I quote:

"Now, together with a fellow Slovak, Fred Wetzler, he contacted the secret international resistance group within the camp and put his plan of escape to David Szmulewski."

Do you know who that is?

A. Yes. He was a general.

Q. One of the representatives of the resistance leaders. Then there is a quote:

"I have been told Vrba later wrote that, 'Due to my inexperience, personal volatility, impulsiveness and other factors the leadership dismissed my intentions as unreliable.'"

Did you admit that about yourself?

A. I didn't admit about myself.

Q. So that is a misquote of you?

A. That is a distortion of facts which you are here again attempt, because what is written there is that I suggested that it is necessary to escape from {1541|1542} Auschwitz into the world, and I attempted to do so, and the resistance organization, after considering my request, said that it is unlikely that I may succeed when others did not succeed who are more experienced than I am, that I am risking unnecessarily my life, and therefore my ideas are probably motivated by impulsiveness.

Q. Well, what it says here —

A. He was wrong and I was right, because I escape and warned the world.

Q. You warned the world.

A. That's right.

Q. And is it true that, what is written right, here, that they considered you volatile, impulsive and unreliable?

A. That's right, because they refused that moment to assist me, considering that my enterprise to escape from Auschwitz is completely hopeless, in contrary to my views.

Q. Yeah. You were —

A. The proof of the pudding is, of course, in the eating, so it was not as hopeless as they thought —

Q. You were nineteen years old?

A. — otherwise I wouldn't be here.

Q. And is it the case that nobody who was in the camp at that time survived?

A. I beg your pardon?

Q. Is it the case that nobody who was in the camp when you escaped survived?

A. I don't understand your question.

Q. Is it the case that nobody who was {1542|1543} in the camp when you escaped survived?

A. Many survived who were living still at the time.

Q. Thank you. Now, you told us about Primo Levy being in the camp.

A. That's right.

Q. You know who Primy Levy is?

A. Yes.

Q. He escaped.

A. Yes.

Q. He was a survivor?

A. Yes.

Q. He was not in Auschwitz I or in Birkenau.

A. Right.

Q. He was in a satellite camp?

A. Yes.

Q. Now, people came to the Auschwitz ramp and went to satellite camps such as Raisko.

A. Yes.

Q. There were other camps —

A. One moment. Raisko. No, I never heard about it.  
 Q. All right. There were other satellite camps?  
 A. There were twenty-seven satellite camps.  
 Q. So all of the people who got off at the siding in Auschwitz didn't have to go to Birkenau.  
 A. This I can explain you quite clearly from a graph which I have shown here before. {1543|1544}  
 Q. Just answer my question.  
 A. It is better if I show it as it was, because you don't seem to remember what I said here yesterday.  
 THE COURT: Just a moment. I think that perhaps you can answer the question – unless you are going to say something different than what you have already pointed out as to what occurred on the ramp with respect to what you have called, in essence, the selection process.  
 THE WITNESS: Right. I said I can do it without the map.  
 THE COURT: Oh, good.  
 THE WITNESS: You reminded me of that. I explained, in detail, that a selection was made on the ramp, and that from the ramp those who were selected for work were marched off. They were marched off either in Auschwitz I, I said, or to Auschwitz II.  
 Q. Birkenau.  
 A. Yes.  
 Q. Well, they could also —  
 A. But some were marched off to Buna.  
 Q. Excuse me, some were marched off to Buna?  
 A. That's right.  
 Q. I spelled Raisko incorrectly. It should be Rajsco.  
 A. Right.  
 Q. Now, that was a camp, wasn't it?  
 A. Rajsco was a Polish name for Birkenau, and it is one of, as far as I could see from the {1544|1545} neo-Nazi literature which I perused, I could see that this is one of the swindles of the neo-Nazis, because Rajsco was first erased. This was a village on the map. On the map before 1942 you will find Rajsco as a village.  
 Q. Do you know how many satellite camps there were to Auschwitz generally?  
 A. I've heard that about twenty-seven satellite camps for slave labour.  
 Q. Do you know how many people were in them?  
 A. I don't have the statistics at the hand.  
 Q. Do you know that anyone who came to Auschwitz could have gone to anyone of those satellite camps, or not?  
 A. Those who were healthy and able and were find suitable for heavy slave labour went there, and when they were finished with their ability to work hard, they came back to Birkenau and were gassed in the same crematoria which I showed you. So on the way back, sometime there were even, knowing the confusion in the German administration, created often artificially, we could even speak with them. From them we heard that they were in some coal-mines close by of Auschwitz. From them we heard that they were in some factories, close by from Auschwitz, and when they couldn't work any more further they were brought back to Auschwitz and gassed.  
 Q. I put it to you there were, thirty-nine auxilliary [sic] camps attached to the main camp of Auschwitz in the immediate vicinity.  
 A. Camps for work? {1545|1546}  
 Q. Camps for work and camps for rest and other camps, sir.  
 A. Camps for slave labour there were around thirty. Can you name one camp for rest?  
 Q. Were you in them?  
 A. No, I was not in them.  
 Q. Then how can you tell us what went on in them except hearsay?  
 A. Because a number of people who worked there —  
 Q. Told you about it.  
 A. — came for gassing to Auschwitz and from them we heard what is going there, but the neo-Nazi literature would pretend that it was, perhaps, because it was completely covered up in secrecy, the ruthless slave labour that it was a rest place for children. And where are the children, then? Can you bring me one child who was resting there?

Q. I can tell you one child who went through Auschwitz and didn't die, and that's called Anne Frank. Do you deny that?  
 A. I didn't meet Anne Frank.  
 Q. Well, you asked me if I knew of any. I put it to you Anne Frank was in Auschwitz and wasn't killed there and was moved to another camp where she later died. Do you deny that?  
 THE COURT: Just a moment, please. There is a good reason that Courts say that witnesses answer questions and don't ask questions of their own, Doctor. Please resist asking counsel questions. You are here to answer them not to ask them. {1546|1547}  
 THE WITNESS: Thank you for your advice.  
 Q. MR. CHRISTIE: How many people died of typhus?  
 A. They died in thousands, but I don't have exact figures.  
 Q. Isn't it true that thousands of people who died were buried not far from the camp, and they had to be exhumed and their bodies burned because they were polluting the water supply?  
 A. It is true that before I came to Auschwitz, and indeed, that was the reason why I came to Auschwitz from Maidanek concentration camp, they needed four hundred men.  
 Q. And you volunteered.  
 A. Yes. For so-called fieldwork, for work in field, and when we came to Auschwitz it turned out that before the Auschwitz started, many thousands of Russians prisoners of war who were murdered by the Nazi machinery, they buried them in the vicinity of the Auschwitz and then they came to the idea that it was not good to have a mass grave, so they used the slave labour, the prisoners who they brought from Maidanek, to bring up the bodies and burn them.  
 Q. Now you are telling us that thousands of people died of typhus and you don't know how many. Is that right?  
 A. That's right.  
 Q. That was an epidemic in 1942, I gather, before you were brought to Birkenau; is that right?  
 A. No. There might have been an epidemic before I was brought to Birkenau, but there was {1547|1548} one in August 1944.  
 Q. That was before you were brought to Birkenau.  
 A. That's right.  
 Q. Now, isn't it true that the epidemic of which you speak claimed lives at a rapid rate and that typhus was spread from lice?  
 A. That's quite so.  
 Q. Do you recall being in the bathhouse known as the sauna for some reason?  
 A. Yes.  
 Q. Were you there?  
 A. Yes.  
 Q. The one I am speaking about is the one that was shown on the very detailed map that we took from the Phillip Mueller book.  
 A. Yes.  
 Q. You were in the sauna or bath in that place?  
 A. I was in the bath which was adjacent to the Krematorium III and IV.  
 Q. All right. That one had roads that went to it, didn't [sic] it?  
 A. What do you mean, roads? Within the confines of Krematorium III and IV there were, naturally, the whole confine was not bigger than, perhaps, ten times of this room, and there were, naturally, footpaths. There were even flowers planted in front of the crematoria so that the deception could work better. There were even trees planted.  
 Q. There was a sport field beside {1548|1549} Krema III, sir, wasn't there?  
 A. I haven't seen it.  
 Q. You never went there.  
 A. No.  
 Q. Nobody ever played sports there?  
 A. Not to my knowledge.  
 Q. You deny that other survivors have said they've played sports there?  
 A. Not to me, but it is quite possible that some of them did play sports.  
 Q. Right beside the crematoria, in fact. I put it to you —  
 A. I don't have that information.

Q. You don't have that information.

A. No.

Q. I put it to you that the reason for those crematoria was to deal with the bodies of people who had died from typhus.

A. This is ridiculous.

Q. What?

A. This is a ridiculous statement.

Q. What else do you think they did with the bodies of people who died from typhus in the thousands, sir?

A. They burned them together with the people who did not die of it.

Q. How many of those who died ended up in Fred Wetzler's crematoria who you say held three or four thousand bodies a day?

A. The crematorium [sic] bodies varied roughly over months. For example, in 1943 sitting in the {1549|1550} crematoria with Fred Wetzler, the mortality would be three hundred to four hundred a day, sometimes five hundred, but in May of the same year, after Camp Commander Hoess was withdrawn and the second Commander was put into command, the mortality dropped that one day. In May there was not a natural death. It was quite empty.

So the mortality dropped because, (a), the frost went away, the winter passed by, and (b), the new commander said, "What's happening in the gas chamber is one thing, but I don't want that a prisoner should be beaten unnecessarily." Consequently the mortality among the prisoners dropped. Consequently there was not one day when there was not one person killed in Birkenau, so the mortality rate in Birkenau was subject to great swings.

Q. You give us to believe that there were 1,765,000 corpses of gassed Jews to which we must add whoever died of natural causes, sometimes at the rate of five hundred a day.

A. Yes.

Q. And whoever wasn't a Jew and was gassed, we have to add that too.

A. Yes.

Q. And that's in two years. Right?

A. I beg your pardon? I don't understand your question.

Q. You don't understand my question?

A. No.

Q. You gave us the figure of 2,65,000 corpses who were gassed in your War Refugee Board Report.

Correct?

A. That's right. {1550|1551}

Q. That must be added to five hundred a day in some cases, of other caused deaths. Correct?

A. That's right.

Q. And then you also have to add all the non-Jewish corpses, those who were dead; right?

A. That's right.

Q. So now we have in your two-year period in Auschwitz and in Birkenau at least 1,765,000 corpses. Right?

A. More than that.

Q. Mm-hmmm. More than that.

A. More than that. Not during the —

Q. Let's just deal with one thing at a time.

A. Okay.

Q. Now, you told us in the War Refugee Board Report that there were thirty-six furnaces — yes, thirty-six — and it took an hour and a half to burn three corpses in each furnace. Right?

A. That's right.

Q. You later said, having seen the plans, I suppose, that there were fifteen crematorium ovens. Right?

A. No. Where did I say so?

Q. In your book. We went over that yesterday.

A. Mm-hmmm.

Q. Do you deny it today?

A. I don't deny anything.

Q. All right. Well, just deal with the truth. I am asking you whether today you are denying that {1551|1552} yesterday you agreed that in your

book you came to the conclusion there were fifteen ovens.

A. Would you show it in my book?

Q. You don't remember?

A. No.

Q. Well, then, how can you not remember from one day to the next what you say, and yet you can tell us what you counted forty-five years ago?

A. Because what I have seen with my eyes is very firmly embedded in my memory. This means when I have counted 1,765,000 people, I saw them, but inside of the crematoria I didn't see.

Q. Yes. So you saw 1,765,000 people.

A. According to my count.

Q. Yes. They were Jews, though; right? Just Jews, according to the War Refugee Board Report that you tell us is your count.

A. That's right.

Q. So they weren't gentiles; these were Jews.

A. Yes.

Q. You can tell the difference and you made the distinction between Jews and gentiles in that number?

A. I didn't make the difference in that number. I only said that 1,765,000 Jews were gassed in the gas chambers. The difference between Jews and non-Jews was made by Nazis and not by me, as you know.

Q. Well, why didn't you count all the people, then, who were gassed in gas chambers?

A. They were counted perfectly well, {1552|1553} because if you look, for instance, into my book, I mention that apart from the 1,765,000 Jews who were gassed there, about 350,000 prisoners died —

Q. Mm-hmmm.

A. — in the concentration camp Auschwitz, and a good deal of them were not Jews but Poles, Frenchmen, Czechs, etcetera.

Q. Okay. We will deal with that. You asked me where in your book you said fifteen ovens. I am showing you where it says in my copy. We have to go through this procedure every time of checking with your copy, but do that if you will.

A. So it is written fifteen ovens which could burn three bodies each simultaneously in twenty minutes.

Q. That's right.

A. And how many ovens were there, in your opinion?

THE COURT: No.

Q. MR. CHRISTIE: I am asking you because you are the witness, and you said it in the War Refugee Board Report.

A. Yes.

Q. All right. What made you change your mind from thirty-six ovens to fifteen, if you haven't been there since?

A. The fifteen are here. Where is the thirty-six?

Q. In the War Refugee Board Report it says thirty-six.

A. Would you show it to me in the War Refugee Board Report? I have a copy of it here. You show {1553|1554} it to me.

Q. Page 14, last paragraph.

A. Page 14?

Q. Yes:

"A huge chimney rises from the furnace room around which are grouped nine furnaces each having four openings."

So I multiplied nine by four and I get thirty-six.

A. One moment.

"A huge chimney arises from the furnace room around which are grouped nine furnaces each having four openings. Each opening can take three normal corpses, and after an hour and a half the bodies [sic] are completely burned."

Right.

Q. Right. If you never went back. and you never looked at a plan, what made you change your mind about all this?

A. I still do not see any difference between one statement and the other.

Q. Oh, you don't see a difference between thirty-six and fifteen. Right?

A. Fifteen in one crematorium.

Q. We were talking about one crematorium in the case of the thirty-six ovens, sir.

A. You are completely confusing me. I can't find anything of that sort what you are saying in this report.

Q. Sir, you gave us a description in the War Refugee Board Report, page 14. You also gave us {1554|1555} a diagram.

A. Yes. The diagram is here.

Q. In the description you are talking about – I will read the whole paragraph:

“At present there are four crematoria in operation at Birkenau, two large ones, I and II, and two smaller ones, III and IV. Those type I and II consist of three parts – A, the furnace room, B, the great large hall, C, the gas chamber. A huge chimney arises from the furnace room around which are grouped nine furnaces each having four openings.”

Now, are you not talking about the crematoria types I and II and talking about nine furnaces with four openings for thirty-six openings?

A. As I explained to you yesterday, it was quite clear that the graph which we enclosed to the War Refugee Board was made from hearsay. We were not inside. In other words, we cannot —

THE COURT: Just a moment. One at a time. Go ahead.

THE WITNESS: I am supposed to go ahead?

THE COURT: Let the witness finish. Go ahead, Doctor.

THE WITNESS: I have made quite clear that as we were not allowed to inspect the crematoria with our intention to escape, we could, in our report, write only and make a sketch of crematoria as we heard second-hand from people who worked inside. What we knew for sure and for what we were guaranteeing is that Krematoria III [II] and Krematorium IV [III] was built for a capacity of two thousand {1555|1556} bodies a day, whereas Krematoriums IV and V were smaller with a capacity of one thousand bodies a day.

On the whole we were informing the public, the Allies and the Allied governments that the crematoria together, according to our information, were made to the maximum capacity of burning six thousand bodies a day. We didn't say that actually six thousand are burning a day, because there was a considerable amount of breakdown in that crematoria.

However, in your quote yesterday you tried to confuse me by saying that the crematoria I said in this report were made for six thousand people, and then you said in my book I said they finally had a machinery for twelve thousand people.

Q. Yeah. That is correct.

A. And that is perfectly true because when the Hungarian Jews arrived in May and June 1944 —

Q. Do you remember the question —

A. — then the crematoria were not able to burn that amount of people who came there daily, and they had to burn the rest in pits around the crematoria. So, I concluded that up to twelve thousand people a day could be burned, gassed and burned in the complex in crematoria in Birkenau.

You, then, started to confront that in the report I said that the maximum possible number is six thousand, and in the book I said that the maximum number is twelve thousand, and I am contradicting myself. I'm not contradicting myself; I am just telling you what you don't want to understand, and what you use for deliberate confusion, I think, that the Nazis were more inventive than {1556|1557} it appears.

When the Hungarian transports came in such great masses that the crematoria couldn't take it, they re-equipped the crematoria with additional pits around the crematoria and were without great technical advances, simply dug out with slave labour additional pits, and increased the capacity of the murder complex in Birkenau from six thousand to twelve thousand, in no detail and without great technical measurement. And in this difference, who is not quite clear to those who did not study the report that went to the British and United States government and was found there by specialists as reliable, and my additional report which was written after the War with additional knowledge which I acquired when I was not in Auschwitz, you tear out from this various quotations in a confusing way, present it to a jury and me and to a court,

who perhaps do not know every detail of this complex matter, and by this confusion you try to creat[e] the impression that because there was such a confusion, there was no burning at all – obviously everything was invented.

Q. Did you see one body being taken out of the crematorium and hauled to a pit?

A. This happened in May and June and July 1944. And I escaped in April. In other words —

Q. The answer is no.

A. In other words, I have not present during the mass murder of the Hungarian Jews. Indeed, my job was to escape from Auschwitz before this mass murder started and to warn them.

Q. In spite of the fact that you weren't a witness to such a thing, you have told us these things {1557|1558} were fact. Right?

A. These things can be considered as a fact. Also, I haven't been on the moon. I consider it as a fact that somebody landed on the moon, and that the picture was not made in the Star Trek atelier [sic] because there are certain informations that a person doesn't doubt. If I used your logic, you can come to me and say that the earth is flat. Everybody can see it, and I can't prove otherwise, and the astronauts which went to the moon, they were filled with an atelier [sic] together with Star Trek, and all of this was invented. How can I object against this argument? And you are coming with exactly the same arguments here, from the four [hundred] thousand Jews who were deported in the months May, June, July from Hungary and into the extermination camps in Auschwitz, about twenty thousand came back from slave labour, only four hundred thousand or so were gassed and murdered there and there is a statement of twenty thousand people; and if you want to know every detail what those twenty thousand people have said and how it was investigated and that it was photographed from the aeroplanes by the Americans by the time it was August and September, as those reports fully confirm, and the statistics fully compiled in back of by Professor Randall Brown in New York University College, so why shouldn't I accept those facts and incorporate them into my book as to what happened in Auschwitz after I escaped? After all, I am not such an egomaniac that after I left Auschwitz there was nothing left to interest me.

Q. Are you aware of the aerial [sic] photographs of the camp prepared by the United States Government, {1558|1559} a copy of which I am showing you from the Central Intelligence Agency?

THE COURT: Just show him the document, Mr. Christie. We have been over this before. Ask him if he recollects it.

THE WITNESS: From the photographs which I see in front of me and which I haven't seen before

Q. MR. CHRISTIE: All right. You haven't seen them before.

A. But I can remember here something.

Q. All right.

A. I can recognize complex Auschwitz Birkenau, aerial [sic] view. I can recognize the ramp and I can recognize the complex of Auschwitz I. I can recognize – that's about what I can recognize here, yes.

Q. Mm-hmmm. And the date of the photograph and the picture?

A. 26 June, 1944.

Q. Do you see a road leading out of the camp just north of the area of the crematoria?

A. This, I would say, is not a road, it's but a pathway through the forest which was behind the crematoria. You can see clearly that there is a forest and a narrow pathway. And it wasn't there when I escaped from Auschwitz.

Q. When you escaped on a dark night without a compass and without a light, you can tell us that you know there is no road in that area?

A. Well, you see, I can escape without a compass and without a light, or so probably in the girl guide in B.C. Victoria they didn't explain to you how it {1559|1560} is done, but it is possible and I will tell you how it is done.

Q. I put it to you that the road is no thicker and no thinner than the road leading into it at the bottom of the picture.

A. This is not at all. You can see here heavy road coming in the camp,

and narrow passes coming out from the camp.

Q. Thank you.

MR. CHRISTIE: Could I use that as an exhibit, please, Your Honour?

THE COURT: Yes.

MR. CHRISTIE: Thank you.

THE WITNESS: Any aerial [sic] specialist will give you better advice on that.

MR. CHRISTIE: Yes. Thank you very much.

THE COURT: That will be Exhibit No. 27.

MR. GRIFFITHS: Is that the photograph with the CIA interpretation, or just the photograph, just so I'm clear, Your Honour?

THE COURT: Just the photograph, unless and until you look at it, and unless you —

MR. CHRISTIE: What I could do is put it in for identification, and I can call evidence on that point later, perhaps.

THE COURT: The photograph only, for the moment, until counsel have seen it; but do not take it apart. Just hold it for the moment, Madam Clerk. It is the photograph only that is to be the exhibit at this time. {1560|1561}

— EXHIBIT NO. 27: Excerpt from document showing photograph of Auschwitz-Birkenau complex.

MR. CHRISTIE: Witness, you say that you saw 1,765,000 Jews go into the area of the crematorium, and you are asking us to believe that you did that by counting each and everyone of them.

A. To make a statistics clandestinely of a highly secret murder, committed by a ruthless and large organization over two years, is a question which requires some circumspection and cannot be answered in one or two sentences. but if you wish to know every detail how the statistics which are recorded in this report were made by me and Wetzler, I can give you an explanation, a lecture about it.

Q. I asked you a question about it. Did you count each one of them?

THE COURT: Doctor, you can answer that question without difficulty. Please do it.

THE WITNESS: I counted reliably at least eighty per cent of it, and at least the remaining twenty per cent of it was seen by Wetzler and most of it was seen by both of us. So you can double check the figures.

Q. So you can double check the figures.

A. By many other ways, too.

Q. Did they come in trucks, or did they come on foot?

A. As I explained to you yesterday, and you seem to have forgotten, the mass of the victims came in cattle trucks, in trains. However, there were excep-{1561|1562}tional cases. There were exceptional cases when they came on trucks.

Q. Now, isn't it your evidence, from a previous occasion, that a hundred people were put on each truck and you counted the trucks?

A. I said on previous occasion that in each truck there were sixty — you mean cattle truck?

Q. No. The trucks that you said came from the ramps. You referred to them as dump trucks.

A. That's right — dump trucks.

Q. You said there were a hundred people in each one and you counted by that method?

A. That's right.

Q. 17,650 trucks? Are you telling us that you counted 17,650 trucks?

A. No. A considerable part of my method consisted also of other measurements. For instance, when I went out to the ramp —

Q. I didn't ask you about other methods. I asked you about that specific method, thank you.

A. I didn't go by just this parameter. I had other parameters in order to check and double check these figures.

Q. I will ask you if I may —

A. You're welcome. You may learn something new.

Q. Is it your evidence that you kept a record in some written form, or is it all mental note?

A. To keep records in written form about murder in Auschwitz —

Q. — would be dangerous, so —

A. — was to ask for death. {1562|1563}

Q. So you didn't.

A. No. I relied on my memory.

Q. Therefore it was all a matter of memory.

A. That's right.

Q. And the matter of memory was such, that over the two years you could be sure of the numbers of trucks and transports.

A. Absolutely.

Q. You never wrote it own anywhere?

A. It was not necessary until I wrote this down, because I have special mnemonic principles that are simple, so simple that you might understand it, perhaps.

Q. One of the things you did in the camp was to learn how to tell lies very effectively, wasn't it?

A. I beg your pardon?

Q. One of the methods to survive in the camp was to learn how to lie very effectively?

A. Are you making innuendos that I was a liar?

Q. I asked you a specific question, that's all. You had to lie very effectively so that you had to get ahead in the camp?

A. I don't understand what you are meaning. Give me an example.

Q. Well, did you have to lie to the guards and lie to the Kapos and lie to the authorities above you, and perhaps even lie to the people around you?

A. You mean that I didn't go to the {1563|1564} camp commander and told him that my real intention is to escape from this camp, that I do not approve of the murders which is going on here, that I pretend that I am a slave labourer who has got no other interest than to find a scrap of food and can't think, and if you say that that was a lie, well, I would say that you might have here some point.

In other words, in the face of a ruthless enemy of a ruthless murderer who doesn't believe into God and has got no inhibitions whatsoever, if he knows he can get away with it, it would be most imprudent to open my mind and warn him that my intention is to oppose him.

Q. Is that why you developed your memory techniques?

A. This was a part of it. I had to develop my memory techniques if I wanted to oppose their objective, and their objective was to keep the secret of Auschwitz.

Q. If you wanted to keep yourself safe you had to develop the memory techniques so that you could keep your lies straight?

A. I beg your pardon?

Q. You had to develop a memory technique so you could keep your lies straight and survive in the camp?

A. Keep what?

Q. In order to keep alive in the camp you had to develop a memory technique so that you had to keep your lies straight?

A. My lies straight?

Q. That's right. {1564|1565}

A. You are saying I have been lying?

Q. That's right, sir; but I am suggesting that you have developed a technique to keep your lies straight.

A. I am suggesting to you that, to consider a person who fought Nazis a liar is a misuse of a free Court in Canada.

Q. So because you fought the Nazis we shouldn't suggest that you could be lying; is that it?

A. I fought the Nazis without telling them my real intention, otherwise I couldn't have fought them. And if you now, on that ground, consider me a liar, then you will have to consider a liar every nineteen-year old Canadian boy who died fighting the Nazis because he didn't tell them in advance when he was going to attack them.

Q. Well, how many of them died, sir?

A. Of whom?

Q. The Canadian boys you are referring to?

A. A great deal of them had to die.

Q. How many?

A. It was not my job to make a statistic on that.

Q. That's right. But I will suggest to you that it's been a well-promoted statistic that you made of 1,765,000, that that statistic is not any more

known to you than it is to anyone in this room as to how many Canadians died.

A. Well, it is very sad. It should be known; but I suggest there is sufficient information about {1565|1566} it in the library if I wanted to know how many young Canadians had put their lives down in order to end this nightmare in Europe, and there is a sufficient information about it in the library about Auschwitz, too, and everybody contributed where he was, the military organs, the military administration kept records about it, how many soldiers they lost, and I kept record about it, how many victims I have seen murdered and robbed. Also, I might say that this is not a welcome news to you.

THE COURT: We will adjourn for twenty minutes.

— The jury retires. 11:40 a.m.

— Short adjournment.

— Upon resuming.

— The jury returns. 12:10 p.m.

THE COURT: Go ahead, Mr. Christie.

Q. MR. CHRISTIE: I'd like to deal with the specific figure that you gave for the nation of France on page 33 of your report, where you say, "Careful estimate of the number of Jews gassed in Birkenau between April, 1942 and April, 1944 ( according to countries of origin)."

A. Which page is it?

Q. Page 33 of your report, the War Refugee Board Report which you referred to as the Vrba-Wetzler Report. Page 33 there is a list there which says, "Careful estimate of the number of Jews gassed in Birkenau between April, 1942 and April, 1944 (according to countries {1566|1567} of origin)."

A. That's right.

Q. Then it says, "France – 150,000".

A. Right.

Q. Correct?

A. Right. Approximately 150,000.

Q. How did you know the country of origin – a nineteen-year-old block-schreib[r] – in what block number?

A. No. 15 in Block IIA.

Q. Yes. No. 15 Block, in Block IIA. Right?

A. Yes.

Q. So you knew the country of origin.

A. Yes.

Q. For everybody who came from France.

A. That's right.

Q. Okay.

A. I can explain to you why.

Q. I don't need an explanation. I just want to know if it's true.

A. Yes.

Q. You said yes.

A. Yes.

Q. That's for two years – gassed Jews from France.

A. Yes.

Q. 150,000.

A. Gassed Jews which came in trains from France.

Q. Oh, I see. {1567|1568}

A. Because in those trains were many Polish Jews who were refugees from Poland and came to France and then they were caught up in France by the Nazi machinery.

Q. All right. So you happen to know the country of origin of the trains.

A. Absolutely so.

Q. You seem to know everything about the camp even from where the trains came. Right?

A. This was very easy for me to find out.

Q. I am sure it was.

A. I will explain to you why.

Q. If you wish, later, but I have a question for you.

A. If you wish I will.

Q. Well, I have a question dealing with 150,000 gassed Jews from France.

A. That's right.

Q. I'd like to show you a book made by Serge Klarsfeld.

A. Yes.

THE COURT: Show him the book.

MR. CHRISTIE: Yes.

Q. Do you recognize this book?

A. No.

Q. You don't know anything about it?

A. No.

Q. I want to put something to you from this book.

THE COURT: Don't quote anything from {1568|1569} the book. Just put questions emanating from the book, but not from the book directly.

MR. CHRISTIE: All right.

Q. I put it to you, sir, that it is the truth and the fact that the closest estimate we can obtain from the best sources available, with all the transport numbers and names and dates in France, gives us the closest possible estimate of foreign Jews deported, Jews without national origin deported from France, and French Jews deported from France equalling a total for the entire War of 75,721. Do you disagree with that?

A. Yes.

Q. Thank you.

A. I disagree with it because it is not in accordance with what I have established.

Q. Yes. Thank you very much.

A. And it was written by people who have not seen.

Q. You are a person who has seen people.

A. On the ramp.

Q. How do the trains differ from Lithuania, Bohemia, Slovakia, all of which countries of origin you identify in your report? How are they different?

A. All right. Before the train came, the S.S. were very informed what sort of trains will come, and they didn't say that the train from France will come. They said, "Tomorrow come sardines", because people in France during the wartime did have sardines, somehow, and in the moment when the news that they are going to an {1569|1570} unknown place, they tried to accumulate certain amount of food which they take with themselves.

For us who were working on the ramp, naturally, the food which they brought with them was very important. Unfortunately, they did not eat the food as they went mostly to the gas chamber, and the food was confiscated, but we paid close attention to the question of food because we were starving people, and the S.S. paid a close attention to that question.

Consequently, when the S.S. started to speak, "You are going to the ramp. Sardines are coming", I knew it was a transport from France and I knew that that night, if I am lucky, I will steal sardine conserve.

When a transport came from Greece they were speaking of cigarettes. Interestingly, during wartime Greece had cigarettes, and France not much; consequently the Greek transport was a supply of cigarettes not only for the S.S. but also the prisoners who whenever they can put um their hands on the goods too.

When a transport came from Slovakia, one spoke about Slivovitz.

THE COURT: What is that?

THE WITNESS: This is an alcoholic drink. Because each family brought with them, they use it for medicinal purposes. When somebody is very sick in Slovakia they believe if you have a glass of it you get better. So we knew – I didn't answer your question yet – so we knew perfectly well from food.

Secondly, we knew perfectly well from the language which they spoke. Auschwitz was full of all nationalities, all languages are spoken, and I myself speak {1570|1571} seven. So it was quite clear for me and easy for me to identify the people the moment they came out from the train by the language they spoke.

Q. What about the story you told us before –

A. And number three, they brought the luggages, and on the luggages they brought with them, they did not bring with them – we from the Kanadakommand handled them; and on the luggages were carefully



written their names and their addresses at home, just like everybody who travels writes his name and address on the luggage.

So there were many, many factors which clearly, and beyond any doubt, enabled me to establish, with one glance, from where a particular transport is coming.

Q. So your estimate, then, is based on those three things – the conversation, the tags on the luggage, and the food they brought with them.

A. Not only that.

Q. More?

A. More.

Q. Tell us more. Just a moment, I will ask you specifically, how can you tell there were a hundred thousand from Holland? You see, that's the first one, Holland; and Poland you say 300,000.

A. By truck. 600,000 by train."

Q. You've told us so far that nobody came by truck, but now you say" 300,000 came by truck?

A. These are that came from the ghettos of Auschwitz, Sosnovitz (phonetic) and so on. There were a number of ghettos in close vicinity of Auschwitz with {1571|1572} great concentration of Jews, and they were not transported by train, but by truck.

Q. You handled their luggage off the train, too?

A. That's right. Off the trucks.

Q. Off the trucks.

A. Yes.

Q. You unloaded the trucks, then.

A. No, I didn't unload those people from the trucks. Those trucks went straight to the crematoria, so we could see the truck only.

Q. So 300,000 went in those trucks that went straight to the crematoria.

A. Roughly.

Q. And I suppose you saw the people being dumped into the back to the crematoria?

A. The trucks went into the crematoria and I didn't see any people coming back except the empty trucks.

Q. So you didn't see anybody going into the crematoria?

A. No. Only the trucks loaded with people.

Q. Going into the area of the crematoria?

A. Going into the closed area of the crematoria.

Q. Oh, right inside the building?

A. In front of the building. And then they went —

Q. Did you see them going into the {1572|1573} closed building?

A. When it was day, yes. When it was night I only saw them going into the compound.

Q. There was a compound with a wall around it?

A. Not wall, barbed wire.

Q. So did you see the trucks going right into the crematoria with these people on them?

A. Perfectly so.

Q. Yes. Big, wide doors in the crematoria, eh?

A. Not in the crematoria. There were big, wide doors in the entrance to the compound of the crematoria. This means that cars, the trucks went on the main road from the main gate in Birkenau, the last four hundred of five hundred meter, to the crematoria, and in front of the crematoria the barbed wire fence had a very large opening. It's a gate through which easily a truck went by.

Q. Yeah. So you saw three thousand trucks with a hundred people on each one going through the gate?

A. Not in one night, but over two years.

Q. And you counted them and when you got to eight hundred or so, you kept on counting and never made mistakes and kept on counting till you got to three thousand trucks.

A. That's right.

Q. With a hundred people on each.

A. That's right.

Q. Now you say 600,000 came from Poland {1573|1574} by train.

A. Yes.

Q. And you counted all those, too.

A. Six hundred —

Q. That's what it says.

A. Where is it?

Q. Second from the top, just under the 300,000.

A. Yes. Because I was on the ramp. They came with train.

Q. Sure. What about this situation where you told us that the lady who had a conversation with a prisoner, then the prisoner was shot for talking to her?

A. Yes.

Q. Without going into the conversation – no doubt you can go on about that – do you remember that incident?

A. Yes, I do.

Q. Any communication between the baggage handlers and the people on the trains resulted in being shot.

A. Usually, when it was observed.

Q. Okay. So we have now understood from you why there was so ready an ability to identify the country of origin, eh?

A. There was more of that.

Q. Just answer one other question, if you will.

A. There was more of that. You asked of, me what was ready ability. You see, from each transport — {1574|1575}

Q. Well, so far, let me understand you, it was the food, in the case of Yugoslavia Slivovitz, in case of France sardines, then there was the luggage which you thought of next, then there was the language which you thought of after that.

A. Yes.

Q. Anything else you want to add? You have thought of something else?

A. Yes, I have thought at something else.

Q. Go ahead.

A. For instance, from each transport – not from each but from most of the transport, they chose at least a hundred men, or two hundred men from slave labour, and these men came into the camp. Once I became a camp registrar, or a Blockschreibe, to say it exactly, I was writing their cards – their names, from where they are – and I spoke with them and I asked them where from they are, if they came with their families, because their first question was, "Where are our families? Where is my wife? Where are my children?" So that I speak to them like a human being, so they thought I could give them the information. And from the discussions with these people, from the discussions with these people I was able to confirm my observations with my eyes and come, then, to my final conclusion about the size of the transport and origin.

Q. Mm-hmmm. I just want to understand clearly that you were a Blockschreibe, you told us, right there, wasn't it?

A. No. It was here in Block 15. {1575|1576}

THE COURT. Referring to Exhibit 1.

MR. CHRISTIE: Exhibit 21, sir.

Q. Now, Block 15, you say?

A. Yes.

Q. That's one block in one half of – it's BIIA, right?

A. Yes.

Q. Now, how many people were in that block?

A. In that block were sometimes no people, and sometimes a thousand.

Q. Sometimes a thousand.

A. Yes.

Q. So there's as many as a thousand in each of those blocks at the bottom there; is that right?

A. No, that is not right, because sometimes —

Q. What do you mean, then?

A. Sometimes half of the blocks were empty, sometimes eighty per cent of the blocks were empty – it was a quarantine part of the camp.

Q. Yeah, but they held as many as a thousand in each of those blocks?

A. If necessary they could put as many as a thousand people in each of those blocks. They held as many as three hundred, but they managed to press in.

Q. What we are talking about the block BIIA. Right?

A. Yes.

Q. And there's fifteen blocks in there. {1576|1577}

A. That's right.

Q. All right. So there could be as many as fifteen thousand people.

A. There were never there fifteen thousand people.

Q. In that part of the camp.

A. No. In quarantine camp not, but in similar camp, indeed, there were sometimes twenty thousand.

Q. Let's get the figures understood. So that in all the other blocks in other camps, the same number of people could be kept.

A. Not at all. This doesn't work that way. I am show you how it works if you will allow me.

Q. All I asked you was, were the blocks capable of holding that many people?

A. They were capable, but between capability of holding people and actually holding people there is a difference. The people. Were the people there or not?

Q. I know. And you were in the quarantine camp, and unless you were reporting to the Chief Blochschreibe, [Blockschreiber] or the Chief Scribe of the camp

A. That's right.

Q. — you had to be in quarantine Block A.

A. According to regulations; it doesn't mean that I kept the regulations, you see.

Q. No. You were clever enough to avoid the regulations, right?

(page 1579 follows) {1577|1579}

A. I took the risk to avoid the regulations, if you don't mind, as part of my fighting duties.

Q. Fighting duries, [duties] yes. So you still maintain 150,000 people from France who were Jews ...

A. Yes.

Q. ... were gassed between April '42 and April '44.

A. Yes.

Q. You maintain —

A. It is written there.

Q. It is written there, I know.

A. I have counted them.

Q. And I want to know if that's true.

A. Right.

Q. And you say that is true.

A. Absolutely so, otherwise I wouldn't have written it.

Q. And it's a careful estimate, isn't it?

A. Well, what else can it be? Should I have asked —

Q. Don't answer my question with a question. Please answer my question with an answer.

A. Yes. A careful estimate, because that is all I could do. A careful estimate. I could not ask the camp commander for more exact figures. He had them.

Q. Thank you for your reason for your answer. I suggest to you that this figure is twice the number of people that boarded from France who were Jews for the entire War. What do you say to that?

A. Where from do you have the figure, from the Nazi newspapers? {1579|1580}

Q. No. I have the figure — do you want an answer to the question? Because that is what you asked me. I put it to you, therefore, from Serge Klarsfeld, a noted Nazi-hunter from France who wrote the book, *Le Memorial de la Deportation de Juivre en France* — do you deny the content of this book?

A. I have not read that book, but I can tell you that I was in Notre Dame — excuse me, I am trying to explain to you that question.

Q. But I didn't ask you about Notre Dame. I asked you whether you disputed the truth of that book.

A. I would like to inform you about different sources.

THE COURT: Doctor, Doctor. Mr. Christie, let him answer the question. You put it. Let him answer it.

THE WITNESS: I would like to tell you that in 1967 I was invited by the French Government to take part in the opening of memorial for those who were deported from France and died a martyr's death in Auschwitz

and I was taken in Notre Dame in the memorial, and in gold letters there was written, "In memory of 200,000 French victims of gas chambers in Auschwitz", or deportees, or something to that effect. I cannot reproduce the words, but roughly to that effect.

Q. MR. CHRISTIE: Where was this?

A. In the memorial to the martyrs of deportation, which is underground under the Cathedral Notre Dame, on the island in Paris. So you can see that at that time the French Government had an opinion that 200,000 were {1580|1581} deported. Now, the French Government —

Q. Gassed or deported?

A. Deported.

Q. Mm-hmmm.

A. And came never back. There is an inscription of a ten-year-old hoy whose parents were deported, and this inscription says, "One day they went away and they never came back". So this was for the 200,000 who were deported and never came back.

Now, we know, of course, where they were deported. The Germans kept —

MR. CHRISTIE: Your Honour, I object to the witness going beyond the scope of the question. I'd like to ask some other questions.

THE COURT: Ask the next question.

MR. CHRISTIE: Thank you.

Q. You gave an answer to my learned friend that the words in this book, "Did Six Million Really Die?" was a cynical lie, on more than one occasion, I recall; is that right?

A. May I elaborate this on the ground —

Q. I just want to know if you said that.

A. Yes. I have a document on that. I have left it.

Q. I just asked you whether you said it.

A. Yes, sir. It is a cynical lie.

Q. Okay.

A. It is cynical to say —

Q. You were read the portion I am about {1581|1582} to read to you: "Although several millions were supposed to have died at Auschwitz alone, Reitlinger has to admit that only 363,000 inmates were registered at the camp for the whole of the period between January 1940 and February 1945" (*The S.S. Alibi of a Nation*, p.268 ff), and ..."

A. What is the figure?

Q. "... 363,000 inmates were registered at the camp for the whole of the period between January 1940 and February 1945 (*The S.S. Alibi of a Nation*, p.268 ff), and ..."

A. Excuse me. You said registered. Did I hear right?

Q. That's what the words were.

A. Registered. Good. Thank you.

Q. Okay. Now, do you deny that that's what it says in the book, "The S.S. Alibi of a Nation", at page 268?

A. I didn't read the book.

Q. All right. So you don't deny that?

A. I didn't read the book. I didn't come to discuss this literature. I came here at the request of the Court to say what I saw.

Q. I asked you a question and I want an answer.

A. What answer do you want me about the book? {1582|1583}

Q. I want to know why you said that r that was a cynical lie if you had never read the book.

A. The six millions why it was a cynical lie?

Q. No. The question was why that was a cynical lie when you've never read the book.

A. What was a cynical lie?

Q. You said this part, which I've read to you, was a cynical lie. Now I'm going to analyze it piece by piece and I am going to ask you specifically if every sentence is true or false, or if you know.

A. As far as I know —

Q. Then I am going to ask you why you said it was a cynical lie.

A. That's right.

Q. All right. Now, I will proceed to do that with the first sentence. Will you permit me?

A. I would like to make a certain specification. I said the word cynical.

Q. Well, I want a specific answer for a certain specific question, and I'll ask it right now.

A. When did I say it was a cynical lie? Remind me, please.

Q. I just put it to you that you did. I am not going to give you the hour, the second, the minute or even the day, but I put it to you that you did, and I am going to ask you whether it was, in fact, a lie."

A. Yes. All right. Go ahead.

Q. That sentence, then, you cannot say it was a lie?

A. Which sentence? {1583|1584}

Q. The sentence I just read to you:

*"Although several millions were supposed to have died at Auschwitz alone, Reitlinger has to admit that only 363,000 inmates were registered at the camp for the whole of the period between January 1940 and February 1945" (The S.S. Alibi of a Nation, p.268 ff) ..."*

I put it to you that that sentence is not a lie.

A. No. I said the same thing here.

Q. Thank you. The next sentence – well, it isn't another sentence; it is a carrying on from a comma:

*"... and by no means all of them were Jews."*

That's true, isn't it, for registered inmates?

A. Absolutely.

Q. All right:

*"It is frequently claimed that many prisoners were never registered, ..."*

That's true, too, isn't it, sir?

A. If they went into the gas chamber, they were not registered.

Q. I am not interested in your opinion as to whether they were gassed or not. I am interested in whether it was true that it was frequently claimed many inmates were never registered. It was true, wasn't it?

A. If it was claimed – I have never heard it claimed. Show me the claim. {1584|1585}

Q. Well, I put it to you that you say that ten per cent were registered and the rest were gassed.

A. I claimed that twenty-five per cent were registered and the rest were gassed.

Q. The unregistered, according to you, were gassed?

A. That's right.

Q. So it is true to say:

*"It is frequently claimed that many prisoners were never registered?"*

A. Well, if you understand it that those who were brought into the cattle trucks were already prisoners, and as prisoners and not free people, straight into the gas chamber, then it is true that the people were not registered and were killed. That is only unregistered prisoners.

Q. *"It is frequently claimed that many prisoners were never registered..."*

That's true?

A. Many prisoners who did not come into the camp but from the cattle trucks in which they were imprisoned were taken straight to the gas chambers. Right, they were not registered.

Q. It is, therefore, frequently claimed that many prisoners were never registered; isn't that true?

A. With the specifications I just now gave you, yes.

Q. Well, that statement is true, even without the specifications you just now gave me, isn't it?

A. Without the specifications, the statement is a nonsense. {1585|1586}

Q. Why is that statement nonsense without your specifications when it says:

*"It is frequently claimed that many prisoners were never registered ..."*

Why does that need your specifications to make sense?

A. Because I consider a prisoner in Auschwitz, or Birkenau, in the Auschwitz complex, every prisoner was registered. On the other hand, if I define the word "prisoner" not only those who were brought in cattle trucks as prisoners, and without registration were gassed ...

Q. You call them prisoners —

A. Then you can widen the word of "prisoner". You are playing on a word. What is a prisoner?

Q. You are the one who is playing with words, I suggest, because a prisoner is a prisoner is a prisoner, and if he comes on a cattle truck or

a train, he is still a prisoner. Right?

A. But it doesn't mean that he is or is not registered. That's the question. And if he is unregistered, he died as an unregistered prisoner and was never a prisoner in Auschwitz.

Q. Let me put it to you this way, that people who arrive in trains or cattle trucks or any other way were prisoners, and it is claimed that many of them were never registered. Isn't that true?

A. In that sense, yes.

Q. All right. This article does not define prisoners as only those who were registered, does it?

A. I beg your pardon? {1586|1587}

Q. This article does not define prisoners as only those who were registered, does it?

A. But in my mind I only regarded those who were registered.

Q. All right. That is only in your mind.

A. Yes.

Q. Then it says:

*"... but no one has offered any proof of this."*

Right? That's what the article says. I am asking you, isn't that what it says?

A. No one has offered any proof of that?

Q. yes.

A. This is ridiculous.

Q. Well, sir, you tell us that you have proof that many were never registered. Right? They were all gassed. Right? They disappeared up in smoke. Right?

A. It is not only I who registered it. The proof is that they went there and never came back.

Q. You've told us all about the 1,765,000 that went to the crematoria and never came back, and they all, of course, were not registered. Right?

A. Of course not, except those prisoners who were registered, walked in the camp —

Q. And died.

A. Lost their — either died or lost their power for slave work and were subjected to so-called selections and were selected as unsuitable of work and led in front of my eyes to the crematoria. So there were {1587|1588} registered prisoners gassed in the crematoria, and unregistered prisoners gassed in the crematoria.

Q. Yeah.

A. So we are in agreement.

Q. What I am suggesting to you is that the article says that there is a claim that many prisoners were never registered and you agreed with that, and it said that no one has offered any proof of this, and I put it to you that unless you were the person who kept the camp register ...

A. Yes.

Q. ... you, yourself, cannot say who was registered and who was not.

A. Of course.

Q. That is true.

A. No, that is not true. That is false.

Q. Well, sir, how can you tell us how you know who was registered and who was not when you were a block scribe in block what?

A. In Block 15.

Q. Block 15 in quarantine camp A.

A. Yes.

Q. How can you tell us how you know what records were kept by the whole camp, commandant and everybody else?

A. Because it was a rule in Auschwitz —

Q. Whose rule?

A. The rule of the administration which run Auschwitz. The rule was the murderers who was running this complex, and the rule — I am answering your question. {1588|1589}

MR. GRIFFITHS: Let him answer the question, please.

THE COURT: Yes, Mr. Christie, let him answer the question.

Q. MR. CHRISTIE: Did you see their books?

A. I have permission to answer the question.

Q. Do you know what the question is?

A. Yes.

Q. What is it?

A. The question is were there unregistered prisoners in the concentration camp Auschwitz-Birkenau.

Q. Yes.

A. There were no unregistered prisoners in that complex for this reason. No alive —

Q. None alive.

A. And for the following reason I can say that this is for sure so:

Any prisoner in concentration camp Auschwitz-Birkenau had a number not only tattooed on his body, but also sewn on his clothes.

Q. Well, I'd like to stop you there and —

A. You are interrupting me when I am explaining you the question.

MR. GRIFFITHS: He is answering the question.

THE COURT: I have it, gentlemen. You can ask him after he has finished talking, and not until. {1589|1590}

Go ahead.

MR. CHRISTIE: Thank you.

THE WITNESS: It was a rule in Auschwitz that who didn't have his number on his clothes committed a criminal offence which was punished by capital punishment; he was killed.

Consequently, I can quite assure you that no prisoner could be in Auschwitz-Birkenau unregistered because if he would have been unregistered, then the roll calls which took place twice a day in order to check if somebody escaped or not would not have been possible.

When somebody escaped from Auschwitz, it took the administration no more than two minutes or five minutes to find out who is missing from which block and what is his number, what is his birthplace and where from he comes. In other words, to move around in a prisoner garb unregistered in Auschwitz-Birkenau, this is approximately such a fantasy like that you can jump on the moon. Not possible. There was no unregistered prisoner in Auschwitz-Birkenau in the time I have been there during the two years.

Q. So everybody was registered, is that right?

A. Absolutely so. Everybody who was alive was registered. Only those who died without registration were not registered.

Q. And of those there is no proof.

A. There is enough proof.

Q. What is the proof of those?

A. Should I bring you six million bodies here in front of you that you should accept the proof? {1590|1591}

Q. Well, I'd be satisfied with an autopsy report of even one.

A. You would?

Q. Yeah. Have you got that?

THE COURT: One more laugh and the one who laughs leaves and doesn't come back. Not a sound.

Q. MR. CHRISTIE: I am not asking for six million bodies. I am not asking if there are six million bodies in Auschwitz. I am not asking for anything like that. If you have the evidence of one single body of a person who is gassed, who was never registered, I'd like you to produce it.

A. As a rule, you should know it, as a counsel, that —

Q. What I should know as a counsel —

A. I am explaining to you —

THE COURT: Just a moment. Mr. Christie, you will please desist from interrupting the answer. I will be the arbiter as to whether or not the answer is too long and is unresponsive. You will resist it with all of your ability to interrupt the answer of the witness.

MR. CHRISTIE: Thank you, sir.

THE COURT: Now, witness, proceed.

THE WITNESS: As a rule you, acquainted with the criminal law, must know that it is not the habit of the murderer to provide witnesses with post-mortem reports of his victims. Consequently the fact that I have been a witness to the murder doesn't give me still the possibility to go to the murderer and ask for the postmortem of his victims. {1591|1592} Your request, therefore, is nonsensical.

Q. MR. CHRISTIE: Am I to take it, then, that you are the proof? Is that it?

A. No, I am not the proof. I am only one of those who recorded it for the first time when it was a big secret in 1944, and after that it was investigated when this report came to the British, American and Canadian Government and was found to be a truthful and reliable information which has been checked not only with discussion of thousands and thousands of survivors, but also from reports which reached the Allied Intelligence that many trains from Paris, from Belgium from Selonica, from Prague, from Yugoslavia, from Poland moved with Jews to an unknown destination.

The first time that the destination became known, as far as Auschwitz is concerned, was accorded in this report, but long time before this report reached the Allied Government, it was known that some of the transport went to Treblinka, Chelmno, Belzec and Sobibor. So this was known to the Allied in 1944. What was new in this report was that apart from the extermination camps and gas chambers in Chelmno, Belzec, Treblinka, Sobibor, the Nazis, in their cunning, managed to hide that the biggest centre of maximum extermination is in Auschwitz. That was only news in this report.

Q. So I take it, then, that you have just provided us with the proof that there is —

A. I have provided the Allied, not you, but the Allied Government, with the information where it is and where it can be checked out. And as far as I know, none from the Allied Government who were responsible for this {1592|1593} handling of the report still accused me of having told them something which is not true. Such an accusation I have heard only from the neo-Nazi Press with the shamelessness of Butz and Faurisson, and from the piece which has been shown to me by the representative of Crown as being produced by your defendant.

Q. So as to the proof that many prisoners were never registered, you have provided that to us. That's all there is that you know of. Is that right?

A. I am confirming a generally-known fact.

Q. That's the words that began the Refugee Board Report, and I will quote to you

A. Yes.

Q. "It is a fact beyond denial". Those were the opening words, wasn't it?

A. Excuse me, please?

Q. The first words of the report?

A. Page ...

Q. Well, it starts at the beginning, the first page.

A. Yes.

Q. It says, "It is a fact beyond denial". Those are the first words, aren't they?

A. Those are the first words, but why don't you read — sorry.

Q. I will read the whole thing. I want to ask you if those were the first words.

A. Those are the first words, and as far as I know, they were penned by the President of the United States. {1593|1594}

Q. They weren't penned by you, then?

A. No, because this is an introduction to the report. This is an introduction to the report, and the report starts here.

Q. Thank you very much. It is an introduction. Thank you.

A. Yes. Not penned by myself; penned in Washington.

Q. Yes. I've heard that twice now, thank you. Now, is this the case that you have provided us with the proof of the existence of all these unregistered people by your evidence here?

A. I have —

THE COURT: Excuse me.

MR. GRIFFITHS: I think that ultimately that is going to be a matter both for Your Honour and for the jury, Your Honour, and not a question for this witness to ask. His credibility will be assessed by the jury and they will decide whether it is proof or not.

THE COURT: What do you say to that, Mr. Christie?

MR. CHRISTIE: Well, he's made a statement that no one has provided any proof of this. He says that statement is a lie and I asked him whether he claims he is the one that offered us the proof. That's all.

THE COURT: I agree with the Crown. If you want to rephrase it in such a way that it is acceptable to me, you may, but in that form it is not. You may not ask it.

Q. MR. CHRISTIE: It says then:

*"Even if there were as many unregistered {1594|1595} as there were registered, it would mean only a total of 750,000 prisoners".*

Now, that statement is true., isn't it?

A. Where are you reading that?

Q. I am reading where I read before.

A. Well, I can't see where you are reading.

Q. I finished off by reading the last sentence before that which was:

*"It was frequently claimed that many prisoners were never registered, but no one has offered any proof of this."*

The next sentence reads:

*"Even if there were as many unregistered as there were registered, it would mean only a total of 750,000 ..."*

I put it to you that that statement is true.

A. I don't know what you are reading from, from what context you are tearing it out of, and I will appreciate if you show me the document from which you are reading.

Q. I'm sorry, I thought you had read the document and given your opinion on it, but I'll get it. Exhibit page 17. It's the same part, I suggest to you, that you gave a blanket answer or to my learned friend. You said it was a cynical lie, that whole paragraph.

A. Yes. Now I remember. I said it is a cynical lie what was written in this, what do you call it, printed paper. {1595|1596}

THE COURT: You can call it Exhibit 1.

THE WITNESS: Exhibit 1.

Q. MR. CHRISTIE: Now, I am referring to a specific sentence in that specific paragraph where it says:

*"Even if there were as many unregistered as there were registered, it would mean only a total of 750,000 prisoners".*

A. Page and line, please.

Q. 17 is the page. The line doesn't have a number, but it's the paragraph that —

A. This is the page where Mr. Goering is photographed, if I am right?

Q. Well, it says "17" on the bottom righthand. You got it?

A. Yes.

Q. Thank you, Doctor. You read the sentence: "Even if ..." Now, do you want to start again?

A. Yes, please. Which sentence?

Q. We will deal with the paragraph which you were read by the Crown, which is the bottom lefthand column of the page beginning with the words:

*"Although several millions were supposed to have died at Auschwitz alone ..."*

A. That's right. I found it.

Q. "... Reitlinger has to admit that only 363,000 inmates were registered at the camp for the whole of the period between January 1940 and {1596|1597} February 1945 (The S.S. Alibi of a Nation, p.268 ff)..."

A. Right.

Q. That statement I gather you don't dispute because you say — or you don't know about that book. Right?

A. I don't know about that book, but I know about that fact.

Q. Well, it's true, isn't it, that's how many were registered?

A. Yes.

Q. All right. You say that all of the 1,765,00 were unregistered. Right?

A. Excuse me, this is not what is written here.

Q. No. I am asking —

A. Here is written the following — you are trying to mislead me.

Q. No, I am not trying to mislead.

A. And I will try to tell you what I read here.

Q. I've read it once, sir. I am asking you another question a little off that sentence. Don't feel I am trying to mislead you. I want to understand you.

A. Well, with your permission I can explain what I understand.

Q. Fine.

A. Here is written:

*"It is frequently claimed that many prisoners were never registered, but no one has offered any proof of this."* {1597|1598}

Q. Yes.

A. This word, "No one has offered any proof of this", this doesn't [sic] come from Reitlinger. This comes from the Nazi provocation.

Q. Okay. That comes from this book which you call a Nazi provocation.

A. That's right.

Q. It's a statement of opinion, right?

A. If I would consider —

Q. You don't —

A. — the opinion of somebody who tells me that the moon is out of cheese not a provocation, but a fact or information, I wouldn't be with it.

Q. No. It is a very clever turn of phrase, Doctor, but I want to ask you if that isn't an opinion with which you disagree.

A. It is against common sense, this second half of the sentence.

Q. All right.

A. Because many scholars, on many universities, and many criminal organizations, I mean many organizations who persecuted criminals, knew perfectly well that many have offered the proof of this. And here is written, "No one has offered any proof of this", and you want me to subscribe to it. In other words —

Q. No. Just please understand. I am not asking you to subscribe to it or agree with it, but am just asking you to confirm that it is a statement of opinion.

A. It is a statement against common sense. This is not a question of opinion. {1598|1599}

Q. Yes. You agree —

A. If I will qualify my statement, if you will tell me that this room is ten or twenty yards length, this is a question of opinion, I might say ten, you might say twenty; but if you tell me that this room is long twenty miles, this is not opinion; this is nonsense.

Q. Okay. You tell me that you saw 1,765,000 people go into a gas chamber and never come out. You don't produce a body. You don't produce any figures, statistics or registration numbers. You give me the information off trains that you see on occasion and you tell me that it is as ridiculous as anything you can imagine. Right?

A. No, not at all. I say something different.

Q. All right.

A. What I am offering is, in the report which went to the Allied Government, is a statistic, day by day, of what arrived to Auschwitz, from where, to the best of my knowledge and ability.

Q. I know. We've gone into that, sir.

A. So this is a testimonial of an eye witness, and as you could see, the testimonial was sufficiently good to such a way that yes, when you told me that on 7 March, 1943, there came no transport into Auschwitz, I could show you, in your own document, the other side which you didn't want to show us was written that the transport arrived on 8th March. And you didn't give me even the opportunity to explain to you that it was not necessary lapse of my memory, but that if prisoners came on the night of 7 March to the camp, it is perfectly {1599|1600} logical that in the book which you showed me they will be recorded on in the morning as March 8th. Still you came here —

Q. I suggest to you that it was the 7th of September we were talking about yesterday, not the 7th of March or the 8th.

A. 7th of September, that's right.

Q. You made a mistake, right?

A. Thank you. Thank you for reminding me.

Q. Sure. Now, what I have suggested to you is that it is true that it is frequently claimed that many prisoners were never registered. In fact, you make that claim yourself as do many others.

A. That many prisoners were never registered, provided with the proviso because they were gassed on arrival.

Q. You want to add that. All right.

A. That's right.

Q. And therefore you say that it is nonsense to say that no one has offered any proof of this. Right?

A. That no one has offered any proof of it, this is nonsense.

Q. Yeah. That's nonsense because you've offered us your knowledge of their arrival and your evidence about their being gassed.

A. And many thousand other survivors.

Q. Well, we don't know about the many thousand others.

A. I — {1600|1601}

THE COURT: Just a moment. What's your next question?

Q. MR. CHRISTIE: I am trying to get to the sentence I tried to get to before:

*"Even if there were as many unregistered as there were registered, it would mean only a total of 750,000 prisoners — hardly enough for the elimination of 3 or 4 million."*

Now, that sentence is true, right?

A. That sentence I don't even understand. I think this is a non sequitur. If you take the sentences, they are nonsense. It is grammatically right. It is spelled out, I would say, properly, but the sense is completely missing.

Q. Because you don't accept the proposition that there were only twice as many unregistered as registered; is that right?

A. No. Here is something completely different written. Even if there were as many unregistered as there were registered, it would mean only a total of 750,000 prisoners.

Q. Well, we already understood from you that you didn't know how many were registered, do you? Do you know how many were registered?

A. Of course I know how many were registered.

Q. How many?

A. And as you say in your statement here, that Reitlinger said that registered prisoners were 363,000. {1601|1602}

Q. What do you say?

A. And in my book I say the following — I will read you what I said. I will read you the whole paragraph so that there is no mistake about what I said.

Q. Well, I don't think you are trying to mislead us, sir, on your book. Just tell us how many were registered.

A. On page 273 I say that apart from those who were killed without registration, registered prisoners were 350,000.

Q. Okay.

A. And Reitlinger says 363,000.

Q. That's right.

A. Now, he is a particularly sorrowful historian. I always said my figures were exact to ten per cent, and that difference between the two figures I mentioned before is only about two or three per cent.

Q. So twice the unregistered inmates would be 750,000, right?

A. That is right. So what you are saying then is twice the number of registered would mean that fifty per cent of the people who came in the cattle trucks to Auschwitz would go to the camp and only fifty per cent would go, other fifty per cent —

Q. Let the jury decide what it means. I am asking you to decide upon this statement, one at a time.

A. Right.

Q. So we agree that if you double the number of registered inmates, you get 750,000.

A. That's right. Nice mathematical achievement. {1602|1603}

Q. And that would certainly not be three or four million.

A. No.

Q. That's all I ask.

A. By mathematics, no. Depending by which factor you multiply now.

Q. And you multiply by your factor.

A. And you choose factor two.

Q. I did not make the choice. The author did.

A. Who is the author?

Q. It says, "Richard Harwood". Now, just answer my questions. Don't ask me who the author is.

A. Richard Harwood —

THE COURT: Next question.

Q. MR. CHRISTIE: *Moreover, large numbers of the camp population*

*were released or transported elsewhere during the war, ..."*

Now, I'd like to ask you whether anybody to your knowledge, ever left Auschwitz-Birkenau during the War for any other camp.

A. Yes, I can answer that question. For that I don't have exact figures, but observations I do have.

After the uprising of the Warsaw Ghetto, this means it must have been in May June — no, it was only in July, August, 1943, long after the uprising, they took, marched out from Auschwitz 1,500 prisoners to eliminate the bodies lined under the rubble in the Warsaw {1603|1604} Ghetto. And I was present when they took their prisoners from Auschwitz Concentration Camp to the Warsaw Ghetto. So this is an example that some prisoners actually, as you say, were taken out from Auschwitz. From those thousand five hundred, some of them are alive, two of them are in Toronto.

Q. So those are the only ones who ever left Auschwitz-Birkenau.

A. No. This is an example.

Q. And do you know how many exactly left Auschwitz-Birkenau for other camps?

A. From the registered prisoners —

Q. Well, ... from any prisoners, registered or unregistered.

A. Now, we already said that we speak about registered and unregistered prisoners. Now I would like to answer your question. From the unregistered prisoners none left Auschwitz-Birkenau because missing the registration meant that they went into the gas chambers.

As far as the registered prisoners is concerned, there was frequent movement, and this means that where the number of transports, one went to Warsaw and another transport went as far, I remember, to one of those satellite camps in the coalmines around Auschwitz, and then was a small transport of people who were specialist in printing and were taken to a printing enterprise somewhere near Berlin where they were falsifying British bank notes.

Now, these are approximately what I know about it, but because they didn't go through the ramp, and they didn't go by Section IIA, I couldn't have an exact information of the transfer of registered prisoners {1604|1605} from the complex of Auschwitz or Birkenau and know about it only from hearsay.

Q. So that you are saying nobody who was unregistered ever left Birkenau. Is that it?

A. Who arrived at Birkenau and didn't get a registration died.

Q. So nobody who went to Auschwitz-Birkenau would leave without a number.

A. Without being registered as a number.

Q. Mm-hmmm.

A. But it didn't necessarily mean that he was tattooed. There was a certain disorder as far as tattooing is concerned. You see, the Nazis are not that efficient as you think.

Q. Well, is it your evidence that no one would leave Birkenau who was unregistered?

A. No one would leave Birkenau alive if he was brought in as a prisoner and was not registered. He would never leave Birkenau alive. He wouldn't be alive for more than twenty-four hours.

Q. Mm-hmmrn. So that all these transports of unregistered people would have to be executed within twenty-four hours.

A. They usually were executed within six hours, but sometimes the gas chambers were filled and they had to wait their turn in the small forest behind the crematoria, or sometimes were milling around for twelve, fourteen, sixteen hours in between the crematoria. So you could see them and they had to wait for their turn to be gassed, and in order to keep them quiet, they sent them {1605|1606} the gypsy music. So the music was playing while they were waiting for being gassed, so that it created the impression that things are normal because there is the music.

Q. And so that is how they could gass [sic] two thousand a day in Krema II, and two thousand a day in Krema III, and one thousand in Krema IV, and one thousand in Krema V; right?

A. Not necessarily. That was only the plan, Mr. Counsel. The fact was that they didn't have such an experience in building those mass crema-

toria. This was something quite new in technology, and from those four crematoria a number of them suffered constantly some sort of breakdown. It was very rare that the four crematoria could work simultaneously. At least one broke down. If you could get full capacity in one year you could get more than 800,000, and it took two, three years. So there were breakdowns in the crematoria.

Q. All right. Remember you were telling us earlier that you came and unloaded the trains, and then you were marched away after unloading them and cleaning them?

THE COURT: We will hear about that at 2:15.

Members of the jury, you may retire.

— The jury retires. 1:00 p.m.

— The witness stands down.

— Luncheon adjournment.

(VOLUME VIII follows) {1606|1607}

## VOLUME VIII

— Upon resuming.

THE COURT: The jury, please.

— The jury enters. 2:20 p.m.

— The witness returns to the stand.

THE COURT: Go ahead, Mr. Christie.

MR. CHRISTIE: Thank you, Your Honour. What I'd like to do is place before the witness the ground plan of Birkenau as presented in 1944, and the ground plan as presented in the book, "Eye Witness: Auschwitz".

THE COURT: They are exhibits. Are they lettered or numbered?

THE REGISTRAR: I think they are numbered, Your Honour.

THE COURT: What are the numbers?

THE REGISTRAR: Rough ground plan of Birkenau is 22, and that of Auschwitz to Birkenau is 23.

THE COURT: Thank you. Yes, go ahead.

MR. CHRISTIE: Thank you very much, Your Honour. What I'd like to do is distribute these to the jury and I think there were some already available.

MR. GRIFFITHS: I believe Mr. Christie already provided me with one.

Q. MR. CHRISTIE: I now produce and show to you the ground plan of Auschwitz as you prepared it in 1944 which you have in your right hand, and I am holding the ground plan as depicted by the book, "Eye Witness: Auschwitz" on page 175 by Phillip Mueller. I am specifically asking you in respect to what is indicated as point nine on the Phillip Mueller ground plan, which I suggest to you is the sauna, or bath, as depicted there. {1607|1608}

Would you agree?

A. Yes.

Q. Is it your evidence that that which you've described as the bath on your 1944 drawing is actually the number nine point on the Phillip Mueller diagram?

A. Well, this is hard to answer because of the following situation. If you look at the diagram on the lefthand side which, by the way, doesn't come from Phillip Mueller but Phillip Mueller reproduced it from some other documentation ...

Q. I realize that.

A. ... which is available from the Auschwitz Museum, I think, but my plan was prepared as I remembered it on the day of my escape, 7 June – 7 April, 1944, and the date of this plan is obviously, when this plan was prepared, is obviously later – I don't know how much later, and perhaps you will enlighten us from which date this plan comes – but considerable changes have been made in the complex of crematoria after my escape.

Q. Well, I put it to you that there was only one bath in the far end of the camp, and that is number nine on the diagram on page 175, and that is the bath that you drew on your diagram in 1944, and no other bath was in that area ever at all.

A. In which area?

Q. In the area where you drew it in 1944.

A. Well, I drew a bath in the area of Krematoria III and IV, and I can see that the bath is drawn in the area of Krematoria III and IV on the other diagram too, only in the other diagram the bath seems to {1608|1609} be in relation to the two crematoria, a little bit displaced.

Q. Well, are you saying that that's not the location of the bath you meant, that there was some other bath in that area?

A. What I am saying is that between the time I left and the time that this new graph was made, there were – they have twenty-seven new barracks in that area.

In other words, as I remember this place, there was, if I would have judged, there was no place for twenty-seven new barracks.

Q. Well, those —

A. And now I can see that they have made extensive building of twenty-seven new barracks, and it is possible that either they shifted the bath to a new place in the absence after my escape, or the position of my bath in my graph simply means a graphical indication that it is in the region of Krematorium III to IV, without claiming to be an engineering graph.

So my graph, which was drawn as a sort to say from memory by layman in architecture, gives general ideas of what was where, but doesn't claim to be an engineering piece. This, on the other hand, is an engineering piece and I find it possible that the bath in this new map has been rebuilt after they built those twenty-seven new barracks there.

Q. Those twenty-seven new barracks, I put it to you, were called Kanada and they were built on the 14th day of the 12th month, 1943, long before you escaped.

A. What is evidence of that? {1609|1610}

THE COURT: No, no. Just —

MR. CHRISTIE: I will put it to him in the form of the calendarium.

Q. The calendarium entry which is dated the 14th day of the 12th month, 1943 – we went over this once before, and it says in Birkenau they finished within the Section BII the construction of the storage buildings which has been called by the inmates Kanada. In the storage buildings there have been thirty-five barracks. In thirty of them the belongings of Jews were stored and selected. In two barracks inmates did live which did care for the store. In the rest of the buildings the administration was located.

A. Well, the German text which you are showing me doesn't say exactly what you are saying.

Q. Tell me what it says.

A. So it is a little bit slightly distorted translation.

Q. What does it say?

A. That on 12th or 14th December, 1943, I suppose, they finished in Section II.

Q. Section BII.

A. BII, which is the Section BII, actually – the building of a storing room for effects in which translated means property or —

Q. You mean storage room?

A. Lager, a whole camp for that storage.

Q. More than one building, then?

A. More than one building.

Q. Which was called by the name of Kanada. {1610|1611}

A. Actually twenty-seven buildings which was called by the inmates Kanada. In other words, this is a new Kanada, because the old Kanada was —

Q. We are just translating this. Right?

A. Yes. Effectenlager, in this storage building, there were thirty-five barracks. On this plan I see only twenty-seven.

Q. You counted them, did you?

A. Yes.

Q. Carry on with your translation. You are translating the document.

A. I can't be certain. I am checking the document.

Q. Fine. Just translate the document.

THE COURT: Yes. One at a time, please.

THE WITNESS: In Barrack 30, in number 30 was sorted the property of those Jews who were brought for annihilation into the camp, and stored there; into other barracks of this camp there lived prisoners who were employed in the Kommando effectenlager, this means the working Kommando of this storage camp, and in the rest of the buildings there was administration and other things.

Q. So that indicates that that area was built by the 14th of December 1943.

A. Well, if I may add to it, to my recollection —

Q. Wait a minute. Wait a minute. Is there any other translation there?

A. No. No. {1611|1612}

Q. All right. Well, that does seem to indicate that on the 12th of December, 1943, those barracks that you described as not being there when you escaped on the 7th of April, 1944, were built. Right?

A. So it would appear, but I cannot confirm it, because when I came to the —

Q. Can I take this away now?

A. Yes.

Q. Thanks.

A. I cannot confirm it because I had a relatively free access to the two crematoria, to the place between the two crematoria, but that something was being-built behind the crematoria I took notice, but I had no idea what it was. My information was not good enough to say what it was, and it was behind — it wasn't visible from where I had access to see.

Q. It wasn't visible to where you had access? In fact, it was right across the street from what you describe as Krematorium —

A. No, not at all, because I could come to the crematorium and I could see that they are hammering something behind the crematorium, but there was a wall put up, a wooden wall like when you have a building.

Q. You are saying that the crematorium that you entered here.

A. Yes.

Q. And what looks like an alleyway; and you couldn't see whether they were built or not?

A. No, because when you build something, as you can see even in Toronto, when you build something you make around a — what is the English word — you surround it with — what is the word? Who would help me to translate the word? You surround {1612|1613} it with a fence. Fence is the word. And then —

Q. Barbed wire fence?

A. Not barbed wire fence; normal fence like when you are building something. And so I could see that they are hammering something behind the barbed wire fence that I didn't pay particular notion to it.

Q. It was a fence that blocked your view?

A. It blocked my view, yes, and I didn't know what was being built there.

Q. Now, the reason I asked you this question in the first place is that in your plan where the bathhouse is located, there is no road to it, and on the plan that there is, you described it as from the Museum, there is a road into it, and I put it to you that the roads were there when you escaped in 1944.

A. Those roads into —

Q. — the bathrooms.

A. Into the crematoria.

Q. The bathhouse located in Item 9 in the schematic diagram that I gave you.

A. In the schematic diagram I see a road that goes between two crematoria, and then goes left to the bathhouse. And —

Q. And in your diagram there is no road to the bath at all.

A. I have quite clearly shown that here is a road, but I did not indicate the opening and I would say that that is how a layman would paint. {1613|1614}

Q. Well, I suggest to you that your diagram in 1944 doesn't indicate any access to the bath at all because you didn't know where the bath was, and the bath itself was inaccessible to anybody. Now, which is it?

A. It simply means that my objective was to indicate to potential Allied bombers what is where, and I have forgotten to put into this plan, plan

made by amateur, the particular entrance to this particular place; and if you will take notice and look at this graph you will see that I haven't shown what is an entrance to BIIA, either. Just have a look at it and you will see that I haven't shown the entrance to BII B and I didn't show what is the entrance to Camp B.

Q. I am not interested —

A. I am just telling you what is on the graph.

Q. Well, I am not asking you to describe what is on the graph —

A. I haven't, on this graph, indicated the doors, but only the position where is where.

Q. Thank you for your comment, but my suggestion to you that when the bath was built it was built of brick, it was built where number nine was indicated, it was never moved and, in fact, the roads that are indicated on the plan, which is in detail on No. 175, has the roads indicated very clearly on it because those were the roads to the bath —

A. No. This were roads were built after my escape, much has been built; and what new roads have been built, this is a different question.

Q. I suggest to you they are not new {1614|1615} roads built after you escaped. They had to be there when you escaped because they were roads to the bath which you indicated was there at the time, sir.

A. But as far as I can see, comparing your graph with my graph, then the bath on my graph and the bath on this graph is in a distance, when I look at the measures, not more than twenty yards difference.

Q. That's right. That's fine.

A. And I agree with you that painting from memory and without having a yardstick, as I can imagine that I made an error of twenty yards.

Q. I am not criticizing you for an error of twenty yards or twenty meters, whatever. I am suggesting that the roads were there as they are depicted in the diagram No. 175, and that this is accurate.

A. That's right. It is accurate 1944 after my escape, whereas this diagram is approximation of a layman at the time of my escape.

Q. Well, I suggest to you you didn't draw any roads in there because you didn't give any thought to the possibility that the people going by those crematorium were going to the bath, as indicated on the roads on the map.

A. Well, I knew exactly who was going to the bath, because I was in that bath on a number of occasions, and actually, that is the reason why I was so frequently sort of skipping my duties from going from IIA to IID and going there, because I used that bath.

Q. Oh?

A. And in that bath — I used that bath. I can give you a description what was inside — perhaps {1615|1616} not exactly, but I can tell you what was inside.

Q. Could I suggest to you that inside there was a fumigation chamber for clothes? Would you agree to that?

A; A fumigation chamber for clothes was usually in every bath in Auschwitz.

Q. Yeah. And in that —

A. I haven't seen that fumigation chamber.

Q. Well, why do you say there was one in every bathhouse?

A. But I have seen one in other baths, that is in Auschwitz I and Auschwitz IB, and I believe you this time. That is logical.

Q. Well, you were there, and I say it was there, and you say you don't know it was there?

A. Yes, that is perfectly true, it was there.

Q. Is it a fact that you knew that in the fumigation chambers the doors were sealed, and Zyklon-B was used to fumigate the clothes and kill the vermin?

A. Zyklon-B was not only used for killing people, but was also used for disinfecting of clothes. In fact, history shows that Zyklon-B was used before for gassing people. Zyklon-B was standard equipment in all concentration camp and army units for fumigating clothes, and in 1941 —

Q. Please don't give us a history of Zyklon-B unless I ask you.

A. Please don't interrupt me, because {1616|1617} I am trying to make a point. You are trying to distort a point before I finish what I have to say.



In 1941 nine hundred prisoners of war came to the concentration camp of Auschwitz.

Q. When?

A. In 1941.

Q. You weren't there in 1941.

A. Would you please let me finish?

Q. Not unless it is something from personal knowledge. I don't want to know what you heard from other people in 1941 in Auschwitz. Thank you.

THE COURT: Get on to the next question.

THE WITNESS: Very good.

Q. MR. CHRISTIE: You agree with me that this was the front page that you say was attributed to your report?

A. Yes.

Q. I'd like to read it. Does it say that the figures concerning the size of Jewish convoys and the numbers of men and women admitted to the two camps cannot be taken as mathematically exact and, in fact, are declared by the author as being no more than reliable approximations?

A. Yes, it does say so.

Q. All right.

A. It does say so, so I do not know who wrote it.

Q. Well, the last time I asked you about it you said the President had something to do with it.

A. According to the history of {1617|1618} Reitlinger it was President Roosevelt who issued for circulation. This is from hearsay.

Q. Do you accept that statement as being correct?

A. This statement is correct in a way that I always said there is a reliable approximation in my figures, and he said that it is not mathematically exact, but reliable approximation. Mathematically exact means that I cannot say —

THE COURT: No. Sorry.

Q. MR. CHRISTIE: Have you ever read Mr. Christopherson's book?

A. Never heard of it. Who is Mr. Christopherson?

THE COURT: No. Next question.

Q. MR. CHRISTIE: That's the author to whom is attributed the remarks made on page 18 when you were asked about it. You said that was more lies.

THE COURT: What is the next question, Mr. Christie?

MR. CHRISTIE: I was just directing the witness —

THE COURT: No. I know what you were doing. I want to hear your next question.

Q. MR. CHRISTIE: Well, I am just wondering, in view of the fact that you have never read Mr. Christopherson's work, would you agree that the words that are attributed to him there may have been said —

THE COURT: Don't answer the question. Ask him a question. Rephrase it so you don't quote somebody about whom the witness has said he knows nothing. {1618|1619}

MR. CHRISTIE: Thank you.

Q. Would you agree that you cannot say that anything attributed to him is necessarily accurately attributed?

THE COURT: Isn't that the same question?

MR. CHRISTIE: I thought I was trying to rephrase it.

THE COURT: You rephrased it the same way. I thought you could rephrase it so it would not appear that you were phrasing it the same way. If you cannot, ask another question.

Q. MR. CHRISTIE: The remarks on page 18, the third paragraph from the top on the left-hand side to which you were asked to comment.

A. Page 18?

Q. Page 18.

A. Page 18 of what?

Q. Of Exhibit 1.

A. Page 18, yes.

Q. Starting with the second paragraph from the top on the lefthand side

...

A. Yes. That's the same paragraph we discussed in the morning. I can see.

Q. Yes. Now, you don't know anything about Mr. Christopherson.

We've established that.

A. No.

Q. Have we established that?

A. Not to my knowledge. I don't know anything about Mr. Christopherson.

Q. So you can't comment on the truth {1619|1619(a)} or falsity of that paragraph?

A. Of course I can comment, because I don't need Mr. Christopherson to see that what was written there was a distortion of truth.

Q. Now, you say that was a distortion of truth, and I want to quote from what he writes in his book. He says:

"I was in Auschwitz from January 1944 until December 1944."

You don't say this is a distortion of the truth, do you?

THE COURT: Is this Mr. Christopherson being in Auschwitz?

MR. CHRISTIE: Yes.

THE COURT: The witness already indicated he does not know anything about Christopherson.

MR. CHRISTIE: Yes, but he did say this was a distortion of truth.

THE COURT: No, he did not. He said that what he read, what he is looking at on page 18 is a distortion.

Is that right or not right?

THE WITNESS: That's right.

THE COURT: All right. Now, phrase yourself properly and I won't have to interfere, Mr. Christie.

MR. CHRISTIE: Thank you, Your Honour. I will try.

Q. What I am asking you to say is whether anything in the paragraph that is highlighted you consider to be false. {1619(a)|1620}

A. Yes. I explained it to you in the morning.

MR. CHRISTIE: Now, Your Honour, for the record, the paragraph that's highlighted is those words attributed to Mr. Christopherson. So I wanted to ask him something about that.

THE COURT: As long as you ask him what he is looking at.

THE WITNESS: There is nothing mentioned about Mr. Christopherson.

Q. MR. CHRISTIE: Well, then, we are not looking at the right paragraph. I am trying to direct your attention to the second paragraph from the top.

A. This paragraph?

Q. You are on the wrong page, sir. I said 18.

A. You said 17.

Q. 18. Right here.

A. So we went through this too. Christopherson's account was — I think this was read to me by the Crown Attorney.

Q. Yes.

A. Yes. And this is the second paragraph printed in heavy letters.

Q. Right.

A. And here I see the name Christopherson.

Q. Yes. And do you say that the statement contained therein is false?

A. They are absurd.

Q. Well, which statement is absurd? Which one? {1620|1620(a)}

A. The absurdity of the sentences come out when you finish the sentence.

Q. "I was in Auschwitz from January 1944 until December 1944."

Period. End of sentence.

A. No, not period. Here is a comma.

Q. What?

A. Yes.

Q. Period or comma?

A. Yes, this is period.

Q. Period, all right. I hope we are dealing with the same printed material. Now, that's a sentence. What is absurd about it?

A. Oh, this sentence, in itself, nothing.

Q. All right. So nothing is false —

A. If it is true that he was there, which I don't know.

Q. All right:

"After the War I heard about the mass murders which were supposedly perpetrated by the S.S. against the Jewish prisoners, and I was perfectly astonished."

Now, is that absurd?

A. Absolutely absurd.

Q. Why?

A. Because anybody who was in Auschwitz for one year has seen the mass murders, in one way or another, and I suggest to you that Mr. Christopherson was not there as a prisoner, but perhaps as an S.S. man. Is {1620(a)}{1621} it possible? Is it possible?

Q. Why do you need to ask me that question if you don't know Mr. Christopherson? How do you know if he is lying or mistaken?

A. Because this is such a lie that only a Nazi can produce it, to cover up his crimes.

prepared to call a the next question?

Q. Somebody you don't know, you are prepared to call a Nazi.

THE COURT: Just a moment. What's the next question?

MR. CHRISTIE: Thank you.

Q. *"Despite all the evidence of witnesses, all the newspaper reports and radio broadcasts I still do not believe today in these horrible deeds."*

Now, you would say, I suppose, that that's absurd, too, would you?

A. Absolutely absurd. It's untrue.

Q. It may be that this person holds those beliefs honestly, though, don't you think?

A. No way. If he was in Auschwitz, he cannot hold such beliefs unless he was in the S.S., and he is an accomplished murderer and it is a characteristic thing of murderers that they deny generally their crimes, and this is what I assume.

Q. So any person you say who denies such knowledge of horrible deeds must be one of their accomplices; is that your evidence?

A. What I say is that Mr. Christopherson, if he was, according to this paragraph, for one year in Auschwitz and he denies the murders, then I assume he was {1621}{1622} there in a capacity of S.S. man and is a murderer who tries to cover up the traces of his crime.

Q. Oh, so every S.S. man who is there is a murderer.

A. Absolutely so, or an accomplice to murder.

Q. And he must know about the murder, then.

A. Absolutely so. There is no way out. From the outlay of Auschwitz and the way how Auschwitz was run, there is not one S.S. man who was there who didn't know about the murder, because otherwise they would send them to the front. They didn't keep them there for drinking tea.

Q. All right. So everyone who dares to suggest that there was no murder in their knowledge you would charge with murder as well?

A. If he was a year in Auschwitz and wore an S.S. uniform and says there wasn't a murder, I would claim that this is a murderer who denies his crime.

Q. So it would be dangerous to come forward as an S.S. man, because you would be one of those who would accuse him of murder immediately, wouldn't you?

A. Any S.S. man who did service in Auschwitz-Birkenau for a time like one year is a qualified murderer, and if such one is found on the territory of for instance, United States of America without saying that he was there for one year in an S.S. uniform will be automatically deported from the country. I can assure you of that. I have heard it from the Office of Special Investigations who is looking for them. {1622}{1623}

Q. And you would make sure that that happened, wouldn't you?

A. I would always help the justice against the criminal. I happen to be on the same side of the law, and not on the side of criminal, and you shouldn't blame me for that.

Q. Well, you presumed that anyone who had seen Auschwitz for a year and had no knowledge of such murders must be, therefore, a criminal. Is that what you say?

MR. GRIFFITHS: That is not what he said. He said three times, he said an S.S. man, Your Honour.

MR. CHRISTIE: Oh, excuse me.

Q. Any S.S. man who was in Auschwitz for a year would be, in your opinion, a murderer or an accessory to murder?

THE COURT: No. You missed one point. In uniform.

MR. CHRISTIE: In uniform.

THE WITNESS: That is quite right with one or two honourable exceptions which are well known.

Q. And he is quoted as saying:

*"I have said this many times and in many places, but to no purpose. One is never believed."*

A. That is right, but a murderer says in many places that he didn't do it and still nobody believes it if it is generally known that he has done it.

Q. And you, on the other hand, are saying that whoever has done this is a murderer, and {1623}{1624} suppose you are also saying he is a liar – the man who is attributed with these remarks would be first an accessory to murder, and then a liar. Is that right?

THE COURT: Just a moment, gentlemen. Mr. Christie, if you are going to be long on this point, I am going to excuse the jury so that an exchange can occur in their absence.

MR. CHRISTIE: Thank you very much, Your Honour.

Q. He is further on quoted as saying that:

*"During the whole of my time at Auschwitz, I never observed the slightest evidence of mass gassings. Moreover, the odour of burning flesh that is often said to have hung over the camp is a downright falsehood."*

A. Which line is that?

Q. I am moving right along the paragraph to —

A. Yes. *"During the whole of my time in Auschwitz ..."*

Q. Yes.

A. *"... I never observed ..."* Yes.

Q. Christopherson is quoted further in that paragraph, and you don't deny that he may have said those things, do you?

A. I have got no evidence that he said it or not, because you didn't tell me who is Christopherson, in what capacity was Christopherson, and where does he live and I can interview him if he was there at all. It {1624}{1625} might be a complete invention. There may be no Christopherson at all, but an anonymous pen pusher who invented the name Christopherson. You give me the information who was Christopherson and in what capacity he was there, and I will be able to deal with this problem.

Q. I am sure you would. You and many others would make sure he is charged with murder if he is an S.S., if he was in uniform and if he was there for a year. Correct?

THE COURT: Just a moment. Go to another question.

Q. MR. CHRISTIE: Well, as far as anything in those paragraphs which were read to you, I suggest to you that although you disagree with what a person is alleged to have said, you did not say that he did not say those things

A. I do not know if they said it, because I can only read that somebody printed it, but there is no evidence that somebody said it. It seems to me like an anonymous statement, because you are trying, or denying any knowledge of the existence of a real person, Christopherson.

Q. I am not here to deny anything. I asked you if you had any knowledge that such a person did not exist, or any knowledge that they did not say that.

THE COURT: Gentlemen, it's becoming argumentative rather than the other way around.

MR. CHRISTIE: Thank you, Your Honour. I will withdraw the question.

Q. Do you know about the lawyer, Dr. Manfred Roeder, referred to in the top paragraph of that {1625}{1626} page that you were asked to read?

THE COURT: This is page 18?

MR. CHRISTIE: Yes, sir.

THE WITNESS: Page 18.

Q. It's a sentence that begins on the very last part of page 17. It says: *"In May 1973, not long after the appearance of this account, the veteran Jewish 'Nazi-hunter' Simon Wiesenthal wrote to the Frankfurt Chamber of Lawyers, demanding that the publisher and author of the Forward, Dr. Roeder, a member of the Chamber, should be brought before [before] its disciplinary commission."*

Do you say that is false?

A. That he was brought – I agree that such a character might have been brought before the disciplinary committee in free West Germany for good reasons. This is quite possible.

Q. So that could very well be true?

A. I don't know about it, but it might be true.

Q. You did say that this also was part of the general proceedings that you said was a cynical lie. Do you agree?

A. I said that the particular piece which Crown Prosecutor showed to me, Crown Attorney said to me was, a cynical lie; but I didn't read this whole thing. The particular thing was an outright lie.

Q. I am suggesting to you that you {1626|1627} didn't even read the part that I am reading now.

A. No. I can convince you that I did. I assure you that I did.

Q. The next sentence:

*"Sure enough, proceedings began in July, but not without harsh criticism even from the Press, who asked, 'Is Simon Wiesenthal the new Gauleiter of Germany?' (Deutsche Wochenzeitung, July 27th, 1973)."*

Now, is that a false statement?

A. I didn't read Deutsche Wochenzeitung. I don't know Dr. Roeder. I never had the honour of meeting him. I don't know what he is doing. I understand that he was before a disciplinary commission, and I would tell you perhaps it's true, perhaps it's not. I don't know. I have no information about this event.

Q. Thank you.

A. — which took place in 1973.

Q. Yes.

A. At that time I was —

THE COURT: All right, Doctor.

Q. MR. CHRISTIE: And you were in Maidanek Camp?

A. Maidanek Camp, yes.

Q. And you volunteered to go to Auschwitz from Maidanek?

A. In a way you can call it – yes, I did volunteer, because Maidanek I found a place of death of such a desolation that I couldn't imagine that there exists anything worse. And when they said that {1627|1628} four hundred strong men for a labour in the fields, I naturally volunteered because at that time I believe the Nazi tricks, and I saw that they were going to put me to agricultural work, so I could escape; but instead I found myself in Auschwitz. I made an error.

Q. Well, the simple answer is that you were in Maidanek; you volunteered to go to Auschwitz and you were taken to Auschwitz I where you were for four months, and then you went to Birkenau, and that you've told us about. Right?

A. So, the truth is that I came to Auschwitz on 30 June, 1942, and stayed in Auschwitz I until 15th January, six and a half months, I would say, and for the rest of the time in Birkenau. That's true.

Q. All right. So did you ever see a gas chamber in Maidanek?

A. In Maidanek I saw a crematorium, and I had a good look at that crematorium because there were rumours in Maidanek that there is a gas chamber, and my grandfather, who was over seventy at that time, was taken to that building. So I studied that building.

Q. Excuse me. I just asked you if you saw a gas chamber.

A. You interrupted me again.

Q. I didn't ask you what the rumours were. I didn't ask you if you had a grandfather who went there. I just asked you if you saw a gas chamber in Maidanek.

A. No. I saw only a building which was called crematorium to which my grandfather was taken, and that was the last time I saw 'him. If there was a {1628|1629} gas chamber, I don't know.

THE COURT: All right. All right.

Q. MR. CHRISTIE: So, is it your evidence that you never saw a gas chamber?

A. In Maidanek?

Q. Anywhere.

A. Yes, I saw the gas chamber from inside in Auschwitz I.

Q. What made it look like a gas chamber?

A. The interesting thing is that it was just a garage converted into a gas chamber.

Q. Oh.

A. There was not written on the door that it is a gas chamber.

Q. Well, what made it a gas chamber?

A. Simply that there were no windows, and there were doors which could be hermetically closed.

Q. What's hermetically closed mean?

A. This means if you close them, there is not much air circulation.

Q. They are the double-door garage-type?

A. That's right.

Q. And they swing from the centre to the side.

A. Yes. And they were done with quite reasonably good job and precision for your information.

Q. This was the gas chamber, then?

A. Yes. In Auschwitz I, a relatively small gas chamber.

Q. So that's the gas chamber that you {1629|1630} saw.

A. That's right.

Q. You saw no other?

A. From inside.

Q. From inside or outside.

A. From outside I had been describing here a gas chamber that was visible from Krematorium I in front of my eyes, a distance of a few yards, which was coming out from the upper part of it, came out from the ground, and you were quarreling with me if it was four feet or six feet high.

Q. Well, wait, now. Yesterday you told us it was six and a half to seven feet. Is it shrinking now?

A. It is quite possible that along the gas chamber they have made a walk, and that the S.S. man perhaps had to reach high. I think that your idea that it is shrinking is simply a misplaced humour which hasn't got place here.

Q. Well, tell me, sir, how did you know it was a gas chamber?

A. Well, in the first line I would like to ask you, Mr. Counsel —

THE COURT: No. Don't ask counsel anything.

THE WITNESS: I knew that it is a gas I chamber because I saw people going into the crematoria. I saw that they are not coming out. I heard that they are being gassed there, and I have seen Zyklon gas being thrown into, on top of the gas chamber.

Q. Mm-hmmm. {1630|1631}

A. And therefore I concluded that it is not a kitchen or a bakery, but a gas chamber.

Q. Yes. Were buildings ever fumigated with Zyklon-B?

A. Which buildings?

Q. Any buildings.

A. In Auschwitz?

Q. Yeah.

A. Occasionally, when there were too many lice, they were fumigated by Zyklon-B, and that is why Zyklon-B was originally brought in.

Q. Is this the gas chamber you went inside of?

MR. CHRISTIE: I am showing the witness the 155th page of "K.L. Auschwitz". It's a book.

Q. Is that what you say was the gas chamber in Auschwitz?

A. I do not know at what time of the year, on which year this picture was taken. In 1942 October, when I was there, I do not remember seeing the lamps on top of the roof; otherwise it looks like a garage.

Q. Is that the room?

A. It can be, but from what I see to this picture, it could be any garage.

Q. All right. So there was nothing unique about this place that you called the gas chamber that would help you to identify it; is that right?

A. Well, there was not written, "Gas Chamber", but there is nothing unique in any place where, people are gassed. All we have to do is to close windows, {1631|1632} the ventilation, and throwing gas.

Q. I put it to you that you have told us that there was 1,765,000 corpses to be dealt with in these various crematoria you told us about.

A. That's right.

Q. I put it to you that if there were forty-six stoves, as you described in the War Refugee Board Report, and if there was one and a half hours required for each corpse, that working twenty-four hours a day you

would require 4.38 years to cremate all those corpses. What do you say about that?

A. Would you please repeat me slowly all the data which you are having here?

Q. Well, I said if you have forty-six stoves or ovens as you described, nine times three ... (sic)

A. Yes.

Q. And 1,765,000 corpses ...

A. Yes.

Q. ... one and a half hours each ...

A. Yes.

Q. ... you would require, at twenty-four hours a day operation, 4.38 years to cremate all those bodies.

A. Well, there is already a little swindle introduced into that statement, because that statement was introduced by Dr. Staßgliche, and it is in the hands of the Crown Attorney, and it is a distortion of the statement which I made in this report in which this Doctor statement, who was a neo-Nazi and was convicted in West Germany, has taken the liberty to distort mildly the contents of this report, because in {1632|1633} this report. I never said that in one and a half hours a body was cremated, but I said that three bodies were cremated simultaneously in each oven, and that in process took approximately one hour. Consequently —

Q. One hour and a half you said.

A. Let's go into the details. I may have said one or one and a half hours, but it was definitely three bodies. Furthermore, I haven't said how many openings were there exactly. There might have been much more ovens there than I wrote in my report.

As I myself as told you, report, far the inside of the crematoria, was a rather provisory thing based on information which perhaps was not that exact and detailed.

Q. May I interrupt you with one other question?

A. Yes.

Q. What kind of fuel do you say they cremated these bodies with?

A. To my information coal was used in crematoria, and wood when it was outside the crematoria.

Q. I see.

A. But I haven't been invited to the stove, so this is hearsay.

Q. No. It is just these figures — so I am asking you. So it's coal or wood?

A. That's hearsay, yes.

Q. Well, of course. So is the matter of whether they were gassed or not, isn't it?

THE COURT: Let's not have an -answer to that. What's the next question?

Q. MR. CHRISTIE: Did you see massive {1633|1634} trains of coal coming into the camp, too?

A. No.

Q. Did you see loads of wood coming into the camp?

A. I have seen loads of coal being transported into the crematoria.

Q. Well, did they come on the railroad, or did they come on trucks?

A. No. They came on trucks and they came on individual trucks. This means when a transport came, that the transport would require forty or fifty trucks which were attracts my attention.

Q. I thought there were only ten trucks. Do you remember when you were unloading the people at the ramp? You said ten had to go and come back.

A. Yes. So by going and back, so I have seen a hundred trucks by the time they made the journey from the crematorium to the ramp. So there was heavy traffic. But apart from the heavy traffic which was connected with mass annihilation of the arrivals, there was also other type of traffic. There were travelling trucks which were bringing coal to the crematoriums. There were travelling trucks which were bringing bread to the camp. There were travelling trucks which were bringing bread nearby, and tea, and in other words, there was many thousands of prisoners and many thousands of S.S., and there was a certain traffic which I could control so exactly.

Q. Mm-hmmm. I see. Sure.

A. I didn't have every record of every single truck which went by. {1634|1635}

Q. Since you did make some comments about Dr. Staßgliche, you called him a neo-Nazi, I'd just like to ask you if you are prepared to make that judgment about that particular person, were you aware that he was once a judge and when he published his book he lost everything in terms of his judgeship and he also lost his right to be the holder of the University degree. Are you aware of that?

THE COURT: Before you answer that question, witness, please indicate in the shortest answer possible whether you were aware of any of these things.

THE WITNESS: I was aware of Dr. Staglich, [Stäglich] his connections —

THE COURT: Just a moment. Were you aware of the things put to you by counsel?

THE WITNESS: No, I was only aware that he was convicted by a West German Court for swindle and for publishing lies in order to incite national hatred, and this is against the West German law, and it was the account in the German newspaper Die Welte [Welt], which is a West German newspaper, and I have read an account that he was convicted and his book was forbidden as obscene, and forbidding the education of the German population and considered dangerous to the German population because of the demagogue which he was using.

THE COURT: All right.

THE WITNESS: This was an article in Die Welte [sic].

THE COURT: All right. What is your next question?

MR. CHRISTIE: No further questions. {1635|1636}

THE COURT: Mr. Griffiths, do you wish to re-examine now?

MR. GRIFFITHS: Yes, sir.

THE COURT: Go ahead.

—

RE-EXAMINATION BY MR. GRIFFITHS:

Q. Just a couple of things, Doctor.

A. Yes, please.

Q. You told Mr. Christie several times in discussing your book, "I Cannot Forgive" that you used poetic licence in writing that book. Have you used poetic licence in your testimony?

A. No. This is not a book. This is under oath.

Q. And Mr. Christie asked you, I believe, put to you several places where you did not appear to testify. He asked you if you appeared at Nuremberg. He asked you if you testified at the Eichmann trial.

A. Mm-hmmm.

Q. Have you ever testified about these matters before at other trials?

A. I have not been in Nuremberg and I have not been present at Eichmann's trial, but I have been present several times at the so-called Auschwitz trial in 1944 [1964] in Frankfurt where the criminals and murderers from Auschwitz were arrested by the West German authorities and put to trial. {1636|1637}

THE COURT: Did you testify there, Doctor?

THE WITNESS: I did. Furthermore, I testified at the trial of a certain Dr. Krumei and Hunsche [Hünsche], also in Frankfurt. Krumei was accused of having murdered the children after they were deported —

MR. CHRISTIE: Are we going to get into this?

Q. MR. GRIFFITHS: My question was whether you testified, and you have answered that.

A. This was after —

Q. It's all right. It's all right. Other than the trials of the Auschwitz trials and in f: Frankfurt and the trials of the two doctors, again in West Germany, are there any other trials or proceedings dealing with these matters where you have testified in public before?

A. Yes. I testified furthermore in Vienna when they sent me to the High Court of Justice in British Columbia. There is a picture of a hundred people asking me to identify if I know anyone.

THE COURT: No. Doctor, please. Just answer the question.

Q. MR. GRIFFITHS: Did you testify in Vienna?

A. I testified against S.S. Unterscharführer [Unterscharführer] and I

testified in their trial for crimes.

Q. All right. Anybody else?

A. No. To my knowledge, no.

Q. Can you tell us, Doctor, briefly how you arrived at the number of 1.765 million? {1637|1638}

MR. CHRISTIE: Your Honour, we went through this in-chief; I dealt with it in cross. It did not come first in cross.

MR. GRIFFITHS: The figure did not, to my recollection, Your Honour – it was not mentioned in-chief. It is obvious from – could the jury be excused, Your Honour, please?

MR. CHRISTIE: I will withdraw my objection.

THE COURT: Yes.

Q. MR. GRIFFITHS: Dr. Vrba, could you tell us briefly how you arrived at your figure? You told us how you identified nationalities, and I wonder if you can tell us how you arrived at your account. Can you do that?

A. Yes.

Q. Please.

A. The first time when I was on the ramp, even before I went to the ramp, I had some idea about the numbers who are going to come, because the number of the people from the Kanada who were supposed to go to work, work on the ramp, depended on the number of arrivals which are coming.

Consequently we were woken up in the night. It was mainly night work. Mainly the transport came in the night – not always. And an S.S. man came and said to the Kapo who was a German criminal, a green triangle, that we should go at once on the ramp, and told him the number of how many prisoners are coming in the cattle trucks – in other words, how many deportees were coming. And on that ground the Kapo decided a fifty, {1638|1639} hundred, two hundred people should go to work on the ramp.

So I had a rough idea, and before I came to the ramp. Furthermore, the people – when the wagons came, in a system which I explained here before, on opening of the wagons I could judge if this was a transport where they have put a hundred in per wagon or one of the better transport where they have put only sixty in in the wagon.

Furthermore, I could see, a number of wagons that are counted, because I had to clean each one of them, going through the wagons so I could see exactly how many wagons arrive. So from this I could know the date of arrival, the number of people who arrived, and the number of people who were chosen to be marched into the camp – in other words, roughly the percentage of people who were taken for slave labour. And I could make immediately my mind the picture how many are from that particular transport and from what nationality murdered.

Now, this information at the start represented only one figure, and the next day two figures, and the next day again two figures or three figures, and I trained myself to remember those figures and developed a special mnemonical method for remembering each transport.

For instance, on the statistics, those transports are only numbers, but in reality they were not just numbers. The transports arrived either in the cold or in the hot. The transports either had a lot of dead or few dead. The transports came in a rich equipment, as for food, or poor equipment. During unloading of the transport it was raining or it was not raining. In other {1639|1640} words, I had a lot of coinciding circumstances, so that each transport for me was not a number but an event, a colourful event. And as the days went by I trained myself constantly and repeated in my mind constantly the statistics, and at the start, when I started, it was one page and then it was two pages that I had to remember, and then it was three pages I had to remember, and finally it was twenty pages I had to remember, and this was not at all very difficult with that mnemonical help to which I have myself trained. It is a general knowledge that people who are arrested write a poem of ten thousand stanzas over years, and are not allowed to write, and then they came out and faultlessly writes them down in two days. So this is a typical example – Solzhenitsyn, without comparing myself to him; and this is not verses to memorize but people, transports, so it was not such a difficult task for me to memorize it. I was asked this question by the Chief Judge Hoffmann in Frankfurt, and I gave him, if

you will allow me, another aspect of illustrating how human memory works.

Q. Well, I am going to stop.

A. Yes. There is an aspect to human memory which I can in addition to this explain, if necessary.

Q. Excuse me just a minute now. You have with you a report, the Vrba-Wetzler report.

A. Yes. I have here a copy which I received from the Office of Investigations, Criminal Division, Washington.

Q. There is something here I can put to you if I can find it about Himmler. {1640|1641}

A. Yes.

Q. There is a reference to Himmler in here.

A. I will try to find it.

Q. We won't think out loud, but we will both look for it here.

A. Here is something on the 17th which is not about Himmler, but about something different. I can't find the reference to Himmler just now, but you might, perhaps, be able to.

THE COURT: Mr. Griffiths, are there any other points you want to discuss with the witness? I intend to adjourn in about ten minutes. You might agree to find the Himmler reference, if you wish to, at that time during recess.

MR. GRIFFITHS: I thank you, Your Honour. In fact, it is the last point that I wish to review.

THE COURT: The Himmler matter?

MR. GRIFFITHS: Yes, sir.

THE COURT: In that case, we will adjourn now.

— The jury retires. 3:20 p.m.

— Short adjournment.

— Upon resuming.

MR. GRIFFITHS: Just before the jury is brought in, Your Honour, I will have no questions of Dr. Vrba. It was a report written by somebody else that I was looking for. That is why I couldn't find it, and {1641|1642} I have another witness here. I am shifting gears. It is not a survivor but a professor who I intended to qualify as an expert in the field on the impact of material of social and racial tolerance in the community.

It is ten to four. He is here. He will also obviously be available for tomorrow. I understand that you have a bail review at four fifteen.

THE COURT: Yes, there is another matter that I promised counsel I would hear their bail application at four thirty or four fifteen.

MR. GRIFFITHS: My question is whether, in the absence of the jury, I should commence with Dr. Kaufmann, the psychologist, today and try to get him qualified, or whether we should start fresh with that in the morning. I am in Your Honour's hands.

THE COURT: Mr. Christie, do you have a preference?

MR. CHRISTIE: No, sir, I don't really. Whatever is convenient to Your Honour, really.

THE COURT: Then I think that there might be a change of court staff, and I will be in at three-fifty or ten to four. If you have no further questions we will call in the jury. You can say that before the jury and we will then adjourn this case until tomorrow morning.

— The Court addresses members of the public in attendance in the courtroom concerning rules of order in the court.

THE COURT: Bring in the jury.

— The jury returns. 3:52 p.m. {1642|1643}

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour. I found the reference, Your Honour, that I was going to ask about. It was in a section of a report not attributed to Messers. Vrba and Wetzler. Accordingly, I will not ask the question. I have no further questions for Dr. Vrba.

THE COURT: Thank you, Doctor. You can step down.

— The witness retires.

THE COURT: Members of the jury, in your absence I have been informed that Crown counsel has another witness ready. It is now about five minutes to four o'clock by my watch. I have a commitment on an undertaking I made in an entirely other matter which

I have agreed to hear between four fifteen and four thirty today because it couldn't be worked in at any other time due to obvious circumstances.

I have spoken to both counsel with respect to whether or not that witness should be started today or tomorrow morning. Both counsel have left it in my hands. I have decided tomorrow morning is much more preferable [sic] than today. You can leave, then, till tomorrow {1643|1644} morning at five minutes to ten. Thank you.

— The jury retires. 3:55 p.m.

— Discussion concerning publication of exhibits.

THE COURT: Yes, it may be released.

— Whereupon the hearing is adjourned to January 25, 1985.

## JANUARY 25, 1985

— Upon the hearing resuming.

MR. GRIFFITHS: Your Honour, different judges have different methods, and when it comes to qualifying expert witnesses, my usual practice is to initially seek to have the witness qualified in the absence of the jury, because obviously if he is not qualified, he has nothing to say to the jury, and that's what I would propose to do now before the jury is called in.

THE COURT: Mr. Christie, what is your view?

MR. CHRISTIE: Well, I think my friend {1644|1644(a)} is right.

THE COURT: The case law that I've read says the opposite, but I am prepared to go along with that. How long do you propose I should let the jury go for?

MR. GRIFFITHS: I don't believe that I will be very long, Your Honour, in qualifying Dr. Kaufmann.

THE COURT: We will see how it goes. Call him.

MR. GRIFFITHS: Dr. Kaufmann.

## HARRY KAUFMANN, sworn on voir dire

### EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:

Q. Sir, I understand that you attended as an undergraduate at the University of Pennsylvania where you received a Bachelor and a Master's Degree in Psychology.

A. The undergraduate degree was a Bachelor's. The other was an undergraduate degree.

Q. And in 1962 you received a doctorate again in the field of psychology?

A. In the field of social psychology {1644(a)|1645} and personality, to be precise.

THE COURT: I'm sorry, could you be precise? Your doctorate was in ...

THE WITNESS: Social psychology and personality, Your Honour.

Q. MR. GRIFFITHS: And Dr. Kaufmann, I understand that you then went, in 1963, to Swarthmore College?

A. That is correct. Yes, sir.

Q. And while you were working at Swarthmore you were also interning as a psychologist at the Veterans' Administration Hospital near Wilmington, Delaware?

A. For two years, yes, sir. From 1961 to 1963.

Q. And I understand that you then came to the University of Toronto.

A. Yes, sir.

Q. What position did you hold at the University of Toronto?

A. I was assistant professor from 1963 to 1965, associate professor from 1965 to 1967.

Q. And then in 1967 where did you then go?

A. In 1967 I went to Hunter College of the University of New York.

Q. And that is where you are now?

A. That is where I am now, yes, sir.

Q. And I understand you are a full professor in psychology at Hunter College? {1645|1646}

A. That is correct, sir.

Q. Have you ever, heard, Dr. Kaufmann, of the Special Committee on

Hate Propaganda in Canada?

A. Yes, I have, sir.

Q. And the Chairman of that, I believe, was Dean Maxwell Cohen of the McGill Law School?

A. That's correct, sir.

Q. Did you ever do any work in Canada for that committee?

A. I did, sir.

Q. What work?

A. I was asked to contribute a psychological appendix to that report, and I did.

Q. And you did so.

A. Yes, sir.

Q. And that was ultimately published along with the report as an appendix to the report?

A. Yes, sir.

Q. And what was the topic of the psychological study that you did for the Cohen Commission, if I can call it that?

A. The topic was, first of all the persuasiveness, shall we say, of hate propaganda, that it is not something to be lightly ignored or dismissed, and also the deleterious, harmful effects thereof upon the objects of such propaganda, and also upon the society as a whole.

Q. Did you have occasion to read the literature in that field in preparing that report?

A. Of course I did. Yes, sir.

Q. And have you kept current or tried {1646|1647} to keep current with the literature since you prepared your report?

A. Yes, I have, sir.

Q. Do you have any publications or any particular fields of interest, sort of doing it chronologically from the sixties to the early seventies, up to the present time?

A. Well, I can give you the very earliest papers I did, because I was still a graduate student at the time. I did those together with Professor Seymore Fishbach who is now in the University of California and Los Angeles. In 1965 I did the appendix we have already spoken of. In 1970 a book of mine was published called, "Aggression and Altruism".

Q. What was that book about?

A. It was about the various incitements to aggression which would provoke such behaviour, and also about conflicts, stereotyping, the resolution of conflicts and prejudices and discrimination. And interspersed among those publications were a number of papers, some of which I can give you if you so desire, some of which I would have to look up, but I would say roughly one dozen published research papers.

Q. In that particular field?

A. In that area, yes, sir.

Q. And I understand that for the last ten years your research interest has been in another area. Is that right?

A. That is correct. Yes, sir.

Q. But you told us you've kept up with the literature in this field. {1647|1648}

A. Oh, yes.

Q. I am showing to you Exhibit 1, the pamphlet, "Did Six Million Really Die?", and Exhibit 2, "The West, War and Islam". Have you had an opportunity to read those two pamphlets?

A. I have, sir.

Q. And I understand that you are not in any position to tell us about the truth or falsehood of those pamphlets.

A. I do not consider myself qualified as an expert – as an expert, I stress ...

Q. All right.

A. ... to testify to the truth of these documents.

Q. All right. But are you able to form an opinion as to their impact on the public opinion?

A. Very much so. Yes, sir.

Q. And is that an opinion that would be a personal opinion, or based on your studies in research?

A. It would most definitely be an opinion based on the work I have done, and the literature that I am familiar with.

Q. Thank you.

MR. GRIFFITHS: I would respectfully submit that Dr. Kaufmann be qualified as an expert in the field of psychology, Your Honour, qualified to testify as to the impact of Exhibits 1 and 2 on the public interest and social and racial tolerance.

THE COURT: Yes. Do you wish to cross-examine the witness on this particular matter? {1648|1649}

MR. CHRISTIE: Yes, I do, Your Honour.

CROSS-EXAMINATION BY MR. CHRISTIE (VOIR DIRE):

Q. Witness, how do you become an expert in what is the public interest?

A. Well, one reads and one learns what the interests, what the aims, the goals of a given society are. One learns this from official publications. One learns it from the educational system. One learns it from living in the country.

Q. How long did you live in Canada?

A. Four years, sir.

Q. Well, isn't it a matter of opinion what the public interest is, that no expert can give any better than anybody else?

MR. GRIFFITHS: Excuse me just a minute, Your Honour. My understanding – and if I am wrong I am sure Your Honour and Mr. Christie will correct me – but my understanding of the law is that what is the public interest is a question of law.

Dr. Kaufmann has not testified as to what the public interest is but, rather, the impact of this material on social and racial tolerance. I didn't make that clear. I apologize.

THE COURT: What do you say to that?

MR. CHRISTIE: I heard it very clearly expressed, and I wrote down that he would be testifying as to the – he had formed opinions on the effect of this on {1649|1650} the public interest. I wrote that down. I heard him say it, and I certainly think that's the only way that this type of expert can conceivably be relevant to the charge.

The issue is whether the interest in social and racial tolerance as outlined in the charge is necessary or associated in some way with the public interest.

This witness has endeavoured to be – has endeavoured by the Crown to prove that the witness' opinion of social and racial tolerance relates to the public interest, or else he cannot, in my respectful submission, have something to tell us that the jury themselves can't decide.

So I would simply say that the witness must be able to form the association by telling us something that expresses that association with the public interest in some way better than an average citizen could do.

So I ask him how he becomes an expert in public interest. I think that is quite german [sic] if the charge is as I quoted it to be, that the accused is alleged to have committed an offence by telling falsehoods likely to cause injury or mischief to a public interest, to wit: the interests of society and social and racial tolerance; and without making that value judgment, I can't see how the expert can relate his knowledge to the charge.

THE COURT: I agree with Crown counsel's submission. The words "public interest" and the definition of those words become a matter of law. However, notwithstanding that, I think you are still entitled to ask the {1650|1651} question you asked. You may ask it.

MR. CHRISTIE: Thank you.

Q. How did you come to decide what the public interest of Canada was in the four years you were here?

THE COURT: As it pertains to this subject.

Q. MR. CHRISTIE: Yes, as it relates to social and racial tolerance. How did you form your opinion, or what's the basis of your opinion in the four years you were here?

A. My children went to school here. I taught here. I was exposed to the culture of Canada. I was a welcome visitor, guest, in this country. It so happens that last night I walked along Queen's Park and I saw there an institute which is called the Multicultural Institute of Ontario. Perhaps significantly, that Institute is next door to the Toronto School of Theolo-

gy.

Now, all through my stay here and ever since, whatever I have read about official policy and official pronouncements of this country could not fail to impress upon me the multicultural tolerant values of this society, its emphasis upon the fact that each culture brings something of value to this entire society. If that is not the public interest, I don't know what is.

Q. So it's your experience in the last two days that walking past some buildings qualifies you to tell us how somebody's statement relates to the public interest.

A. No, sir, not at all. As you very {1651|1652} well know, I would not have walked past these two buildings if I had not been called here, and I would not have been called here if I had not written an article in 1965, or an appendix closely connected with this issue.

Q. When were the years that you lived in Canada?

A. 1963 through 1967.

Q. And you are telling us, then, that your opinion is based upon that experience, reading articles and submitting and filing your appendix to the Cohen Commission Report. Is that correct?

A. This is part of my qualification, but not my entire qualification. I am a social psychologist. I do, as has been established before, keep up with the literature, particularly the literature which concerns group conflicts.

Q. Stereotyping.

A. Stereotyping. Thank you.

Q. Discrimination, that sort of thing, right?

A. Thank you for helping me in this.

Q. Tell me, Doctor, do you come from a Jewish background?

A. I do indeed.

Q. Do you think that might colour your opinion on this subject?

A. It is conceivable that my background steered me to a certain area of research, but science is a cumulative and objective effort; the findings of science are not determined by one's background. {1652|1653}

Q. Do you have some special qualification to weigh the conflicting values of freedom of speech and the composition of ideas with social and racial tolerance such as might be the result of training in either moral theology or philosophy?

A. I would not venture to make the judgment of which of these priorities, should they both be involved, should take precedence. I believe that is for the law to decide.

Q. Well, you, apparently, had a large part in framing at least part of the Cohen Commission Report.

A. I had a part.

Q. And that was the origin of s.281, I suppose, you would realize; is that right?

A. I cannot speak to that, sir.

Q. You don't know that?

A. I do not know what the section number is which resulted from this report.

Q. Mm-hmmm. Is the section on so-called hate propaganda, are you familiar with that?

A. I have read the section. I do not – I am not in a position to say to what extent it resulted directly from the report, or my contribution thereto.

Q. Do you know if Dean Maxwell Cohen was also of Jewish background?

A. I never met Dean Maxwell Cohen. He did not disclose his religious or ethnic affiliation to me. {1653|1654}

Q. I am still curious as to whether you feel that your opinion might be affected by your particular background in relation to this particular subject.

A. You stress the word "opinion", sir. The answer would be no.

Q. I am curious as to how you can be qualified to express your opinion on the realm of what affects racial and social tolerance in such a way that it would be somehow contrary to the public interest. How do you relate those two value judgments, I suggest?

A. I do not accept your definition of those-two value judgments, because if you wish to call them value judgments, then the notion in a

society that children should not be cast out and left to die at will is also a value judgment, and that we should not kill old people for food is also a value judgment. If you want to call these values in a society, value judgments, then I will accept the present ones likewise.

Q. Well, you, yourself, used the word "values", and I am suggesting that you are making – you are about to express opinions on values.

A. There is a difference, sir, I respectfully submit to you, between the values of a society which transpires from its proclamations, its laws, its actions, its educational system, its policies, and value judgments arrived at subjectively and without foundation by an individual.

Q. Well, that's quite true. I am not disputing that there is a difference between personal value judgment and societal value judgments, but you are {1654|1655} about to express societal value judgments, in my respectfull [sic] submission, upon whether the material in issue that you have read is contrary to society's public interest in racial and social tolerance. That is what the Crown tells me and that is what you say. Is it not?

A. I am not quite sure I understand your question, sir.

Q. Well, how are you going to give your opinion on racial and social tolerance and its relationship to the public interest without making value judgments on what that public interest is?

A. Let me try and answer this by means of an analogy. Suppose we were to discover – and I must impose upon your patience, I realize that – suppose –

THE COURT: Take all the time you reasonably require, Doctor.

THE WITNESS: Let us assume that we were to discover that lead poisoning is harmful to children and adults. Now, if I were to come forth and say from what I know about this society it should make every effort to prevent lead poisoning from occurring, conceivably you could call this a value judgment. I would call it a justifiable inference.

Q. Is that the end of your answer?

A. Yes, sir.

Q. Oh, you are saying, then, that the value judgments you are about to make are as empirically verifiable as those of medicine by your analogy. Is that right? {1655|1656}

A. There is some dispute about the degree of verifiability between the so-called hard sciences, like physics, chemistry, astronomy and so on, and the soft or, as I prefer to call them, the softer sciences – psychology, sociology and so on.

Medicine is somewhere in between, as most of us know. Nevertheless, Western society, at least, have utilized widely the finding of psychology and sociology and political science, which I should have added before, with perhaps a lesser degree of absolute certainty than we can ascribe to the boiling temperature of water; but yet with enough reliance, with a high enough degree of confidence, as a statistician would say, so that some action is taken. Were we to wait for certainty in everything, we would never do anything.

Q. I don't understand your answer, Doctor. What do you mean? Do you mind putting it in simpler terms?

A. I will put it in simple terms as the circumstances require. We make every day – and when I say "we" I mean any government, any society, in fact any organization, and even any individual – we make every day decisions based upon knowledge derived from psychology, political science, sociology. Let us look at those three.

We make these decisions knowing full well the total certainty that the findings upon which these decisions are based can never be had. Why, for all I know this whole courtroom may not be here. It may just be an illusion of my head. Yet I make decisions and act as if it were there. And in quite a similar way we make {1656|1657} decisions about international relations, we make decisions in law about who ought to and who ought not to be convicted.

Are your decisions, are your judgments always certain, never wrong? Of course not. Nevertheless, judgments and decisions have to be made, and they are made by the educated person or by the expert on the basis of such knowledge, as much knowledge as he can, under the circumstances mustered.

Q. So these judgments are to be made by the expert, as you said; and

you, therefore, are the expert. Is that right?

A. It is very hard to call oneself an expert. Blowing one's trumpet has never been my habit. But I have spoken to students and to peers in those areas and been listened to respectfully.

Q. Well, I am not suggesting anyone shouldn't listen to you respectfully, but I am wondering how you are better qualified than the average layman to judge what is an offence to racial and social tolerance, or what is in the public interest – how you are set up in some way as an expert in those fields.

A. All right. Let me take this one by one. Would you break the question down? You mentioned two items, i; and I would like to take them one by one..

Q. Okay. You are an expert in racial and social tolerance?

A. Well, the term racial ... and what was the other?

Q. Social.

A. ... and social tolerance, how can {1657|1658} one be – come now, how can one be an expert in tolerance? Surely –

Q. So you are an expert in intolerance, are you?

A. No. Come, now. If you wish to play games, I will be happy to play them with you as long as you wish, but you know very well that –

Q. Well, you know –

THE COURT: Don't interrupt. You put the question. Let him answer.

THE WITNESS: Sir, if you are a physician, can you be an expert in illness?

Q. MR. CHRISTIE: I understand there are doctors who claim to be, called pathologists. They claim to be experts in illness.

A. I would challenge you, most respectfully, sir, to call a pathologist who will call himself an expert on illness. I don't think the terminology is accurate. However, I am willing to answer your question if you rephrase it so I can deal with it cogently.

Q. Well, my question was, how are you, an expert in racial and social tolerance. That was the question.

A. And I must repeat that this is a wording that I cannot really properly answer.

Q. Okay. How are you an expert in the public interest?

THE COURT: Well, I think Mr. Griffiths has already said, and he was correct, with respect to public interest being a matter of law, Mr. {1658|1659} Christie. If you want to couple that with the allegation of racial tolerance within the confines of the indictment, you may do so; but what you are doing, in effect, by asking that question, is that you are asking this witness to give a legal opinion. That is hard enough for all of us who have been in this profession of ours for some years. I don't know that he is qualified to really answer that question as you put it.

MR. CHRISTIE: Yes, sir

Q. Can I rephrase it this way, Doctor. How are you an expert in the relationship of racial and social tolerance, which you just said you couldn't say that you were an expert in, to the public interest? How do you become an expert in that relationship?

THE COURT: Let me see the indictment, please.

THE WITNESS: I consider myself qualified better than most people in judging the effects of certain, shall we say, inconsistencies between stated official accepted values of a society and information which, in some way or other, is permitted to be purveyed within that society, the conflicts these contrasting communications create, how effective the contrasting communications might be, and the divisive and harmful effects they would have upon a society which, indisputably and fervently, proclaim totally opposite values.

Q. MR. CHRISTIE: Well, how do you know what society indisputably proclaims?

A. Well, sir, if I did not know what the values of this country are in terms of its tolerance, of its acceptance, of its welcome to people of all faiths, {1659|1660} races, ages, sexes, then you may be sure that I would not be here.

Q. So you are an expert in what the values of our country are in relation to age, sex and race; you are an expert in those values of our country. Is that what I am to believe?



A. In order not to mince words too much, you wish to insist on the term expert, and I will accept it with reservations. I am an expert. if you wish, on the contrast created by the values which not only I, but every, or most educated citizen of this country know to be the values of this society. The contrast, I say, between those values and the values offered are advocated by certain communications.

Q. Well, how do you know that the values held by every or most educated citizen of this country are as you understand them to be? How are you an expert in the values of every or most educated citizen of this country?

A. Well, sir, I think it is fair to say that the average values of the child who grows up, let us say, in a culture of India, would be different from the average values of the child that grows up in this country; and why would that be so? Because, of course, he is exposed to different educational input.

Now, it is my assumption – and I will go so far as to say that it is an educated and expert assumption – that education of the child, and yes, – it goes on throughout life by means of the media, the communications, official communications to which we are exposed, the newspapers we read; the television programmes we watch, the {1660|1661} politicians whom we listen to, yes, it is my expert opinion that this continuous input influences and shapes the values of the average member of society.

There are, of course, always exceptions. We are dealing with a statistical continuum. There are exceptions at both ends. We know that. But when we look at the large bulk of the population, it is most definitely – and I repeat, I say this on the basis of my call it expert knowledge – yes, it does have an effect upon where the values of a society are.

Q. Well, I gather from that that you claim to have the right to express an opinion on the majority of values of those in Canada, or do I understand you correctly?

A. I don't know whether I quite accept the term "right", but —

THE COURT: I agree with that, Doctor. You don't have the right unless I give it to you, and I give it to you from a judicial point of view, having considered both sides. The question was an enforcement in its phraseology.

Q. MR. CHRISTIE: You claim to have the expert ability to express an opinion on the majority values of Canada.

A. Absolutely, sir, yes.

Q. On the basis of what special training or knowledge do you claim that expert ability?

A. Well, my training as a social psychologist deals with the effects of communications, persuasion techniques, the effects of artificially engendered or already existing group conflicts, the effects of social {1661|1662} milieu or various restraining or encouraging variables upon aggression, and also, yes, the other side, the means and techniques whereby group conflicts can be reduced, the means and techniques whereby persuasion can be made less as well as more effective. And that is the field of my professional training.

Q. But you have no special knowledge from any experience of recent development in Canada. I assume, from your statements, that you were here from '63 to '67.

A. I am not sure whether you are referring to personal experience ...

Q. Well, personal experience, research in the actual living conditions of living here in Canada, any special skill or ability derived since 1967 in this country.

A. I cannot cite you any research papers done on prejudice or stereotyping or group conflicts in Canada in the last few years. No, sir.

9. And you said that the situation in any country, I think, was on a continuum, that the shape of society's values constantly change.

A. No, sir. That was not what I said.

Q. Oh.

A. What I said was that the effects of the constant input to which each member of society is exposed, well, not from birth but very soon thereafter, throughout his life, have an effect which is – and here one becomes a little technical or statistical, I cannot help this – is best seen as being distributed along a normal {1662|1663} statistical curve, which

means some very few people will become intensely, and we may even say pathologically, antisocial, some people will become almost robot-like in the acceptance of every, even the most minute dictum of this society; but the great majority of people, the bulk – and if I had a blackboard I would draw you a bell curve – the bulk of society is affected, is influenced to a considerable degree, except it makes its own, by the values to which it has been exposed from childhood.

Q. Well, getting straight to the point, how are you an expert in the values of the Canadian society in any way, shape or form?

A. Well, as I said, my training consists of, in part, of a study of the way in which persuasion – and please let me clarify here the word "persuasion" because it has a sort of a negative connotation in popular parlance and I don't mean it in that way at all; persuasion simply means getting a viewpoint or a value across to another person. And of course, ninety-eight per cent of what our value system is, in fact ninety-eight percent, roughly speaking; don't hold me to the number – of what we know is learned not from direct experience as in the case of an animal, but from what we hear, from what we are told, from what we observe in television and other media.

Q. When you say "we" and "our", do you mean Canadian or the world?

A. Everybody, sir.

Q. So the value judgments you make are relative to anybody in the world? {1663|1664}

A. Not the value judgments, but the way these value judgments are acquired. A big difference there. Now, if you can graciously re-direct me to where we were before you interrupted me.

Q. The question was, how are you an expert in the values of Canadian society.

A. All right. Let me get back to the persuasion and editorial process, then, to which each member of a society is exposed throughout his life, unless we are to assume that society is either totally without purpose, or maliciously fraudulent in what it teaches and communicates to each member of society from its first exposure to parental values, to school values and, later on, as an adult, unless I were to assume this – and that seems to me a bit far-fetched – then I must assume, as a student of communication and persuasion, that society, indeed, holds these values and wishes its citizens to adopt – to understand them and to adopt them.

Q. How are you an expert in the values and purpose of Canadian society that we ought to accept and adopt?

A. I beg your pardon?

Q. I just heard you say that you viewed society as having a purpose, that there were purposes in society that citizens ought to accept and adopt, and I want to know how you are an expert in the purposes of Canadian society that we ought to adopt.

A. Now, first of all, you have somewhat modified my answer. I did not say that we ought to {1664|1665} adopt. My phrasing was a conditional and with the sense that if we observe that, from childhood on society advocates certain values, then one must reasonably infer that these are the values which this society wishes its citizens to learn and to adopt.

Q. Okay. You say that society has certain values which society wishes its citizens to adopt. Am I right?

A. That is reasonably close.

Q. Well, how are you an expert in the values that Canadian society wishes its citizens to adopt.

A. I thought I already answered that, but I will gladly go over it again. Part of my training, of course, deals with techniques of persuasion and communication.

Q. All right. Let me get it down very carefully so I don't misunderstand you. First of all you say you are an expert in techniques of persuasion, and that doesn't apply just to Canada, does it?

A. No, of course not.

Q. That is to human beings anywhere; so that is one qualification that enables you to tell us what values Canadian society wishes to have its citizens adopt. Is that right?

A. I seem to detect a leap which is not entirely justified by logic.

Q. Well, you correct me, then, Doctor. Tell me what it is that qualifies you to say what values Canadian society wishes its citizens to adopt. {1665|1666}

A. The values which I infer from its educational system.

Q. From its educational system?

A. From its political overt announcements, from its immigration policies.

Q. Political overt announcements.

A. Just a minute. I haven't finished.

Q. No. I just want to make sure I had it down.

THE COURT: Just listen carefully. Do the best you can to let the witness finish the answer without your constant interruptions.

MR. CHRISTIE: Thank you, Your Honour. I will try.

THE COURT: Don't try. Do it.

THE WITNESS: May I get the first bars, please?

THE COURT: Let's have the question read back.

THE COURT REPORTER: "Q. Well, you correct me, then, Doctor.

Tell me what it is that qualifies you to say what values Canadian society wishes its citizens to adopt."

THE COURT: We will hear the answer without interruptions.

THE WITNESS: It is the answer which I think I already gave you, but which I will gladly repeat, and it is this: unless we are to assume that everything that our children, your children – I still consider them our children because our children did go to school here, {1666|1667} so forgive this slip of the tongue if it is that – unless we are to assume that everything in the educational system that this country teaches, with regard to social values of course, unless we are to assume that everything that our public figures announce, unless we are to assume that the generous attitudes and policies towards newcomers or people of various ethnic and religious backgrounds, unless we are to assume that all this is either totally random or maliciously perverted, then one must infer, with any knowledge of communication and persuasion at all, that these are, indeed, the goals which the society seeks.

THE COURT: That's your answer.

THE WITNESS: Yes, Your Honour.

THE COURT: Thank you. Next question.

MR. CHRISTIE: Thank you.

Q. Well, how do you know anything about the public pronouncements of our political figures? How are you an expert in that? And which political figures do you consider authoritative?

A. Well, I am rather glad you asked me that, because even though there is now, for example – and I know this very well because I am kept up at night due to this event – there is now going on a competition for the Premiership of this delightful Province where four gentlemen are competing and they all, of course, have expressed viewpoints which in some way differ one from the other because otherwise they would be in no competition at all, but there has not been one who has advocated conflict, dissidence, divisiveness, intolerance or hate {1667|1668} among various groups

Q. Are you familiar with the Premier of Quebec, Rene Levesque?

A. I cannot say that I am familiar with him, sir.

Q. No. Well, would you consider him not a legitimate Canadian political figure?

A. I am not qualified to pronounce on his legitimacy, sir.

Q. Well, you say that our public figures are consistent in not advocating intolerance or divisiveness or hate. I put it to you that unless you are familiar with the Canadian political scene, you can't say that our political figures are consistent in that regard. I am not even prepared to say that anybody would, but how are you so qualified –

THE COURT: Mr. Christie, I don't recall the witness having indicated that political figures, generally speaking, in this country have or have not the attributes that you have indicated. The witness was referring to four specific people –

MR. CHRISTIE: Yes.

THE COURT: — currently within the realm of his knowledge.

MR. CHRISTIE: Yes.

Q. Well, is that the extent of your knowledge of the Canadian political scene, then, Doctor?

A. Well —

MR. GRIFFITHS: Just a minute. Again, Your Honour, I don't like to interrupt, but by and large {1668|1669} all these questions are still going to the matter of public interest, what the values are of the public interest, and that's a question whether or not social and racial tolerance are matters of public interest is a question not for Dr. Kaufmann but for Your Honour. Dr. Kaufmann is going to testify whether these two articles have any impact on racial and social tolerance. Whether that is in the public interest is not in his field, Your Honour. So that the same objection I was trying to make before is that the questions really aren't relevant to his field of expertise.

THE COURT: Mr. Christie?

MR. CHRISTIE: Your Honour, the expert is being tendered to give an opinion in the realm of social and racial tolerance. I have endeavoured to find out the basis of his expertise in that regard, and I have so far elicited three areas in which he has expressed his opinion that enables him to say what Canadian values and racial and social tolerance are. I have enumerated them in my recollection to be, one, he said unless we are to assume that the educational system teaches no social values – and I assume he is talking about the educational system; he then said the public overt pronouncements of political figures, and then he said the generous attitude to newcomers. I assume he means immigration policy.

I am asking him to know what he knows about those areas that somehow qualify him to express opinions on.

THE COURT: All of which, in my view, are public interest matters. Really, isn't the Crown {1669|1670} purporting to qualify this witness as an expert as to be in a position to give his opinions to the jury, if he is permitted to do so, of the impact of Exhibits 1 and 2 insofar as the alleged mischief in social and racial tolerance is concerned? Isn't that essentially what the Crown is attempting to do?

MR. GRIFFITHS: That is, Your Honour.

THE COURT: If that is the case, then why all the questions? Why do you want to ask him all these questions concerning politics and the views of political leaders in this country when the purpose is different? I can assure you that I am far from coming to any conclusion with respect to the propriety of the Crown's application. I don't want to have to spend the day on a voir dire on matters that aren't relevant, really, to the purpose that this witness is being called.

MR. CHRISTIE: Your Honour, this enterprise of seeking to qualify someone to express views on the issue of social and racial tolerance is a novel proposition which, I suggest, requires – and this witness has so far agreed – involved certain value judgements about those racial and social tolerances.

No one, in my respectful opinion, is qualified to give an expert opinion unless they can demonstrate before a Court that they have some unique special knowledge derived from one of two sources – experience or training. So far I have not heard the witness identify his experience to qualify him to give an expert opinion on this area, and I am examining for the purposes, if there are any, some special academic training in this {1670|1671} field. And I haven't heard him say that he has any in Canada relating to racial and social tolerance here.

THE COURT: Why don't you put, in the form of a question to the witness, precisely what you've said to me, and then we can get down to the meat of this application?

Q. MR. CHRISTIE: What special academic training have you had to qualify you to say what are the Canadian values in racial and social tolerance?

A. Sir, I think my expertise, if again we want to call it that, is demonstrated by the fact that the Report of the Special Commission on Hate Propaganda [sic] was instituted on request, that I contributed to it, and that the government saw fit, on the basis of this report, to write or to insert a law which you, yourself, have named. Had the values been other, that report would probably not even exist today.

As a contributor thereto, and being familiar with the results thereof, I believe to be so qualified.

Q. So let me understand you correctly. It's not a matter of any academ-

ic training in this particular field in Canada after 1967 in any event, and it's not the result of anything more than that the government of the day chose to use your report to some extent.

A. That is not entirely an accurate presentation, because clearly I would not have been selected to write this report had I not possessed some prior qualifications. {1671|1672}

Q. So to understand you clearly, if the government saw fit to rely on you, that therefore you must be an expert.

A. I would deem that the government exercised good judgment in asking me to write that report.

Q. Well, I thought you might, but may I suggest to you that what the government decided in

1967 for their reasons doesn't mean you have any academic qualifications in 1984 to speak to us about the values of our society in racial and social tolerance today. Would you agree?

A. No, I would not agree at all, sir, because there is, in the period that you have mentioned, politics and values have changed very radically in certain parts of the world such as Iran, Nicaragua, perhaps. There is no evidence that the cause of Canadian values has taken a sharp turn towards total racism and intolerance.

Q. There again you are expressing an opinion on what the course of Canadian values have done since 1967, and I put it to you that you have no academic or experiential basis for expressing that opinion either. What do you say?

A. Well, I would say to you that my training enables me to read and draw inferences from newspapers, even, which are within the province of a qualified person, and which qualify me better than the average person to draw, to make inferences on the basis of these writings, these proclamations and these policies.

Q. So what writings, proclamations {1672|1673} and policies do you base your opinion on now?

A. One needs to do, perhaps, little more than be a reader of newspapers, a follower of pronouncements of political candidates, and of course, actions always count more than words – the actions which this government, provincial as well as federal, has adopted, advocated and followed even to this day.

Q. So you now claim to be qualified in that area, in the area of expressing opinion on the social and racial tolerance values because you've read the papers about the actions of government persons in both Ottawa and Ontario. Is that right?

A. Not entirely, sir. This is part of the source, the newspapers; but I did add, political pronouncements and observable public policies.

Q. Where did you hear those? Political public pronouncements made by whom and where?

A. For example, by the two candidates for Prime Minister, neither of whom, to my knowledge, advocated divisiveness, hatred, conflict or intolerance.

Q. So you conclude that their pronouncements are an indication of the social and racial values of society. And where and when did they make those pronouncements – during election?

A. Yes. Before and during, yes.

Q. Before and during.

A. And after.

Q. So you base your opinion on what politicians say before, during and after elections.

A. A great deal of cynicism is {1673|1674} sometimes expressed about what politicians say and what they subsequently do. I don't want to get into that at all. But I do want to call your attention to the fact that any political figure in this country which advocates extreme intolerance or dissidence or divisiveness is a political figure which belongs to a minor party, whose vote-getting ability is small, and again, I think it is therefore more than reasonable to infer that that political figure does not lie within the mainstream of Canadian values and does not attract the bulk of Canadian voters.

Q. So how do you know what opinions fit in that category from your knowledge?

A. I think this brings us full circle to where we began.

Q. Precisely – without any knowledge on your part of Canada whatsoever, sir.

A. That is an inference with which I totally disagree.

Q. Well, tell me where you get this knowledge.

A. I consider myself an educated individual. I know what goes on to a fair extent in the country neighbouring mine in which I spent four years.

Q. So we are back to newspapers, public proclamations of political leaders, and some knowledge of the educational system and the immigration policy. Is that right?

A. I would not like to box myself in like this, but — {1674|1675}

Q. Well, don't be boxed in. If there's more, please tell me.

A. I don't know. This is my first time in a situation like this, let it be pointed out. I am not quite sure whether I am allowed to phrase my answer in terms of a counter-question, and the counter-question which, of course, I cannot impose upon you to answer is this:

How does any citizen or any observer, if he is not a citizen, of a country's values, fundamental values, arrive at a knowledge of those values if not through the means which I have described? Does he obtain them through divine inspiration? Does he have a direct line to the founders? How does he know what the values of the country are if not those?

Q. Thank you. Okay. Since you asked me a question, I will provide you with another question. I suggest that most people derive their opinions from experience, but that nobody sets themselves up as an expert in the values of society, and that's how I want to know how you do.

THE COURT: Would your answer be any different than the ones you have just given?

THE WITNESS: I don't think so, Your Honour.

THE COURT: I wouldn't think so.

Q. MR. CHRISTIE: So then I take it your answer is because you are an educated person, you read the newspapers, presumably in the United States – do you read Canadian newspapers, too?

A. Oh, yes, I do occasionally. {1675|1676}

Q. And so you read those and that is how you form – how you are going to tell us what the basis of your opinion is, and that is the basis of your opinion.

A. Not – again, I understand your purpose, sir, and I must disagree with it most respect fully. You say, first of all, experience. Experience is a highly misleading and subjective and unique event, and because somebody, let us assume, pushes me off the sidewalk because he doesn't like the shape of my nose, does not express anything about the nature of this country. That's a unique, isolated event that tells us nothing.

Now, coming to the sources which have cited, I would again add that I evaluated and understand and make inferences from those sources on the basis of my training and not as an ordinary layman.

May I illustrate, again, with an analogy? I don't want to impose upon the Court's patience here. Do I have Your Honour's permission?

THE COURT: Yes. Yes, go ahead, Doctor.

THE WITNESS: You may look at a person's face and the way he walks and the clearness of his eyes and a tremor, perhaps, in his limbs, and as a layman that would signify something, perhaps, to you; but if you are physician then you would look at these symptoms in a somewhat more expert light.

Q. MR. CHRISTIE: Yes. But are not dealing here with somebody's physical ailments. You are not being asked to give an opinion on somebody's physical ailments. You are being asked to express an {1676|1677} opinion on the values of society and racial and social tolerance, I am led to believe.

I am asking you whether you are aware that every provincial government in Canada has changed since 1967. Are you aware of that?

A. Since there are elections held periodically in every province, it does not at all surprise me that administrations change. No, sir.

Q. And the values as expressed by the federal government may well have changed. Are you familiar with that?

A. History is not static, sir. We progress, we learn, but we also move along a path which is largely set by our past experiences and past values. Sudden turns in the road do occasionally occur. We call them

revolutions. This country has not experienced a revolution, or I hope not.

Q. Have you heard of the elections of the Separatist Government in Quebec?

A. Yes, I have.

Q. I suggest to you that was a peaceful revolution of sorts.

THE COURT: Now, let's not get into peaceful revolutions.

MR. CHRISTIE: Well, he is telling us the values of —

THE COURT: I have heard the answer, Mr. Christie. I am not going to permit that. I have been very lenient up to now, but beyond that —

MR. CHRISTIE: Well, I have no further questions. {1677|1678}

THE COURT: Do you have any re-examination?

MR. GRIFFITHS: No, Your Honour.

THE COURT: Thank you, sir. You can step down.

— The witness stands down.

THE COURT: What are your submissions

MR. GRIFFITHS: The submissions are, Your Honour, that the Doctor, Dr. Kaufmann, has given extensive, unchallenged academic background on his knowledge, in his own research into the field of intolerance, group discrimination, and with particular regard to communications.

He is being asked not what the values of Canadian society are as an expert; he can only be asked hypothetical questions and asked to make certain assumptions in answering that question.

He, I would submit, is well qualified on the basis of his testimony to give evidence as to whether or not the material, Exhibits 1 and 2 which he {1678|1679} says he's read, would be likely to cause mischief to social and racial tolerance. Whether or not social and racial tolerance is a value revered by Canadians is not a question for Dr. Kaufmann; it is a question for Your Honour; it is a question of law whether or not that is included in the public interest. But he is well qualified, and his qualifications in the field that I seek to qualify him, Your Honour, I submit are unchallenged as to what injury or mischief these publications, these written communications would be likely to cause social and racial tolerance.

I submit that he be permitted to testify and give his opinion in that field.

THE COURT: I don't need to hear from you, Mr. Christie.

—— {1679|1680}

#### REASONS FOR RULING

THE COURT: In the absence of the jury counsel for the Crown proposes to lead evidence from a witness who Crown submits should be qualified by this Court as an expert witness. The witness in question is Professor Harry Kaufmann. Dr. Kaufmann has a doctorate in the field of social psychology and sociology. He gave testimony concerning his curriculum vitae, which is impressive. Indeed, he is a very learned person within the confines of his field. In addition, I have no doubt that he is a very learned person beyond the confines of the proposed field of expertise in which it is proposed he be qualified as an expert.

Some years ago his topic of study consisted, in part, of the persuasiveness of hate propaganda and the deleterious effect, or harm, upon the targets of that propaganda as that is disseminated within any given society or social group. He played a prominent part in a federal Canadian government study on the subject of hate propaganda. His contribution to that paper submitted to the government is well-known. He lived in this country for some four years, over a decade ago, while he was involved in the field of teaching at the high level of university. He is an American citizen who has lived in the United States of America for the past several years, which I understand is the country of his choice. {1680|1681}

The accused is charged with two counts in one single indictment. The first count alleges that during the year 1981, at Metropolitan Toronto, he published a statement or a tale that he knew to be false, namely, an article called, "The West, War and Islam", the said article likely to cause mischief to the public interest in social and racial tolerance. The second count alleges that in the same year, the same location, he pub-

lished a statement, namely, "Did Six Million Really Die?", that he knew to be false and that it was likely to cause mischief to the public interest in social and racial tolerance.

The section under which the accused, Mr. Zundel, is being prosecuted in this Court is s.177 of the Criminal Code. That section reads as follows:

*"Everyone who wilfully publishes a statement, tale or news that he knows is false and that causes or is likely to cause injury or mischief to a public interest is guilty of an indictable offence."*

The subject matter of this charge, in my respectful view, is based upon the common law offence of mischief. It is not based upon section 281 which involves hate {1681|1682} literature. The mode of trial here is composed of a judge and a jury. The evidence given by Dr. Kaufmann would certainly indicate that he is a person with a superior background in the acquisition of principles and knowledge on the subject at hand.

Crown counsel makes it clear that the doctor is going to be asked, essentially, that he having read Exhibits 1 and 2, being the two articles I have named, described in the indictment, would they be likely to cause or effect social and racial tolerance in the Canadian community? The law makes it quite clear that the Canadian community is pan-Canada from Newfoundland to British Columbia and not any specific element or part of the Canadian community. There is nothing to be criticized about Crown counsel's motion to qualify Dr. Kaufmann as an expert witness. However learned Dr. Kaufmann may be with regard to this subject that he has studied, the issue is whether or not, within the decided case law on the subject of expert witnesses, he is a person who has acquired a specific skill or a piece of knowledge well beyond the ken, if I may use that term, of the ordinary citizen of Canada.

In my view that is not the case. S.177 requires that the Crown prove *inter alia* mischief to the {1682|1683} public interest — in this particular case, mischief to the public interest in social and racial tolerance in both counts in the indictment. The issue of the definition of "mischief" is mine, as the presiding Judge, to impart to the jury at the appropriate time with respect to each count. The issue of the definition of "public interest" is also my responsibility to impart to the jury by way of definition of those two words.

In my view, twelve persons selected by this accused and by the Crown are here to decide the very issue upon which the Crown now purports to lead evidence in the person of the learned Dr. Kaufmann. The jury, in my respectful view, is quite able to decide, solely and only upon the evidence led throughout the whole of this trial, whether or not the burden of proof incumbent upon the Crown has been discharged according to the standard of proof beyond a reasonable doubt as to whether the article, "The West, War and Islam", and the article, "Did Six Million Really Die", either or both, created a mischief to the public interest within the realm of social and racial tolerance. The knowledge of twelve ordinary Canadian persons, and I say this with great respect to Dr. Kaufmann, is equal to the task, and the obvious superior knowledge that the doctor has acquired {1683|1684} does not, in my view, place him in the appropriate category as an expert in this particular field to permit him to give his opinion. It will be the jury's opinion that counts. The motion is dismissed.

THE COURT: Do you have, any problems?

MR. GRIFFITHS: No. I have another witness who is here, Your Honour. I would like a few minutes to re-group, if I may.

THE COURT: You certainly may. Twenty minutes.

— Short adjournment.

(Page 1685 follows) {1684|1685}

— Upon resuming.

— The jury enters. 11:58 a.m.

THE COURT: Yes, Mr. Griffiths.

MR. GRIFFITHS: Thank you, sir. I would call Mr. Chester Tomaszewski.

**CHESTER TOMASZEWSKI, sworn.**

EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:

Q. Mr. Tomaszewski, how old are you, sir?

A. Sixty-one.

Q. And are you from Toronto?

A. Yes.

Q. And I understand that you were originally born —

A. In Poland.

Q. — in the town of —

A. Kalisz.

Q. And in 1939 were you still living in Poland?

A. Up to 2nd of October, 1939.

Q. All right. And can you tell us what happened around that time to you?

A. 2nd of October, 1939, I was arrested by the Germans.

Q. All right. I should ask you, Mr. Tomaszewski, are you Jewish?

A. No. {1685|1686}

Q. Christian?

A. Christian.

Q. What happened then?

A. Well, I was put in prison from October till April. I went through the severe interrogation there, and after that, on the 26th of April, 1940, I was transferred to Dachau Concentration Camp.

Q. How long were you in Dachau for?

A. I was a short period in Dachau. I just went through the quarantine about six, seven weeks and then, from then I was transferred to another camp in Austria, Mauthausen-Gussen [Gusen]. Actually I was in Gussen. Gussen was the satellite camp to Mauthausen.

Q. Were you ever in the main camp of Mauthausen?

A. No.

Q. And how far away would Mauthausen be from that camp?

A. I would say about fifteen kilometers or that.

Q. And would that have been May or June of 1940?

A. That was in shortly after the fall of France. It was, I think it was in the second half of June, because I remember when France fall [fell], I was still in Dachau, because they assemble us, all of us, the prisoners in the appel[ ] square, to listen to the Hitler speech.

Q. How old were you when you were arrested in 1939?

A. Fifteen.

Q. When you arrived at Gussen [Gusen] was there {1686|1687} a camp there already?

A. The camp, when I arrived to Gussen [sic], the camp – pardon me, this bring[s] very emotional memories. The camp was in the process of building. There was few barracks, and before I arrived to Gussen [sic] there was only one transport which was about four thousand men which arrive[d] from Sachsenhausen, a camp which was near Berlin, four thousand of people, and my transport was the second transport to Gussen [sic].

Q. About how many would be in your transport at the time?

A. Six thousand.

Q. Were you in any other camps until the end of the War?

A. No. I spent up to 5th of May, 1945, in Gussen [sic].

Q. Almost five years.

A. Five years. On the 8th day was official capitulation of Germany, and I was liberated on the 5th.

Q. Would you like a glass of water?

A. No. Thank you.

Q. Can you tell us if you were one of the first at Gussen? Were you involved in the building of the camp?

A. Yes. There are different type[s] of work in Gussen. Let me tell you, when we arrive[d] to Gussen, well, the old transport assemble[d] in the appel square again.

THE COURT: Would you say that a little more slowly, if you will? {1687|1688}

THE WITNESS: Yes. The whole transport, the six thousand people, were assemble[d] in the appel square, and again they took all our personalia – name and place of birth, date of birth – and they give [sic] us

the numbers, these new numbers which we had to carry them on the chest, the red triangle with a "P". It mean[s] for Polish nationality, political. Red was standing for political prisoner, and another number you have to have it on your pants. And then affix[ed] a number on the wire with a metal plate on your wrist, that in case – you couldn't remove that, in case if you die they could identify you by that number. That number can't be removed.

Q. Okay.

A. And then, after few kicks and hit with a club, we were escorted to the barracks, assigned barracks.

Now, before we depart[ed] to the barracks the commandant, the camp commandant from Mauthausen arrive. His name was Zerreis [Ziereis].

And he walk[ed] on the podium and give us a speech telling us —

THE COURT: And he gave you a speech.

Q. MR. GRIFFITHS: I am going to stop you there. You can't tell us what somebody else said, even the commandant of Mauthausen. All right? So he said something to you.

A. Yes. He said —

THE COURT: Don't tell us what he said.

Q. MR. GRIFFITHS: Sorry. Don't tell us what he said. Were you involved in building Gussen? {1688|1689}

A. Yes. I work[ed] in different places in Gussen. You must understand that the day was beginning at five o'clock in the morning. The first thing was, we make the beds. When the first one I come there were no beds; we used to sleep on the floor. There were no beds but we still have to tidy the barrack. And then we allow it to go to work. The sanitary condition in that time was non-existent there. There was a pipe of running water which you can only open in certain time, like in the morning. There was no toilets whatever in the camp at that time because the camp was just in the stage of construction, and you run to that pipe, you wash yourself, you couldn't wear anything only pants, it doesn't matter it was a winter or spring or summer. You can only run with pants. The rest you're undressed. And then you come back. You have to dress and they scrub the whole barracks with water and then they served so-called breakfast, which usually was either a half a cup of ersatz coffee.

Q. Ersatz coffee?

A. Ersatz coffee, or a very watery kind of a soup, a half a cup per person. Usually barracks was divided into Section A and Section B, and that time we assemble in front of the barracks in the row of ten, and if usually we are exercising how to take our hats off and put them on.

You see, during the appel[ ], when they count us in the appel[ ] square, there was always, commandant, hat off, and it has to be in one instant, twelve thousand men have to take the hats off. If they didn't, you know, there were different people not always work that way, then {1689|1690} we had to exercise all the time in the spare time, the cap off and on, off and on. So when they are assemble in the row of ten, about seven o'clock we march to the appel[ ] square, all the barracks. There were thirty-two barracks in Gussen [sic]. Four were assign as hospital barracks and one is sick, where barracks was occupied by prisoners. And why do we have to line up in ten, because when every barracks was in charge S.S. man who come and he count his men, every barrack has an S.S. who was in charge of barrack. That's only in the appel[ ] square, because inside there was a different man who was in charge. But they were counting ten, twenty, thirty, forty, fifty, sixty, whatever it was. That's why we have to assemble in ten.

It was easy to count.

Q. All right. If the number was the correct number, where would you go after appel[ ]?

A. Well, let me tell you. And during the appel[ ], everybody have to go to the appel[ ]. The people who die during the night, which sometime, sometime probably two, three hundreds of people die during the night, they, have to attend the last appel[ ]. They be carried to the appel[ ] square and they were place which barrack do they belong.

Q. Was there ever anybody who was too sick to attend to the appel[ ]?

A. Even if it was sick or not sick, you have to attend the appel[ ]. If you were sick that you couldn't walk, you was carried to the appel[ ]. There

was no excuse during appel[ ] hour, time.

Q. All right.

A. As I said, the dead have to attend {1690|1691} the appel[ ], too.

Q. After the appel[ ], Mr. Tomaszewski, where would you then go?

A. Well, at that time it was big confusion, because it was Kommand, what[ ] the German used to call Arbeitskommand[o], form here, form the working groups, and of course, it was a big confusion because everybody want to go in place where the work was probably a little easier, where the Kapo was maybe not as cruel, because there were different personalities and different type of work.

For example, I for six weeks happened to be working in the stone quarry. It wasn't at that time a stone quarry. We just strip the upper layer of earth from the rock. It was a stone quarry, big stone quarries in Gussen [sic]. So if you look at it from the camp you could see maybe thousand people scattered on the slope of the mountain digging dirt, digging the earth and the man on the top throw it three feet below. The man three feet below pick up the earth and throw it further and further and further until that earth landed on the foot of the mountain there. And this was loaded on the portable carriages and carted away. And there were three quarries, like that, and in every quarry approximately thousand men was working stripping the earth. Then there were people who were drilling the rocks. There are people who are cutting stones. There are people who are cutting cobble-stones. There are people who were working inside the camp. There were people who were erecting walls around the camp. There are people who pick up the bodies, and there was a special Kommando who pick up the bodies, put {1691|1692} them on the cart and carried them to the crematorium – all different kind of work.

Q. All right. You talk about some of these different kinds of work. At the quarries did you ever see anybody die?

A. I saw a lot of men die. I carried that people. I saw it. You see like Sunday, which was a day free of work, it was a day where they used to shave every Sunday, they shave our heads, our hair under the arm, our pubic hair. Everything was shave. But afternoon they used to engage us to go to the quarry and pick up a stone and carry the stones to the camp, because as I said, the camp was under construction. It was a heavy clay. It was a rainy season, you couldn't move your legs because you were sinking in there. So we carried the stones to put as a cobblestone between the barracks and the appel[ ] square. Every time we returned from work after work, everybody have to pick up a stone on the shoulder and carry it to the camp. And those Sundays was the worse type of work because you felt that you are entitled to the few hours off. And then you have to go and carry the stones, and don't forget that in the camp everything was what the German used to call, Laufschrift. That means everything was on the run. Nobody walk normally any more. Everybody run. And those Sundays there was a road which lead from the quarry to the camp, and usually, on the normal working day, the terrain which we work is probably extend maybe two kilometers one way, maybe – two kilometers another way, and every morning they used to put guard all around that perimeter where we work, but on Sunday they just called the S.S. to put the post, the {1692|1693} guards along the road which we have to walk to the quarry, back to carry the stone. And of course, the guards were not very happy either that they have to, on Sunday, watch over the prisoners. So everyone, say every fifty feet was a guard and armed with a stick. And anytime you pass through one, if you didn't walk fast enough, they hit you. You have to run. And if they notice that you pick up a small stone, they beat you, sometime they kill you for that. They took you back to the quarry and put on your shoulder a stone as heavy as you can carry, probably you couldn't carry even that stone.

Q. I think you said that you sometime carried bodies?

A. I carry a lot of bodies. Now, might I tell you in those Sundays, when I come to Gussen, it was a strictly camp for Polish people, but it was a cross-section, I guess. Among these people there were about three hundred Jews, approximately. I don't know exactly the figure, but you can see them because they used to have the Star of David. We used to have the red triangle with the "P", and the Jews used to wear the Star

of David. And that was the place we used to call the Golgotha Road.

Q. And why would you call it that?

A. Because that was an uphill road, and we carry the stone, and as I said, you are beaten and many people lost their life there. And let me tell you, the victim on the road who lost the life, the first were the Jews.

Q. Did you ever see that happen, Mr. Tomaszewski? {1693|1694}

A. I was see happen because I was carrying the stone.

Q. I'm sorry?

A. Well, I saw it because the man in front of me was a Jewish man with a big Star of David. So what they done, usually, they tell the Jewish man to step on the side, which was outside the line of guards, which the man probably shouldn't do that because, you know, we knew that if you step outside, that was the chance that they could shoot you. And that's what's happen on that particular road. As man step they tell you, "You go and pick up that stone over there." The man go pick up the stone. Bang. You're shot. And that was going for three Sundays until the Jewish population of the camp was gone.

Also, the employee, as I said the camp was under construction, there was no sanitary condition. There was only on the street there are pits where we used to go there to do our physiological functions.

Q. Like the latrine?

A. Latrine, with a pit maybe twenty feet, or eighteen feet long, with two poles, and another pole across. The pole was – the cross-pole was wrapped with the barbed wire that you couldn't sit even there. They figure you may go and have a rest there. So they wrap that with a barbed wire, and whenever the pit was full, well, it has to be empty. So usually, to that job they assign a Jewish man and a priest, because you must realize that in the camp, the people in the camp there were judges, there were lawyers, there were professors, there {1694|1695} were landed gentry, there were clergymen, they are people mostly intelligent people. So a priest and a Jew was assigned to empty the latrine hole, and they used to put that – they used to have a drum, a barrel with the two poles strapped to it, and the poor people used to carry that, and when they filled that thing they had to carry that thing outside the gate of the camp. There was a big pond like and they deposit that thing over there.

Now, later on, 1940 by the fall, we already had proper washroom at that time, but up to that time was only the latrine.

Q. Could you estimate, Mr. Tomaszewski and if this changed from time to time tell us that – how many people would die in the camp each week?

MR. CHRISTIE: Well, I don't mind if the witness estimates, and I am sure we all do, but I'd just like, if we could, to confine the witness to what he saw. I mean, estimates do involve some speculation in many cases, and hearsay. Unless there is a basis found in fact, I would like my friend to restrict it to what he saw.

THE WITNESS: Well, let me –

THE COURT: Just a minute, sir. Go ahead. Lay a little foundation work.

MR. GRIFFITHS: Thank you, Your Honour.

THE COURT: Just let me explain this to the jury, if you don't mind.

Members of the jury, witnesses who testify insofar as numbers of things are concerned, in {1695|1696} fact on any subject, are not permitted to speculate. They are not permitted to guess. They are, however, permitted to give estimates provided the estimates are based on personal knowledge. That was the reason for the exchange that you just heard between counsel and myself.

Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

Q. Mr. Tomaszewski, when somebody died in the camp was there a particular process that you saw that something happened with the body that you saw?

A. Well, there was – let me tell you. You see, like in the summertime when I arrived to Dachau, the first month or two, or even three, there were not so many people dying yet, because everybody was just, some people only arrested about three months. But if you saw the people after three months, I saw them many times because we have to strip all the time to be shaved, and you see the same man, after three months,

he probably was well-built man, and after three months you could see it, his belly skin was hanging like a little apron. There was nothing left of the person. It was just skin and bone. And that's – now, I arrived there in June. Three months later that June, July, August, we go into October, the bad season start. I was in Austria where in October, November we used to have rain every day. Sometime the rain last for three weeks steady, a drizzle. And the men work. There was no shelter. You couldn't excuse yourself from work. The people have to go to work. And if it was only work, but there were abuse at work. They were beaten. So after working days, then when we were coming back to {1696|1697} the barracks, to the camp, we carry – we had to pick up the dead people who are killed on the work, or who died, and usually every Kommando carry plenty dead people. They have to be counted in the camp. You couldn't leave them where they die. You have to carry them. And there were a lot – there was not – you said to estimate. I know what I was working in the quarry called Gussen [sic], because there were three quarries; where our Kommando was about two thousand men, and we used to carry maybe about two hundred men dead this night.

Q. That is out of a thousand?

A. That's right. That was practically every day. People used to come to camp and new transport, every month a new transport arrive to the camp. Several thousand men to replace those men.

THE COURT: What did you say? How many again, sir, every day?

THE WITNESS: Every day there were probably two hundred men carried to the camp. They not all were dead, but some they couldn't walk any more, and you couldn't, in the camp, if you couldn't walk you were dead. They didn't let you in in the barrack. They'd carry you straight after the appell[?], they carry you straight to the washroom to die on the washroom floor. They didn't give you last meal any more. Another prisoner strip his boots, his clothing because probably there was something to salvage of this man. He wasn't dead yet.

Q. The two hundred people that would be carried back every day, that was from your quarry, and there were three quarries?

A. That's right. Now, let me tell you {1697|1698} something. You forbid me to tell, but when I arrive and I said the commandant had a speech, he told us right away that this is Vernichtenlager [Vernichtungslager] – extermination camp.

MR. CHRISTIE: I assume my friend was aware this is hearsay.

MR. GRIFFITHS: No, I was not aware. I am aware it was hearsay, sorry, Mr. Christie. I was not aware Mr. Tomaszewski was going to say it.

Q. Mr. Tomaszewski, you told us about half a cup of ersatz coffee or some thin soup for breakfast.

A. At lunch we used to get a spinach soup, and the spinach soup actually there was only two diet in the camp either on the dry cabbage soup or the spinach soup. Through the five years spending in Gussen [sic] I didn't have anything else to eat but spinach in the summertime, and dry cabbage soup in the wintertime. And that, even, wasn't the spinach. There was everything in the spinach. You could find horse manure, old shoes, whatever the farmer throw on the field, fertilize the field. And this was brought every day by the big trucks and dump in front of the kitchen in the summertime. Usually by the time they cook that thing it already was heated and fermented. It caused a lot of sickness. That is why we have diarrhea, dysintery [sic], and so on from it. The camp was always, if you enter the camp, there was always peculiar smell, particular smell in the camp always hung over the camp. On the one hand there was a glow over the crematorium, or from people, as I said, diarrhea and so on, and wounds which never heal. Once you get any wound it never heal. The wound would smell bad {1698|1699} because they never heal. Any wound you get in the camp never heal again.

Q. You mentioned, I believe, that there were several hospital barracks.

A. I beg your pardon?

Q. You mentioned, I believe, that there were several hospital barracks.

A. Yes. There were a barracks – there's thirty-two barracks. The last four. So it would be twenty-eight, thirty, thirty-two.

Q. Were you ever in the hospital barracks?

A. I was only once. A stone smash my two fingers and I went there for a dressing, and they remove those two fingernails and they wrapped with a paper bandage. There was no bandages. There were only paper bandages there, and I returned back. I had to go back to work. People didn't – you didn't go in the camp to the hospital unless they take you there, almost forcibly, because that was only one way street.

Q. Which way did that street run?

A. To the hospital. And from hospital to the crematorium. That was the only way – that's why people didn't, even if they were sick, even if they have a wound, they didn't want to go to hospital, because that's where they said it was a one-way street. If they refer you from there to the invalid blocks, there were invalid blocks, and once you get in the invalid blocks, what's happen, you get half of the ration of food which was a starvation diet in the first place, when you get half, so how long can you last? {1699|1700}

Q. Did you have any showers at Mauthausen?

A. Well, we didn't have showers at first, but after they erect a shower in the one corner of the camp which was actually a structure with a roof, the side, there was no walls and only a roof and pipes, of course, with the showers, and we had to go to shower there. And of course, a lot of those, as I said, if you got in the invalid block, which was many, many, many people and they have to feed them, those people, people have to be feed, they did not want to feed them, so like in the wintertime it was, they found quick solution. They took these people to the shower, give them a cold shower in the wintertime for one hour, two hours, then as I said it was a one-way street. They carry you from the shower straight to the crematorium. The same thing happened to the people once announced who want to return to Dachau in 1941 —

Q. You can't tell us what happened to them when they went to Dachau if you weren't there.

A. I was in Dachau. Previously I was in Dachau.

Q. I understand. Did anybody, any prisoners in transit stop at your camp in Gussen [sic]?

A. Yes. In 1945, I can't recall exactly what it was either February, I think it was February, a transport of I don't know how many but it must be estimated there were those people were kept there the night on the appell[?] square, they wouldn't allow them. The guard were standing around. They wouldn't allow it anybody. We can only see the people. There were a woman, {1700|1701} there were Hungarian Jewish women were evacuated from another camp or Hungary, because that time I think the Russian already —

Q. All right. You can't tell us what you think, only what you saw. How do you know these were Jewish women?

A. Well, they all had the Star of David, so they had to be Jewish women.

Q. This was in the wintertime. How were they dressed?

A. In the dress. They are dressed like everybody else, in rags. Some of them barefeeted [sic].

MR. CHRISTIE: Some of them what?

THE COURT: Barefoot.

THE WITNESS: Barefeeted [sic].

Q. MR. GRIFFITHS: When you went to Dachau in October of 1949, [1939] at fifteen, what colour was your hair?

A. I was straw blond, very blond.

Q. And when your hair grew out after May 5th, 1945, what colour was your hair?

A. I come out the way I am right now.

Q. Snow white?

A. Snow white. Mind you, they used to shave our heads every week. Now, in 1941, late fall 1942, they allow the hair to grow for three months. Why? Apparently they used the hair, after three months, to make blankets out of them, and they used to shave us – every week they used to shave a path through the middle of your head, in case you escape they can identify you rapidly. {1701|1702}

Q. How much soup would you get at lunch hour, spinach soup or cabbage soup?

A. A bowl of soup which I don't know what is one litre or whatever.



Q. And at dinnertime was there any food?

A. That was dinnertime.

Q. In the evening was there any food?

A. Yes. In the evening we used to get issue bread, one loaf of bread and sometime it usually was divided between three prisoners, one loaf of bread, and sometime, occasionally, specially after 1943, quite often we used to get one loaf of bread divided into two. This situation in the camp slightly improved after 1943.

Q. Other than the two groups of Jewish people that you've told us about, one of about three hundred and the transport in 1945, do you remember any other instances of Jewish people at Gussen [sic]?

A. Yes. As I said 1944, early spring, it's March, there were transport of Hungarian Jews placed in the camp, but they were there only about a week or two, and they move them to Gussen II. There were two camps, you see. There was a Gussen I and a Gussen II. The Gussen I was overflow, so they build new camp which was Gussen II, which was just beyond the wall, northern wall. It was a big camp as the Gussen I. They transferred those Jewish people to that camp, and they were working, tunnelling under the mountains, miles of tunnels. Well, not them, because the tunnels didn't start that before. Let me tell you, while I was there the mountains were move, mountains were moved and miles of tunnels were cut out in the rock. {1702|1703}

Q. How long is winter in this area of Austria?

A. Well, the winter was actually shorter than we have here in Canada. Mind you, the season in Europe are more defined, and the winter wasn't as severe as here. It was like, say, October, November, there was constant drizzle, rain. Then we may get cold weather, well, maybe a day like today, maybe a little lower, the temperature drop a little lower, but nevertheless, it was and it last till maybe March. In the middle of March already was a sign of spring. That doesn't meant that it was warm, but the earth wasn't frozen and, you know ...

Q. Did you have any special clothing issued for work in the wintertime?

A. At first, 1941, we used to get coats. Usually we used to have just the striped prison garb which was pants, jacket, and a hat. For the winter they gave us again a coat. Mind you, this clothing wear very rapidly in the type of work we are doing, and they run out of – there was no more stripe clothing, but gradually – for example, after that I was very happy because. I got French military coat, military coat, and I had a Yugoslavian Royal Guard pants. You know, gradually if the German overrun certain countries, then we used to get the clothing. I have, as I said, military – was very happy because it was a better quality coat. The only thing that they used to, on your back, they used to four inches stripe, they paint your back four inches stripe with the red paint that, again, so also on the pants. That was a precaution if anybody escape. Then they can identify {1703|1704} him very rapidly because, you know, with the shaved head through the middle of his head, with this red stripe on his back, where could you go? You were spotted right away. That was the reason why they paint that.

Q. All right. After the War, Mr. Tomaszewski., did you ever apply for any indemnification or compensation from the German Government?

A. Well, in 1945 the first thing when the American come and liberated us, I and a few others were left the camp, and we walked to a little town of St. Wolfgang, which is very picturesque town. The first thing we went to the church. We asked the priest in charge to say a thanksgiving mass. And then, of course, I went to the number of what they call it displaced person camp after the War. I didn't want to return to Poland. I didn't have nobody in Poland to go. I find out that my parents – well, I know my father was dead because when I was arrested he was killed in the same time. My other brother was in Dachau. I have three other brothers. Two are in England in the Army, and the fifth was caught by the Germans during the War and was executed, too. And my mother, poor mother, raising five boys, she died without knowing if they survive or not.

Q. Mr. Tomaszewski, just one last question.

A. Yes, I did, through the lawyer, in Munich, in 1946, but —

Q. Thank you. That's all right Thank you. I have no further questions.

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: Would it be possible {1704|1705} to take the noon break a little early? I see it is a quarter to one. I would be prepared to start, but I am not even sure that I will be examining very extensively.

THE COURT: Yes. Two fifteen.

— The jury retires. 12:45 p.m.

— The witness stands down.

— Luncheon adjournment.

— Upon resuming.

MR. GRIFFITHS: Your Honour, this is the last witness I have for this afternoon.

THE COURT: The jury please.

— The jury enters. 2:25 p.m.

— The witness returns to the stand.

THE COURT: Yes, go ahead, Mr. Christie.

#### CROSS-EXAMINATION BY MR. CHRISTIE:

Q. Mr. Tomaszewski, you were about fifteen or sixteen when you —

A. That's right. I was born in 1924.

Q. In the town of Kalisz?

A. Kalisz. That is West Poland.

Q. Are you aware of the arrangement of Mauthausen camp at all? {1705|1706}

A. I never been to Mauthausen. I been to transfer from Dachau to Gussen [sic], which was a satellite camp to Mauthausen.

Q. Were you aware that there were forty-seven other satellite camps?

A. I am aware that Mauthausen was a chain of camps. I know only Gussen I, and when Gussen I couldn't hold the all inmates, they built Gussen II just beyond the wall on the north side, and it become as big camp as the Gussen I.

Q. Yeah. And it was for work underground with construction of tunnels?

A. Well, there was, first when I arrive there was strictly work in the quarries. Then the work in the quarries there are a certain amount of people were in the quarries. Then in 1943 there were built a complex of building where there assemble machine guns. Then was a tunnel built under the mountains to build the first prototype of jet planes, supposed to be, and there were, oh, hundreds of feet underground that even bombing or anything couldn't ... so, and there were, of course, network of work, railway line built, all by the prisoners.

Q. Was there a Gussen III as well?

A. No, not as far as I know. There were, say, they used to take people from Gussen to a brick yard which was about fifty miles away named Lungitz (phonetic). There was near it railway station. That is where the transport used to arrive until they construct the railway station right in the vicinity of the camp. The prisoners used to be sent there every Sunday to build a shooting range for the S.S. troops. {1706|1707}

Q. I see. And were you as tall as you are now when you first went there?

A. I wouldn't say I was as tall. I was fifteen. I don't know if I originally proper height then or not. I am not sure.

Q. You were mentioning you lost a fingernail.

A. In the hospital. I had injury. Apparently a rock fall on my two fingers and I had to go – I still have a little scar with a finger burst. You could see it here. I went to the hospital to remove that fingernail. So they just stick a needle and scissor underneath and they cut without an anaesthetic and they remove those two fingernails. There was no such a thing as anaesthetic in the camp.

Q. I see. Did they grow back all right?

A. Yes. They are perfect.

Q. Did you suffer any other physical injuries in the camp?

A. Well, I have scars on my legs because my legs also very badly, as I mentioned before; any wound you sustain they never heal; and because we have so many lice and fleas, you constantly had to scratch yourself. Matter of fact, the lice and the fleas cause outburst of typhoid fever. We had to be quarantined on account of it for a period of time. — We couldn't go to work because the S.S. troops was contaminated with the typhoid fever. So everybody was scratching itself because con-



stantly, if you stand, when they take the roll call on the appel[] square, if you look on the back of your inmates, it was like an ant nest, you see the louse moving, {1707|1708} walking. There was no remedy to that until they gass [sic] the whole barracks when the typhoid fever break out.

Q. They gassed the whole barrack?

A. We have to strip. It was, as a matter of fact, it was in March, late March. We had to strip completely. We can only take shoes with us. And all the rugs wherever we were, they were in the barracks, they will seal the barracks. There were some company arrive from Linz, and they gass [sic] all the barracks and we were standing for twenty-four hours naked on the appel[] square in March.

Q. So that the clothes [sic] were on the inside getting gassed.

A. They were gassed, yes, to kill the lice and the fleas.

Q. Right. That was probably why they shaved your head sometime?

A. No, no. The head from the first start, when I arrive to Dachau in April 1940, the first thing they shave our heads. They send us do our heads, under their arm, pubic hair, everywhere.

Q. They shaved —

A. Everything. Some men have hair on the chest and back; that was shave, and that was shave every Sunday once a week until, as I say, when Germany invade Russia, and apparently Hitler had a plan to finish the War with Russia before the winter, and it was — I mean, you know the history; never the War was finished before Christmas, and the German troops were caught by the severe winter in Russia, and they freeze by the thousand. That time the Germany collect, all through the Germany, {1708|1709} even in the camp, confiscated every possible sweater which was deposit in the personal effect in the warehouses, the prisoners' clothing. They rush everything to the Eastern Front to keep the German soldier warm for the winter. And then they allowed us to grow our hair for three months provided that every week they shave a path through the middle of your head in case if you escape you would be recognized. After three months they shave you again, collect every hair, and was shipped to the factories and turned into blankets.

Q. Mm-hmmm. Can you think of any other reason to try to control the lice problem than shaving pubic hair?

A. I don't think it was strictly — I think for sanitary purposes — there was the sanitary condition, as I said, was non-existent up to the fall of 1940. As I said, the camp was in the progress of construction, so there was no toilets, no running water except the pipe. And can you imagine, you don't know the plan of the camp, but the washrooms were located between first row and the second row of barracks; between third and fourth row there was no washroom. So the people, say, who were on the fourth row of barracks, which was quite a distance, and at night, if they want to go to the washroom, they have to run through the all practically length of the camp which was about, maybe, — six hundred feet to the nearest toilet. It was very — I can imagine the torture that was for young, healthy men, but can you imagine a person — there were people in their sixties, sixty-five. A man usually in that age have certain {1709|1710} problems, and there were men who had to run to those washrooms practically five, six times a night. They never get enough sleep because they are always on the run.

Q. All right. I was interested in what you said about the — remember you were saying about the number of dead?

A. Yes.

Q. It would probably be very shocking for you as a young man and —

A. Well, that's why, as I said, it's bringing a lot of emotion to me, because as a young person I really never expect that a man can inflict such a misery and pain on another man. That was the first experience. As I told you about the road to the quarry, where you carry the stones, we call it the Golgotha Way because every inch of that road it was something with human blood, Jews, Polish, and later were Spaniards. We have the Spaniards, by the way, in the camp. They come late 1940 when Germany overrun France. There were thousands of Spanish people interned in the camps in France. They suppose to be the Republican Spaniards which when Franco took over in Spain they were

cross the border of France and they were interned in the camps in France. And when Germany overrun France, they classify them as Communist.

Q. Were you classified. also as a Communist?

A. No. Dachau, when I arrived to Dachau, Dachau that time — Dachau I can't say anything about Dachau. The impression of Dachau, when I arrived, {1710|1711} was a very, looked to me like a few [new] camp fairly new. There were about maybe twenty-five hundred of German people, mostly political prisoners who were opposed the Hitler regime. There were Lutheran pastors. There were even some army officers, and mostly communists. And then the first transport from Poland arrive when I arrive on the 26th of April, 1940. I didn't work in Dachau at all. The only thing is, as I remember, when they arrive to Dachau, it was shortly after — before the invasion, the invasion of France was already planned, apparently, because the whole town was decorated with Swastikas.

Q. What town was this?

A. Dachau. And when these transport us from the railway station to the camp, I don't have recollection today, I don't know how far it is, but it is we arrive to Dachau around seven thirty. They march us in the morning. They march us to the camp, and along the street children, curious people were watching, looking at us. People used to go to work and I remember distinctly this, as used to say that they escorted a band of Polish nationalists, Polish bandits and things, and I remember only that the children pick up the stone and used to throw the stone on us. And I remember one bearded man with a big pipe hitting people with a stick. He was a civilian. There was no protection from the troops which escorted us or anything.

Q. What I was curious about was whether or not, perhaps, your figure of two hundred a day from a thousand might have been just a little —

A. No. I don't exaggerate it. Mind you, I tell you in 1940, '41, almost '43 there was every {1711|1712} month — you see the camp, the capacity of the camp of Gussen [sic] was about twelve to eighteen thousand men. When it was normal it was about twelve thousand. When they got more people, eighteen thousand. They share, sometimes they share, one bunk was share by two men, and there were transport arriving practically every month. There were Polish people. There were — in the fall they start, they have two transport of Spanish people from France. Then the War with Russia start. The Russian prisoner of war were placed in concentration camp. They are not supposed to be there because there were soldiers, but because the Russia didn't belong, wasn't subscriber to the Geneva Convention, so the Russian soldier was put in the concentration camp as well.

Q. What I was going to suggest, sir, was that in this particular concentration camp you said everybody was given a number and registered.

A. Everybody got a number. Everybody had to have a number on your chest, like the Polish people, they are mostly political prisoners. They have a red triangle with a "P". The Spanish people used to have a blue triangle. The criminal element used to have a green triangle.

Q. Yes.

A. And everybody below the triangle have to have a number. And on your pants and, as I said, there were number fixed on the wire. They did it. They tied it that you couldn't never remove that wire unless something break or something. Like in some camps, I think Auschwitz, Buchenwald, they used to tattoo the number. In our camp there used to be the wire with the metal plate. {1712|1713}

Q. Mm-hmmm. You see, I was going to ask you if you are familiar with the Nuremberg Trial document pertaining to the camp.

A. Well, I know only because I was approached by Frau Wolfram (phonetic), used to be the director — you see, the firm co-operate, of the stone quarries, the earth work. And apparently the shareholders in that thing was a big Nazi party members like Himmler and all had, and this man, Wolfram, he was the director, and he was, after the War, he was charged as a war criminal, and I was approached by his wife, once I got a letter from his wife and the daughter, if I would appear on his behalf in the Nuremberg Trial as a witness. I couldn't attend. I had an appendix removed. I was in the hospital that time. But I know that there

was – Zereiss [Ziereis] was the camp commandant in Mauthausen, and Kaltenbrunner, he was the district S.S. commander of I don't know how many camps, but he was the man, and I know the plan which they testified that they actually, the prisoner of Gussen [sic] and Mauthausen is supposed to, in an event of Allied —

Q. Invasion ...

A. Well, not invasion. If the Allies would capture the camp before the camp was capture, we are supposed to pack all in these tunnels and gas. That was the —

Q. You heard that plan.

A. I heard this plan.

Q. Who did you hear it from?

A. Well, I got it from somebody from Nuremberg in the Polish translation. {1713|1714}

Q. So somebody at Nuremberg told you that was the plan.

A. That was the plan.

Q. Well, can I just ask you if you were aware of the fact that this camp kept and had records for all prisoners?

A. I don't know. I suppose so, because I got it from Geneva from United Nations in 1958 or 59. They were looking for me because United Nations were some money for the ex-prisoners, about \$2,400 or something from the United Nations from Geneva. So they had the record because I located in Canada. A matter of fact, I have, to that effect, they were looking for me —

Q. That's all right, sir.

A. And this is my verification.

THE COURT: What do you want to show him?

MR. CHRISTIE: I just want to ask him about — he has acknowledged that there was records for the camp. I'd like to just put to him what I suggest are the accurate figures, the death figures for the various years and ask him if —

THE COURT: Ask him if he recognizes the document. If he does, he may. If he doesn't, he can't.

MR. CHRISTIE: Thank you, sir.

Q. I am going to show you Document 499PS for the Nuremberg Record. It's called, "From the Office of the U. S. Chief of Counsel for the Prosecution of Axis Criminality", dated 13th of October, 1945, Document 499PS.

Do you recognize that? Go ahead and look at it. {1714|1715}

A. I never recognize, because I never had access to these documents. Which Heinrich is this?

Q. I don't know. That's probably Heinrich Himmler, I think. That's persons implicated ...

A. You know, he was the Proctor of Bohemia and Czechoslovakia. He was executed by the Czechs.

THE COURT: Have you ever seen that document before, sir?

THE WITNESS: No.

THE COURT: Do you know anything about its content other than what you are reading now?

THE WITNESS: I heard about this, this man.

THE COURT: Mr. Christie, if he hasn't seen it before —

THE WITNESS: No.

MR. CHRISTIE: Thank you, sir. I agree.

Q. I'd like to put it to you, sir, that the figures you've given for the death rate are considerably higher than —

A. I didn't give you any figure. I gave you a figure which in 1940, I said, in 1940 it was such a year of oppression in the camp. Now, as I told you, when we arrive to Gussen [sic] and they give us all the numbers and so on, the Lagerkommandant, the camp commandant, Zereiss [sic] —

Q. Yes. I don't want to hear again what he said.

A. And he told straight. He said —

Q. I don't want you to repeat it. {1715|1716}

A. So it was a tremendous harvest. The death harvest was every night we used to carry people, dead people. And I'm telling you, every month there was a new transport. I don't know the figures you have there. I don't know if they are correct or not, to be dispute, but what I saw in my

own eyes, the people didn't evaporated. They were exterminated. That's why always, every month, through the year in 1941, there was replacement of people. The only time in 1943 the situation improve, improve quite considerably. Why? Because Germany start to lose the War. Everybody was start to think what's happening in the year or two when the War was finished. And that time the situation improved. Not only that. That time in 1944, in the beginning, we allow it, they allow it to Red Cross parcel even to the camp.

Q. Which year?

A. 1944. In the winter. And of course, if the occupied territories of Germany shrink, the manpower shrink. 1942?

They couldn't get those people any more.

Q. Was there a typhus epidemic in 1942?

A. Typhus epidemic in Gussen [sic]?

Q. Yes.

A. 1942.

Q. Yeah. Do you say yes, there was a typhus epidemic in 1942?

A. '42, '41 or '42, but there was typhus. We were quarantined for six weeks.

Q. And many people died of typhus?

A. Many people died, and the only reason we were quarantined, because as I said, it spread beyond {1716|1717} the wires to the S.S. barracks, and they were afraid of contamination and so on.

Q. I thought you said they did get it, they did get typhus.

A. They did, but you know, typhoid, it spreads like fire.

Q. Yes, I'm sure.

A. Because they have cases of typhoid among them they had to impose quarantine for six weeks. And that time they gassed the barracks and things like that.

Q. Yeah. Are you familiar with the kind of gas they used?

A. I don't know what gas. I only know that there were, I saw the tins which — they were round necks, something like that side of that serviette, a little bigger than that. A little bigger and [ ] probably quarter inch thick. They would come in the round tins like that and they put them in the different parts of the barracks, because when this thing was over, we had to pick this thing — I think it was a matter that it release some kind of gas. We only can enter the barracks after twenty-four hours. As I said, we stand naked for twenty-four hours in March, in the weather. So people, matter of fact, that time they cannot stand any longer to stand naked. They throw themselves on the barbed wire and they were electrocuted. They rather prefer instant death to the torture of standing.

Q. You survived, though.

A. I survive. Ask me why so many people die and I survive. I don't know. There is probably {1717|1718} a miracle that I survive. I don't know. I probably survive there was another reason that I was protected from atmospheric environment. I was a stone cutter. I never, in later years, say 1941, I was cutting stone. I was under the roof. I didn't get wet every day. And it was a very delicate stonework. We were cutting a stone for the party building in Nuremberg.

Q. Thank you very much, sir.

A. You're welcome.

THE COURT: Yes, Mr. Griffiths.

MR. GRIFFITHS: I have no questions.

THE COURT: Thank you. You can step down.

— The witness retires.

THE COURT: Yes, Mr. Griffiths. You indicated before the jury came in that for reasons that reasons that are not your fault or Mr. Christie's that was your last witness.

MR. GRIFFITHS: Today.

THE COURT: Today.

MR. GRIFFITHS: Yes, sir. I don't want anybody's hope up. Just for today, Your Honour.

THE COURT: Members of the jury, {1718|1719} please keep an open mind. Enjoy your weekend. I'd like to start earlier next week. Would any of your number please indicate by holding up a hand if nine thirty is inconvenient for you?

Thank you. Nine thirty Monday morning.

— The jury retires. 2:55 p.m.

THE COURT: Yes, Mr. Griffiths.

MR. GRIFFITHS: If I may, Your Honour, two things. Just to give Your Honour some idea of scheduling. I have two witnesses that are survivors that will be arranged for testifying on Monday. I have for Tuesday a witness from the Red Cross, a representative of the Royal Bank, and Sergeant Luby, who will be introducing some material from the Red Cross Report from 1948, and I think the Chambers Encyclopaedia article will be introduced through him as well.

That would, in essence, be the viva voce [voce] evidence that I will be calling, Your Honour, on Wednesday. I haven't confirmed yet. It is one of the things I will be doing this afternoon. I expect to have an archivist here from Washington about the movie that I {1719|1720} mentioned several weeks ago to you, and also I will be prepared to argue judicial notice at that time, and what areas that I am asking Your Honour to take judicial notice of.

THE COURT: Judicial notice of the movie, or —

MR. GRIFFITHS: No, sir. Not the movie, Your Honour. I think, as I indicated several weeks ago, I will be seeking to introduce as a document kept in the archives in Washington, D.C., under s.30 of the Evidence Act. Now, Wednesday may not complete it, but that is the order that I expect to proceed.

I have advised Mr. Christie that we are a little earlier today, Your Honour, and it may be that the Crown's case may be finished by Wednesday. If not, I do expect it will be finished next week. There are no additional witnesses that I will be calling. That was one thing I wanted to tell you, Your Honour, so that you will have some idea where the Crown is going from here.

THE COURT: Thank you very much. It is appreciated.

MR. GRIFFITHS: And the other matter, Your Honour, is with regard to your ruling this morning. {1720|1721} If I may, I just want to make sure I understand in my own mind as I understood your ruling, it was that expert evidence not just of Dr. Kaufmann but of anybody else purporting to give expert evidence on the question that I was suggesting is not proper, but it is a matter strictly for the jury.

THE COURT: On that particular subject, and in the light of the evidence that I heard, I made that ruling on that motion regarding that application. I don't want to appear to be in any way sly; I didn't intend that ruling to be a blanket ruling with regard to the qualifications or the proposed evidence, expert evidence of others.

Part of that ruling, as I recall it now and it was given extemporaneously right from the Bench, was that the jury would be in as good a position as anyone else to decide the issue that was the subject matter of the evidence itself.

MR. GRIFFITHS: That is what I understood. I wanted to clarify this so that if I need to be calling evidence on that specific point, then I will be trying to line that up and change the schedule; and my understanding of Your Honour's ruling was that what is mischief is a question of law, what is public interest {1721|1722} is a question of law where social and racial tolerance in the public interest is a question of law and therefore the jury will have instructions from you to consider all the evidence, the definition of public mischief, and the definition of public interest, and from that could reach their own conclusion without the assistance of an expert. Have I got that right?

THE COURT: Yes, you have.

MR. GRIFFITHS: Thank you, sir.

THE COURT: Nine thirty Monday morning.

— Whereupon the hearing is adjourned to January 28, 1985.

—— {1722|1723}

## JANUARY 28, 1985

— Upon the hearing resuming.

THE COURT: Good morning. Anything before the jury comes in?

MR. CHRISTIE: Yes, please, Your Honour.

I'd like to obtain a ruling on a point that has occurred to me over the last couple of weeks. When I seek to ask a question in cross-

examination in which I have produced to a witness something that he hasn't previously adopted or accepted or seen, I am somewhat uncertain as to what Your Honour's ruling is in respect to what I may then do, and rather than make any errors in front of the jury, I'd like to explain my position and ask Your Honour for a ruling on this point.

My position is that there is more in issue in a trial than simply whether a witness accepts a statement of another source as true or false. There is also the additional factor of whether my client has, because of the inconsistency of various statements on this subject, reasonable ground to disbelieve the stories put forward.

This, therefore, involves the assessment of not only the evidence of witnesses that are available {1723|1724} or called by the Crown, but it also involves the publications and information provided from other sources which we would like to test against the credibility of the particular witness who claims to have been an eye witness.

In my respectful submission this case involves more than simply the internal consistency of the various Crown witnesses, because at stake is not just their truth or falsity, but the credibility of the whole of the presentation which they and others have made on this rather large subject.

I would like, therefore, if I may, albeit I should produce the document, if any, to a witness, to ask the witness if he's seen it, I would like to be able to put to a witness information which the defence can later prove.

Naturally, I would not do so unless I was prepared to call evidence on the point, but information —

THE COURT: What, the author, the source that the witness knows nothing about — you propose to do that?

MR. CHRISTIE: No. I intend to call persons, including the accused, who say these sources also {1724|1725} provide evidence of their story.

THE COURT: The source is, then, hearsay.

MR. CHRISTIE: Yes. The source is then hearsay.

THE COURT: The client's belief is not.

MR. CHRISTIE: That's right. My client's belief is his belief based on many sources. It is, in effect, somewhat similar to this, that if there were twenty-five witnesses to a story, or an event, and the Crown only chose to call five or ten who had consistent observations but did not call fifteen or twenty whose stories were inconsistent, I should be entitled, in order to assess the credibility of the story itself, to call or put to the witnesses that are called the stories of those witnesses who are not called. That is not simply because we are here determining the credibility of various witnesses, but the credibility of the story as a whole, because of course, the booklet in issue is a little more complex than just the evidence of one witness.

I therefore will, in due course, be calling or endeavouring to call evidence to show the inconsistencies between the witnesses who have been {1725|1726} called and the many accounts that are provided from other sources to enable the jury to assess the justification, the reasonable basis for my client's disbelief in this particular version of history.

Therefore I would like to be able to put those to the witnesses and ask them for their comments as to whether they consider this false or true, and to what extent.

I realize that this is not the routine situation, but I think it's because of the fact that a more complex issue arises in this case than just proving a fact, it involves testing the justification for believing or disbelieving in a version of a historical event.

So I would like Your Honour's direction, and I would like to be entitled to put to witnesses called by the Crown conflicting stories from not only other witnesses, but other sources.

Thank you, Your Honour.

THE COURT: Thank you. Mr. Griffiths?

MR. GRIFFITHS: Your Honour, the rules of evidence, I suggest, are carefully formulated and carefully evolved through the years and should not, lightly be set aside.

The reason I would suggest it is proper {1726|1727} to ask a witness whether or not they have read and are familiar with a certain source before asking about that source is so that a witness is able to comment

not just on one paragraph on page 751 of the book, but is able to comment as well as to whether or not that paragraph is in the context properly put before him.

For example, Dr. Hilberg, when he was being cross-examined about certain statements that were attributed to a Chief Justice in the United States on the Nuremberg Trials, is able to say, because he is familiar with the work, "Well, that refers to the count of war aggression, not to the count of war crimes." Had he not read the book, he may well not have known what the reference was to.

It is only fair to the witness, Your Honour, and to the jury that if something is going to be put before the witness, he be familiar enough with the source to be able to comment on the source at large.

My understanding of the law in putting books to individual witnesses is to ask him whether he is (page 1728 follows) {1727|1728} familiar with it, whether it is authoritative, and if he is, then he can go to it. If it is not, then it is not authoritative work in the eyes of the witness.

If it's true that Mr. Zundel's belief is certainly a part of this trial, and the defence will certainly have an opportunity to call what evidence it will in regard to that belief, but I'd suggest it has to be done properly and not by sources which the witnesses are not familiar with.

With the exception of Dr. Hilberg these are not expert witnesses. They are ordinary men and women, eye witnesses of events. And some of them may have read secondary sources around the events of World War II and the Holocaust, and if it is a secondary source that my friend has that they've read, or a primary source, then that's fine, but most of them, Your Honour, are not historians. They are just ordinary people who went through something that they are describing for the Court.

As such, I'd suggest it cannot properly be called upon to express an opinion about another historical work that they are not familiar with at all. That is my submission.

THE COURT: Mr. Christie.

MR. CHRISTIE: I am not asking for {1728|1729} these witnesses to express opinions on other sources, but I was going to ask them to tell me if statements from other sources are true or false in their knowledge.

I am not asking them to weigh some other literary work but, for example, if one witness says Proposition X occurred, and I produce from various sources published, identified to the witness and to the Court, that this statement is made, and I simply say, "What is your comment upon that statement? Is it true or is it false?", then I can develop the line of cross-examination that I hope to, which is to show that between these various sources there are many conflicts that are not just superficial, but are the very fundamental conflicts that lead one to have reason to doubt the consistency of various sources whereas if I was just simply confronted by the Crown's witness saying, "Oh, I don't know that and therefore I don't have to answer questions on what other people have said about this situation", the Crown could then just call the witnesses that are consistent with each other, ignoring historic inconsistencies, and I am not allowed to raise them, I suppose, in my own defence.

I would like to be able to explore this area with the Crown witnesses who claim that they have seen {1729|1730} these events and thereby demonstrate to the jury that there is more to this story than necessarily comes out through the mouth of each Crown witness.

Thank you, sir.

— Page 1731 follows — {1730|1731}

#### REASONS FOR RULING

In the absence of the jury, counsel for the accused moves for a direction, in effect, from the Court concerning the issue of whether or not he will be permitted, during his cross-examination of Crown witnesses, to draw from those witnesses evidence which has its source in reference books, text books and other documentation created by third parties, namely authors, generally speaking, on the subject of what is said to be the Holocaust which is the subject matter of this trial.

In the earlier portions of this trial I have not permitted Mr. Christie to put

to a witness any questions concerning information to be drawn from the witness which Mr. Christie has derived from books unless, of course, he puts the book and the author to the witness first and asks the witness whether or not the witness is familiar with the book and has read the book and is therefore able, on a knowledgeable basis, to comment on the book.

Mr. Christie asked for these directions so that he can, he hopes, put various propositions that he obtains from books and other writings of other third parties to the witness and then ask the witness for his or her comment.

Crown counsel proposes [opposes] this procedure for the reasons he has given. One of the main objections {1731|1732} that Crown has taken is that if the witness is not familiar with the source, namely the book or the writing, then certain aspects of that source or writing can be drawn out of context (inadvertently or otherwise) with the inability of the witness to make any comment by way of modification or rectification of that portion removed from the context.

If I permitted Mr. Christie to cross-examine witnesses by employing source material of other persons on the basis he suggests, I would, in effect, be permitting the defence to place evidence on the record and before the jury which will be hearsay, and which would be evidence placed during the course of the Crown's case.

Mr. Christie has been permitted to ask certain witnesses who testified all about the opinions of other authors. That is so because those witnesses had been qualified as experts in the field of expertise that is the subject matter of this trial. They are therefore in a position, as a matter of law, to give their opinions.

Dr. Hilberg was such a witness. He was asked about the opinion of other authors. He gave them. He did, however, give his opinions on a balanced {1732|1733} basis simply because he was quite familiar with the subject matter on which he was being cross-examined.

The witnesses that are now going to be called, I am told, are not experts. They are said to be survivors of a certain event that occurred during the Second World War, and they are going to relate their experiences.

If they are not familiar with the contents of the books and periodicals that are suggested to them, it is perfectly obvious that they are not in a position to pass opinions on the experiences of third parties.

Mr. Christie is quite free to put to each witness that he chooses, the book upon which he proposes to cross-examine. If the witness is unfamiliar with the book or unfamiliar with the author, or both, then of course Mr. Christie cannot put the opinions of that author to the witness.

That does not stop counsel for the defence from putting suggestions to the witness based upon information that Mr. Christie has derived from the book, but he must not give the opinion of the author. He can put suggestions and propositions to the witness and {1733|1734} ask the witness to comment whether or not he put it within the witness' knowledge. If it is, he is entitled to draw the answer.

However, as I say, to permit this type of cross-examination, the practical result would be that the jury would be obtaining the opinions of the authors who Mr. Christie indicates he does not intend to call, and in the result the defence would be testifying during the course of the Crown's case.

That is not the way that we run trials in this country, as we all know. Quite naturally, the belief of the accused as to the truth of the contents of Exhibits 1 and 2 is very much an issue that the jury will decide.

In due course the defence will have the opportunity of leading evidence with respect to that subject and others, but in the meantime, if the two witnesses the Crown proposes to call are what is called survivors of what occurred, then this ruling covers those two witnesses. They will not be experts, and Mr. Christie will not be permitted to cross-examine in the way he proposes to do so.

— {1734|1735}

THE COURT: Are there any questions?

MR. CHRISTIE: Can I just raise one other question, Your Honour? I was wondering, in respect to the witness on Friday, the situation arose

where I think on two occasions in-chief and once in cross he came out with the remark attributed to Commandant Zereiss [Ziereis]. I was somewhat at a loss as to what course to follow in view of that.

THE COURT: It is not an easy problem.

MR. CHRISTIE: No. It's almost as if to raise the issue accentuates it to the jury.

THE COURT: What would you like me to do?

MR. CHRISTIE: I was wondering if perhaps in this situation you might mention to the jury that they should – I suppose it is kind of ridiculous in a way, but that they should disregard the remark. I realize they have already heard it three times.

THE COURT: If that is what you would like me to do, I would be glad to do it.

MR. CHRISTIE: I realize it is hearsay and we cannot test it at all with knowledge or information. I am afraid it may quite inadvertently arise {1735|1736} again. I will be quicker to object, but I was going to ask Your Honour just to mention that to them, that they really should disregard that remark. I think it is rather difficult, but still —

THE COURT: I will do that. Do you have any objection to that?

MR. GRIFFITHS: Certain not, Your Honour. I think it is quite proper.

THE COURT: Bring in the jury, please.

MR. GRIFFITHS: Your Honour, I'm sorry, can the jury be held up for just a minute? If I can have your indulgence for just a moment, it's something, Your Honour, that I don't know what Your Honour can do. The police are aware of it.

Mr. Urstein received a telephone call last night at about midnight, and the telephone call was simply somebody saying, "You're next", and hung up, which is in the context of this trial and the fact that he is the next witness obviously [sic] caused him some concern. I just heard about it now from Sergeant Williams.

I just wanted to bring it to Your Honour's attention in the absence of the jury, and we will be looking into that, but there is nothing we can do about it right, now. {1736|1737}

THE COURT: Well, this witness has now joined the group where the Judge, the Crown Prosecutor and defence counsel have all received threats. I don't know that that's unusual and should be the subject of any further comment except that he is not the only one in this world that it's happened to.

Justice will take its course and truth will come out, and that is the way that justice is going to be done in this country, regardless of who is threatened and who isn't. Ready to proceed?

MR. GRIFFITHS: Yes, sir.

THE COURT: All right. Bring in the jury.

— The jury enters. 10:05 a.m.

THE COURT: Yes, Mr. Griffiths.

MR. GRIFFITHS: The next witness, Your Honour, will be Mr. Dennis Urstein.

#### **DENNIS URSTEIN, sworn.**

##### **EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:**

Q. Mr. Urstein, how old are you, sir? {1737|1738}

A. I am sixty-one next month.

Q. And where were you born, what city?

A. In Vienna, Austria.

Q. And were you in Vienna in 1938?

A. Yes, sir.

Q. Did something happen in 1938 in Austria?

A. Yes. After Hitler marched in, I was arrested and put into a – as a matter of fact, my ex boys' school, that was the place where they put people that they arrested in there for any sake of any other place that they had. It was a boys' school.

Q. May I ask you to speak up, please?

A. Yes.

Q. You were put in your former boys' school?

A. Mm-hmmm.

Q. And over the next two years were you used a certain way?

A. I beg your pardon?

Q. What happened over the next two years, in general?

A. Well, from Austria I think it was about three or four weeks later, about two thousand of us that were held in that school were sent to Buchenwald.

Q. Thank you. Do you know what labour battalions [sic] were at that time?

A. Yes.

Q. Do you know what they were?

A. Yes. We lived in a make-shift, very, {1738|1739} very large tent, because the barracks were probably full, and the work that we did now was extremely unnecessary, like we dug a ditch. We closed a ditch. We dug a ditch. It was supposed to be a road-building Kommando.

Q. And how long were you in that labour battalion [sic]?

A. One year.

Q. And how was it that you came to leave the labour battalion [sic]?

A. Well, one day I was sent back to Vienna, and I found out later on that my parents obtained —

THE COURT: No. Just a moment.

Q. MR. GRIFFITHS: I have to stop you. You can't tell us what you found out later on; but you went back to Vienna and you had some information and did you act on that information?

A. Well, no. I was only about fifteen years old. My father obtained a visa for Shanghai, and then decided for some unknown reasons to me not to go. So I stayed with my family. I had to report to the police department twice a week.

Incidentally, before I left Buchenwald I was told to swear that I will not reveal anything that I heard or saw or anything that happened to me, period.

Q. All right.

A. May I continue?

Q. Yes, please.

A. Well, instead of leaving as we should have, we crossed the border. We went to Germany. My father paid, I guess we could call them a professional {1739|1740} smuggler, or something like that, that took us across the border to Belgium, and we arrived in Antwerp.

Q. How long were you illegally in Belgium?

A. Until I was re-arrested in 1940, the middle of 1940. I was then sent to a camp called Mechelen.

Q. How long were you in Mechelen for?

A. Until 1942, I think about July, because I arrived in Auschwitz in 1942 in August.

Q. In August of '42 you arrived in Auschwitz.

A. That's right.

Q. How long were you in Auschwitz for?

A. Until October 1944.

Q. While in Auschwitz can you tell us generally which camps you lived in?

A. Yes. After the selection we got out of the cattle cars. Our group contained about fifteen hundred people that came from Mechelen. We were selected and we, obviously, at this time, I or anybody else didn't know what that meant. It looked like nothing – the one part went to the right, the other went to the left, went on to a truck. It was flat and had sidewalls about yeah high.

Q. Indicating about eighteen inches?

A. Something like that, I would say, yes. And we marched into the camp which at that time was Auschwitz I. It was the main camp.

THE COURT: Did you say you got on a truck? {1740|1741}

THE WITNESS: No, I did not, sir. The others went on a truck. The part that went to the left. I went to the right. We marched in and on. Incidentally, before, at the selection, everybody was asked what his profession was, and I don't know for the life of me, I don't know why I said I was a taylor [sic]. I ended up in Block No. 1 which was the taylor [sic] block, and the function there was to —

THE COURT: Just a moment, please. I don't think that what you are saying how is being totally heard by all of the jury.

THE WITNESS: I'm sorry.

THE COURT: That's all right. You have a mild voice. Please speak up quite loudly so that everybody can hear.

THE WITNESS: Okay, sir. Thank you. I'll try. So I ended up in a taylor [sic] block, and the I function, there were, I think, forty sewing machines down there, and all the people did was sew on numbers to the left pant leg – at the right pant leg, I'm sorry, and the left breast on the pockets. The numbers were given to the people so that they coincide by the numbers that were tattooed on their arms, which were the first thing that you received when you walked in.

You want me to go through this whole thing again, please, sir? It's rather difficult for me, if you don't mind my saying so.

Q. Did you ever issue a uniform to somebody who didn't have a tattoo on their arm?

A. No, sir. I did not. {1741|1742}

Q. In due course did you ever move to Birkenau?

A. yes. This happened in a very unusual way. In November a transport came in and we issued clothing and numbers.

Q. I'm sorry, what year, Mr. Urstein?

A. In 1942. And I saw a young fellow that went to school with me, and naturally, we laughed at having no hair. He was shorn and I was shorn, and then he went down to serious business when he told me he went with his parents.

MR. CHRISTIE: I'd like to avoid hearsay, if we could.

Q. MR. GRIFFITHS: You can't tell us what somebody else said. I know it is natural in conversation, but we can't have it in the courtroom.

A. Then how will I put this?

THE COURT: Well, Crown counsel will lead you through that field.

Q. MR. GRIFFITHS: Mr. Urstein, if I can go back, my question was, were you ever moved to Birkenau?

A. Yes.

Q. And can you tell us when you moved to Birkenau?

A. In 1942.

Q. And about what month?

A. December. Just before Christmas

Q. Okay. And did you ever work with Kanada command, or the rolling command?

A. Yes, sir. I did. {1742|1743}

Q. Did you ever have occasion to meet trains as a member of the rolling command?

A. Yes, sir. I did.

Q. Was there one train in particular?

A. Yes, sir. I did.

Q. Take your time.

A. That's all right. This is not easy. This is an exact date. If I may I will explain to you why I know it was the exact date. Knowing that my parents were in Belgium, I obviously kept my eye out for trains from Belgium for transports from Belgium. Anyway, it was about four, five o'clock – no, four o'clock in the afternoon, something like that. We were waiting in the ramps. A transport arrived, and I saw my parents get off. Now, our function down there was to do two things – to get the people out of the cars as fast as possible, and sometimes to help them line up in one column and to get the luggage out.

Now, we just threw the luggage out right on the ramp, and I saw my parents. My father at the time was, if I may just figure it out, my father was born in 1879, so that will make him about sixty-three or sixty-four. And they didn't see me. I didn't see them. They went up on a truck, and being already seasoned after a few months, because nobody lived longer than a few weeks anyway in camp – the ones that did were very lucky – and I saw them drive away.

I want to interject one thing if I may. At that time I had absolutely no emotion. I wasn't sad. I didn't cry. I just took it matter of factly. I cried {1743|1744} and thought about it after the War, but not at that time.

Q. Which way did the truck go towards the main camp or Birkenau, or some other direction?

A. No. No. From the ramp at that time we could see two crematoriums. They both had one smoke stack on it. The ones that got built afterwards had two each on it; but that's immaterial, I guess. And they went

away. All the other transports went, all the other trucks went, and the thing that struck me when I started with this battalion [sic] was, there was always a doctor there that was doing the selecting, because he had the insignia of the medical corps, and then later on we knew.

MR. CHRISTIE: I can't hear the witness.

THE WITNESS: We knew who Mengele was, so we saw him quite often down there. He was a very good-looking young man. When we saw the Red Cross truck, we knew already where they went and what they went.

Q. MR. GRIFFITHS: I just want to make sure, Mr. Urstein, you said that your parents went in a truck the way all the other trucks went.

A. Mm-hmmm.

Q. And where was that?

A. Towards the crematorium. Because the rest marched. I marched. We saw the people that came off the train later on in a camp. And as a matter of fact, I had long discussions with them to find out how my parents were and all that. This I asked them.

Q. Were you ever inside a gas chamber? {1744|1745}

A. Yes, sir. I was.

Q. Can you tell us about that?

A. Yes, sir. I will. It was late in February 1942 – sorry, 1943. We came back from work and we marched in fives. There was five people in one row. Okay? And just before we were going into the barracks themselves, after we were counted, we were counted at the door and we were counted in front of the barracks, the leader of the block, the S.S. man which was called Blockfuhrer took six rows of fives and told them to step forward. And we did. We stood there for about, I would say, ten minutes, and a truck came along. Incidentally, the same type of truck that we saw at the ramp very, very often that we saw taking dead bodies that either died natural or unnatural, were beaten or whatever it was from the camp, and we were asked to get on the truck. And I remember distinctly what I thought at the time. I said to myself, "This is it, baby." I didn't use the word "baby", but as I said, "This is it." But then, while the truck drove, I tried to rationalize. I think I tried to rationalize the whole thing. I thought, this is not the way the Nazis do it. This is not the way the S.S. does things. When a selection goes on – and we have several selections in our block – they look at your number. The scribe of the barracks took your number down because it had to be done the proper way. One had to know who is who. And then we were put in a truck, or they went to a special barrack down there that was emptied out and they kept it until midnight, and then they drove them out to the crematorium, or gas chambers.

So as we were driving along we arrived in a very manicured courtyard. There were trees down {1745|1746} there. I even saw some flowers. We were told to get off. There were three S.S. men down there, and all three of them – I don't know the term in English – they were Unterschaufuhrer [Unterscharführer]. They had silver piping down here, and colours. I don't know if this is a sergeant or corporal or something like this. I don't know. And we got off the truck and he said to us in German, which was the working language down there ...

Q. I am going to stop you, because unless it's an order, you can't tell us what he said to you.

A. It was an order to get off the truck. And we got off the truck. We lined up, stood to attention, and he said —

MR. CHRISTIE: I don't think it makes any difference, Your Honour, whether it's an order or not. I think it's hearsay. I think we should deal with what he did.

THE COURT: Ask him what happened.

Q. MR. GRIFFITHS: Don't tell us what he said. Tell us what you and your comrades did.

A. We got off the truck, he put on the gas mask, and what I heard distinctly was a hum. It was a loud hum, and to me it came from the door and the building that we faced.

THE COURT: Just a moment, please. "I heard a loud hum coming from the door ..."

THE WITNESS: From the door that we faced.

THE COURT: "... of the building."

THE WITNESS: That's right. {1746|1747}

THE COURT: "That we faced". When you say "we", who do you mean?

THE WITNESS: That's the other people, the other twenty-nine, I assume. I can, only talk for myself. As we looked at it, we knew that this was the crematorium because we saw the smoke stack. This was to the left, of it. He, as I said, donned the gas mask and, opened the door. It was a very large wooden door. I cannot tell you how large it was, if it's six feet or twelve feet. It was huge. I did not take any notice. I didn't think I was going to relate this again. The, one thing that I remember was that the door had to be, opened by a wing-type screw-type, of thing. It was closed tight. It was a latch, I would say yeah high, and there was, one in the middle and, one on the bottom, and he just unscrewed that and opened the door. He told us

THE COURT: You get an, order, yes.

Q. MR. GRIFFITHS: As a result, of that what happened?

A. He first issued us with hooks that were about that long.

Q. About three feet?

A. That's right. They had a handle on, one side, you knew, where you put your hand through, around, and then he said something that I can't translate. He said —

Q. Don't tell us what he said. Tell us what you did.

A. He said — I must still say what he ordered us to do and what he did.

THE COURT: Just hold it. Listen to {1747|1748} Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

Q. He gave you an order. Don't tell us what it was. And as a result of that order did you do something, you and the other prisoners?

A. Yes. He removed — well, we saw a sight that I wanted to forget. It took me over forty years, and it came up again, and it's unusual.

Q. What did you see?

A. Bodies, lots of bodies. But the unusual part of these bodies were, I saw bodies in a camp, they weren't just laid out, they were entangled with each other. Like we found later on, I found later on scratch marks. They were trying to get on top of each other, I don't know why, but the strongest were on top, the weakest were in the middle, the children usually were in the bottom. And we were told not to be squeamish and get those Jew bastards out, in German. So we did. What I noticed was that there was a lot of water around.

Q. Can you estimate, how many bodies there were?

A. Well, that's extremely difficult, but I would say if I could compare it to the people that were in our block, there were about six or seven hundred. Forty per cent [sic] were children. And when I say children, I wouldn't say very, very young children, but tens and elevens and twelve-year-olds.

Q. Where did you have to take the bodies to?

A. Well, right outside there was a {1748|1749} corridor down there, and we dragged them through the corridor and put them on the outside where there were some crushed stones. This is where we really stood. And we had to line them up.

Now, this I remember we did, and I am not going to say we are told; we did. We had to line them up with one head here and one head here. One head here and one head here. This is how they had to be lined up. And then we piled them up on top of each other.

Now, we couldn't do that with the hooks, so somebody took the legs and somebody took the arms and we just put them on top of each other.

Q. Were the bodies in a state of dress or undress?

A. Oh, they were all undressed and, incidentally, another thing I noticed was that there was a lot of — they were all defected — is that the right word for it? I know the German, I don't know it in English. They were all emptied their bladders, and what do you call it?

Q. All right. So they emptied their bowels as well?

A. Right. But a lot of it was gone already because as I say, there was a lot of water; their bodies were quite wet. But as we got into the middle of it, or below the top, we saw blood on their noses. There was just a trace of foam at the corners of their mouths, and there was a funny smell in there. It was like pickles or mustard. Some of the boys in our group started to cough violently. I didn't. I guess I'm very {1749|1750}

lucky. But nothing happened to them. And after we did that, we were told and we did wash the chamber.

The most significant thing that I saw — and I certainly wasn't a builder and I am not a builder — is that there were no columns there holding up the ceiling. The first thing that we saw, I would say, every twelve inches, this I say in size, there was a shower fixture in the ceiling. The ceiling wasn't too high. The ceiling was maybe, I don't know, four, five meters high, something like that. And no windows. And the most significant thing was steel piping. Instead of — the whole room was cement. The floor was cement. The walls were cement. The ceilings were cement. And I saw steel piping holding up the ceiling as a column. And another thing was that about as high as this table here there was a mesh around it on the bottom.

THE COURT: A mesh around what, sir?

THE WITNESS: A mesh around steel piping. You know, a metal mesh, meshing. Now, we washed the walls, the ceiling, the floor, and there were quite a number of grates in there for the water to flow off.

Q. MR. GRIFFITHS: Drains?

A. Grates or drains, you know, like a drain. I am so overcome with emotion. I wonder why the devil I have to relate that after forty-two years.

After we get through with this, we went outside. We were told to go outside, you know. We went outside, got back in a truck, and we were driven back to our barracks in camp.

Q. How long did the whole process take, Mr. Urstein? {1750|1751}

A. About three hours.

Q. And was it ever repeated?

A. With me?

Q. With you.

A. No, sir. The only comment, if I may —

THE COURT: Just a moment.

Q. MR. GRIFFITHS: I think you had better just listen to questions rather than comment, Mr. Urstein I would like to know if you have ever testified about this in a courtroom.

A. Yes, but not about the incident. That was about something else in Vienna. The Kommando, there were two Viennese boys, one is Otto Graff, and the other one was Franz Wunsch —

Q. All right. I am going to stop you. You testified in a trial that you were in in Vienna.

A. That's right, sir.

Q. You told us that a man donned a mask before the doors were opened.

A. Yes, sir. Yes, sir.

Q. Can you tell us who it was who donned the gas masks?

A. Yes. One of the three S.S. men that ordered us from the truck.

Q. Were you given a gas mask?

A. No, sir.

Q. Any of the others?

A. No, sir.

Q. At the end of the War did you try {1751|1752} to make contact with your family — your parents or any other members of your family?

A. Yes. I had one sister that luckily lived in England since 1937, and I tried to make contact with her.

Q. All right.

A. Now, I did not go back to Vienna after the War.

Q. Can you tell us how many members of your family —

A. Well, what we counted, one incident — this is not hearsay, this is something that happened to me that I have not mentioned, but I don't know, you get it out of me — in 1943 I opened up some suitcases like everybody else, and I found pictures and a birth certificate of a cousin of mine that lived in Trieste, in Italy. Due to the fact that the suitcases — and I found out through going through the suitcase very carefully so that nobody sees me because we were not supposed to look through letters or anything, but just sort things where they are supposed to be, like shoes to shoes, and dresses to dresses and shirts to shirts and ties to ties, and what have you got — that she was married and she had two children, two small children as a matter of fact, two children. Her name

was Rota. I don't recall her married name. After the War I informed her sister, who lived in Indonesia – at that time it was called Java – what I saw, what I found, and she had to make up her own mind what happened to them.

Q. Can you tell us how many members of your extended family, your cousins, parents, brothers {1752|1753} and sisters —

A. Yes. One hundred and fifty-four, sir. One hundred and fifty four. That is uncles, aunts, grandmother, grandfather, cousins, male and female. We were a very large family. My family lived in Austria for about two hundred and forty years and we were quite extended.

Q. All right. Have you ever made any claim for indemnification or compensation?

A. Yes, sir. I did. I was told by —

Q. Don't tell us what you were told, but did you receive anything as a result of your claim?

A. Yes. I received \$900. It was transferred to, I think, the Bank of Commerce. They paid me that, and I had to sign a so-called release.

Q. And which government was that from, sir?

A. The Austrian government.

Q. Did you ever receive anything from the West German government?

A. No, sir.

Q. Mr. Urstein, are you a part of any conspiracy or swindle or hoax to fool people into believing that millions of Jews were slaughtered in the Second World War?

A. I don't think so. No, I'm not.

MR. GRIFFITHS: I have no further questions.

THE COURT: Yes. Mr. Christie.

——— {1753|1754}

#### CROSS-EXAMINATION BY MR. CHRISTIE:

Q. I gather your evidence is that you worked in Kanada command after 1943.

A. Will you repeat the question?

Q. I gather your evidence is that you worked in Kanada command, in Birkenau, after May 1943?

A. No. After May 1943 I was not with Kanada. I was not after May 1943.

Q. Is that right?

A. Yes, that's right. After May 1943 I was with the Dachdecker, which was the people that fixed the roof.

MR. CHRISTIE: Could I have the map of Birkenau?

Q. Could you tell us what the gas chamber looked like from the outside?

A. Yes. It had — all I saw was, when we faced it, it was a wall with a very, very large door, and after we went inside we knew it was the gas chamber. I didn't know it from the outside when I looked at it.

Q. Okay. You say it was a wall with a large door?

A. Yes. Like any other house has. It has a wall and a door.

Q. Was this a building by itself?

A. No. It was adjacent to the crematorium.

Q. So the door you entered, was it from the outside? {1754|1755}

A. Yes, sir.

Q. It was from the outside.

A. The one that we entered was from the outside. Well, we had to go through a small corridor.

Q. A small corridor.

A. Yes. About maybe two steps or something like that, which is very, very small, I would say.

Q. Two steps.

A. Yeah.

Q. Two steps where?

A. Where to what, sir?

Q. To the gas chamber?

A. To the gas chamber, yes.

Q. So was this inside the building?

A. No. We saw the door from the outside of the building, but we had to make a right turn, a left turn, which was about two steps, two steps I

would say. We saw the door from the outside.

Q. So this door that you are looking at is on the outside wall of a building.

A. Yes, sir.

Q. I think we had a whole bunch of little maps, too, did we not? Could you identify —

A. I'm sorry, I identified my own map. It is the same one as yours.

Q. How do you know it is the same one?

A. There are other maps, aren't there?

Q. I don't know. You tell me. Let me ask you, where was this building?

A. Right there. {1755|1756}

Q. Exhibit 21?

A. Right here.

Q. Okay. Now, let me just ask you to make a mark on there with a felt pen, and maybe make a number and mark it that way. Would you do that? I'll give you the felt pen. I am going to give you what looks like a felt pen, if you could just put, say, oh, I don't know, No. 3.

A. Yeah. Right there.

Q. Okay. Just put the number 3.

A. Do you want me to sign it?

Q. Okay. You put the number 3 by the No. III Krematorium, and that's where you were?

A. Mm-hmmm.

Q. Okay. Now, could you make a mark with the same pen where the entrance was that you went into the gas chamber?

A. I don't know. Can't tell you.

Q. You can't tell me.

A. No, I cannot, sir. This was a fleeting — I'm sorry, I would love to tell you that, sir, but I can't.

Q. All right. Do you have any idea where it was?

A. No. At this moment, right now, I do not, sir.

Q. Okay. You have given us a description of a door on the outside of the building.

A. Mm-hmmm.

Q. And you said — can you describe it?

A. Well, may I show you what I mean {1756|1757} by this remark?

Q. Put it on a piece of paper so we can put it into evidence. Draw us a diagram.

A. No. I am drawing you what I saw. Now, here, this is the whole complex we saw. The chimney was about here. Now, when I said "corridor", we saw the door from here when we faced it, right there, we saw it right there. And when I say "corridor", it was two steps going this way. We went through this and there we saw the door. The door was also visible from the outside.

Q. So the door — at that point is there a flat roof or a peaked roof, or what roof is it?

A. I think this one, it looked something like that, I think. This is where we saw the door, and this is where we saw the chimney, and again, this is an assumption that you will object to, but I believe that this is where the crematorium was located.

THE COURT: A little louder, please.

THE WITNESS: I said this is where I think the crematorium was located; but this is where we went in.

Q. Well, let's, for the record, because we are eventually going to show this to the jury — can you tell me, then — you have put an "X" for the chimney and you have put grid marks for peaked roofs.

A. No. This is not the roof. This is where I said I think the ovens were, because we, didn't see them.

Q. All right. Where you went into, then, it was a flat roof, was it? {1757|1758}

A. This was a flat roof, yes.

Q. And was it the same level as the rest of the building?

A. No. No, sir. It was not. That is what I showed here, you see. This is flat, and this is a little bit higher. This is what it looked like to me after all that time, sir. That is all that I can say.

Do you mind very much, for one second, if you don't mind — I have angina.



Q. So this building had a flat roof, and you entered from the outside along one of the walls.

A. Mm-hmmm.

Q. Yes. Can you describe any more of what it looked like from the outside?

A. No, sir, I cannot.

Q. How tall was it – this is the building with the flat roof.

A. I would say right up to these ridges down there, the first one. This is presumption of mine. I did not take any notice of it. I wanted to get out of there, so I did not take any notice how tall it was or how wide it was or where locations were. I simply don't want to talk about, you know, my memories; bad enough it comes back. It fades, but I don't want it to come back. It took me too many years to try and get it out of my mind. I don't for you or anybody else, sir, try to get it back in my mind. Sorry.

Q. Well, all I am asking you is to describe the height of the building.

A. Well, I am surmising. I cannot give you exact heights or even approximate heights, sir. {1758|1759} don't know.

Q. Well, you have given us a description of a building that was a flat roof.

A. That I can tell you, yes, but I can't give you height or widths or anything.

Q. I am not asking for exact heights, you know.

A. Not even an approximation. I don't know, sir. I know it was a lot taller than I was. That's for sure.

Q. That's from the ground level to the roof of this flat building was a lot taller than you were.

A. Definitely. Yes, sir.

Q. And you've described – can you describe the door for us?

A. I would say the door was maybe a little wider than the end panel down there.

Q. Wider than the end panel?

A. Yeah. As far as the height is concerned of that door, I would say —

Q. Let's get that for the record, but for the record, you see, there's quite a few panels there.

A. No. The end panel, the one that I am looking at right now.

THE COURT: You are looking at the wide panel.

THE WITNESS: The wide panel right down there. There are smaller ones to the right. Never mind the ones on this wall. This is the panel I am talking about. {1759|1760}

Q. Now that, would you agree, is approximately eight feet wide?

A. I can't give a measurement. You have to tape measure.

THE COURT: Mr. Christie, you and Mr. Griffiths can get together sometime before the end of the trial and measure it and let us know what the measurement is.

MR. CHRISTIE: Yes. Thank you very much.

Q. It was wider than that?

A. Just a shade, yes.

Q. A shade wider than that. And it had some kind of screw mechanism to close it?

A. Yeah. Not a screw mechanism. May I step down for a second, sir?

THE COURT: Well, I think perhaps you can do it just as well, sir – turn around and face the jury. They are the important ones.

THE WITNESS: It looked like something where there was a latch, a wing-type screw that fastened it together.

Q. More than one?

A. Yeah. One was about my height, would say, about here. The other one was here. The other one was down here.

Q. So the door was taller than you?

A. Oh, yes.

Q. Did you have to walk up to the door, or down to the door?

A. No. It was even. {1760|1761}

Q. Right on the ground level.

A. Yes, sir. I think that's what it was. I'm sorry, you don't ask me and I won't tell you. I nearly wanted to jump in and tell you something.

Q. That's okay. Let's just deal with it as it comes up. As far as height of the building, you've said it was taller than you, and you don't know how much taller than you. So that's from the ground level to the top of the

flat roof was taller than you?

A. I would say that any building is taller than I am, but unless it is a dog building, but a building is taller than I am, or you, or anybody in this room.

Q. So it is a normal flat roof building?

A. Not building. That area was flat roof. That area was flat, then it went up like this. The chimney was on the righthand side.

THE COURT: That will be an exhibit, Madam Clerk.

THE REGISTRAR: Exhibit 28.

— EXHIBIT NO. 28: Sketch by Mr. Urstein.

Q. MR. CHRISTIE: What I am interested in was the flat roof portion which you say is the gas chamber. That is taller than me, but taller than the gas chamber?

A. I can't answer your question. I know it was taller than me, but I don't know if it is a normal building. I don't know. I can't tell you this.

Q. Do you know how long it was? {1761|1762}

THE COURT: Do you mean deep?

Q. MR. CHRISTIE: The length of the building.

A. You mean —

Q. The room, the gas chamber.

A. I would say it was as wide as this room here. As wide and – no, it wasn't that deep. I think that, if I remember right – you must understand, sir, that I didn't take any notes. All I saw was the bodies. That I had to take immediate note of because they were in the immediate vicinity, right in front of us, but I didn't see how wide, how long, how deep, how high. The only thing I did know is that when I looked up, the shower fixtures were not too high away from me, maybe another meter or meter and a half or something like that. That's where the shower fixtures were.

Q. Was there any other opening in the ceiling?

A. I didn't see. I didn't look and I didn't see.

Q. How, long were you in this room?

A. Well, it wasn't just that we were in. We were in and out. As we dragged the bodies out it took about three and a half hours to complete the job of taking them out, and I cannot testify to say that I was constantly in there, no. I was in and out. We dragged the bodies out.

Q. Where did you take them?

A. We took them outside the same door and we went outside and lined them up in rows like one would line up cordwood. We were told – sorry – head {1762|1763} here, head here. And that's what we did.

Q. Is it your evidence that the bodies there had rigor mortis?

A. No. They were quite soft. As a matter of fact, some were bloated, in a way.

Q. They were bloated already?

A. Not bloated already. Bloated in a way. In other words, I would say that the chest cavities and the stomach protruded. I surmise that he person that I am referring to, the body I am referring to didn't have a stomach like that on a normal, when he was alive, but he certainly had a little protrusion. It is just as if, you eat too much and you have a little protrusion. That is how I can describe it.

Q. This building as a whole in which you say you were in the gas chamber, did it have many floors, or just one floor?

A. Don't know, sir. I didn't notice any. I don't know.

Q. It wasn't a two-storey building?

A. I do not know, sir. I didn't notice. I didn't look. I told you, we were given something to do, and we did it and we wanted to get the hell out of there. Excuse that.

Q. Well, how long had you lived in the camp at that time?

A. Well, this was in February. I came in October, so you count it. Okay. November, December, January, February – four months.

Q. This is February '43?

A. Yes, sir. {1763|1764}

Q. So you came in October '42 into Birkenau – right? Is that right?

A. You have me confused now, whether it was August or October. No, we came in August. I'm sorry. I'm not a lawyer and I can't – I am pretty good in my business, but – it is rather difficult. I'm sorry.

Q. Was this building for gassing people soundproof?

A. It must have been. There were no windows. As a matter of fact, the door as we saw it, when we went in and went out, in and out, was quite heavy. It was a very, very heavy door. If you ask me how thick it was, I can't tell you, but it was a very, very heavy door.

Q. It was a wooden door, was it?

A. Yes, sir. Oh, there is another thing that I can tell you. There was a window about eye high which we saw glass on the inside and glass on the outside of the door where you could actually look in or peep in or whatever you want.

Q. Yes.

A. That we saw at the door, or I saw at the door, sorry.

Q. But you don't know if there was a basement in this building at all.

A. No, sir. I did not know.

Q. So the floor of this building, then, would be on ground level. Is that your evidence? You didn't go downstairs in this building.

A. No, I did not.

Q. We are not dealing with any staircase {1764|1765} at all, then.

A. I did not see any stairs, no.

Q. And if you were hauling bodies up or down stairs you would know about that?

A. Oh, definitely. We didn't. We dragged them out.

Q. No stairs at all?

A. No, sir. I did not see the stairs.

Q. And did you see anything unusual inside in the gas chamber such as – other than the bodies of the people – no utensils or anything?

A. Nothing at all.

Q. Just the naked bodies of these people.

A. In very bad shape.

Q. In very bad shape.

A. Yes. Because they were almost —

Q. Emaciated?

A. Welded to each other. They grabbed at each other because we had to pry some fingers loose, some hands loose.

Q. Okay. You had to pry the fingers loose. And there were no windows except the window in the door.

A. That's right.

Q. Was that window covered at all, or you could just see right through?

A. Oh, you could see right through. It had a little veins of wire go through there, I believe. That's all I can see. I did not stand still for a moment to take an extremely good look at it and identify it. {1765|1766}

Q. Did the building have any chimneys?

A. This building that I was in?

Q. Yeah.

A. No. What we saw, when we went in through, obviously we turned and looked around, because curiosity was always —

Q. Had you ever seen the building before?

A. The only thing that saw was a lot of dense smoke, and and in some cases flames coming out there in some cases, if it was a very, very clear night – I can't tell you how I know, obviously not, or can I?

Q. Go ahead. If you saw something, if you heard something other than conversation with other people, if you, yourself, saw it or heard a sound, or smelt something, you go ahead and tell us.

A. Oh, the smell was always there. As a matter of fact it took me some time to get the smell out of my nose after the War. But when I say flames, I guess it's surmising by me where the flames came from. That's all.

Q. Did you ever see flame coming out?

A. Oh, yes. In several places. You must understand that I – as a matter of fact I came quite early. If I went to – if I may show you something where I saw my first flame, it was prior to the crematorium. It was prior.

Q. Where is that?

A. It was right there. If you want me to show you in the map, it was right there, where I was and where I saw it. {1766|1767}

Q. I show you the same orange pen.

A. All right. This is —

Q. You are using another small map, are you?

A. Of course, yes. I guess that —

Q. There is writing on it?

A. I just put where the kitchen was and the Schreibestube.

Q. The Schreibestube? Where did you get that information?

A. I was there. I walked by it every morning and every weekend. This is the camp where I was, in Camp "D", so on the right was the kitchen, and on the left was the Schreibestube. This is how I know where that is.

Q. Here is a coloured pen. Why don't you use it on this map that is an exhibit? Have a look and make sure it is the same map. Actually, if you look at it like that, there's your Krema III and —

A. I can see it.

THE COURT: Exhibit number ...

MR. CHRISTIE: 21.

Q. Do you want to outline in orange your camp? I think you said "D". I put it to you it is right in there.

A. Yes. Here was the kitchen and here is the Schreibestube.

Q. All right. Schreibestube is the block scribe, or what is it?

A. Something like that, the whole administration. Maybe it is called Schreibestube. I {1767|1768} didn't – it is right here. When we looked out here, you have to understand that there were no walls between us. There were just electrical wires, so you can look right through it. There was a wire. Okay? Now, in this area right here, and then again this is hearsay, according to what you will say, but we asked, what is it? This is flames like crazy.

Q. Crazy flames in a ditch?

A. Not a ditch. We enquired and we were told —

Q. Never mind what you were told. Just mark what you told us.

A. This area right here.

Q. Flames from that area.

A. Mm-hmmm. The one-eyed monster.

Q. All right. I am asking you about Krema III. And how many chimneys did it have?

A. One.

Q. And did you see flames belching out of there?

A. Yes, sir.

Q. You could see that from —

A. I could tell you when. It was when, 1944, when we all of a sudden we had a tremendous influx of Hungarians that were deported, and these damn things worked overtime.

THE COURT: A little louder.

THE WITNESS: These things worked overtime. I apologize, sir. It is not by design.

Q. MR. CHRISTIE: So it was —

A. I saw them in '42 from here, and {1768|1769} '43 from here, but where I saw a lot of them was in 1944. They really worked overtime.

Q. How high did the flames shoot out from the chimney?

A. Sorry, I can't give you a description of the height, but on a very, very clear night when you got up in the morning it was still dark, they were quite high, it was quite an inferno, I would say.

Q. So it was an inferno with flames shooting —

A. That is the way I would describe it, yes.

Q. How high would you estimate it?

A. I don't know. No estimation, sir. I have no estimation of that.

Q. Now, you were in Block "D" and you say you were trucked to Krema III.

A. That's right, sir.

Q. How far would that be to walk?

A. I don't know.

Q. You don't know.

A. No. Maybe they had other designs for us. Again, this is hearsay. I am just thinking about myself, now, what I thought.

Q. Well, all I asked you is how far it was, and the answer is, "I don't know". Is that right?

A. It wasn't too far, I would say, because we were only riding about five minutes.

Q. Five minutes?

A. Yes, as a very slow rate. You didn't race down there. {1769|1770}

Q. So if I understand you correctly there is one chimney on Krema III that you went into.

A. Yes, sir.

Q. One chimney. How high were these chimneys, or did you notice?

A. One thing I noticed is they were very square, they weren't like a slim chimney. They were very wide. I don't know how wide they were, but they looked very wide to our eyes.

Q. Were they part of the building, or did they stand apart?

A. No. To me they were part of the building.

Q. They were part.

A. Yes, sir. They weren't standing apart.

Q. Do you know how many entrances building had on the your side?

A. What building are you referring to, sir?

Q. The gas chamber building.

A. All I saw was one. I did not see any doors going while I was inside, so I assumed it was just the one that I came into.

Q. Yeah. Though this door was on the outside of the building and it was the only door to the gas chamber?

A. Wrong, sir. That is not what I said. What I said is, we could see the door from – the outside, but we could take two or three steps, turn to the left. I drew it up for you. {1770|1771}

Q. It is an exhibit, is it?

THE COURT: Yes. Exhibit 28.

Q. MR. CHRISTIE: Was this building surrounded by a compound?

A. I didn't see. All I saw was that when we arrived down there and we saw the building, we saw very beautiful trees, shrubs, even some flowers that I saw, and that is the only thing I took notice of.

Q. Did you have to go through a gate or barbed wire?

A. Oh, the only gate that we went out was from Camp "D", and then we saw an opening down there. As a matter of fact I think there was a sign out there translated, "unauthorized Personnel Strictly Forbidden", something like that. But in our condition – excuse me, sir, but in our condition I cannot very well describe details. It's impossible. I mean, first of all I didn't take notice of it. I didn't look for them. A lot of time went by and, frankly, I didn't care for it to notice anything. It's just something that the things that I saw, I saw. That's all I can say.

Q. Mm-hmmm. So you said you didn't recall going through a gate or anything to get into the building.

A. Into the building?

Q. Yeah.

A. There were – as I said, there were – it was like an alley – how do you translate it?

THE COURT: You pronounce it by saying "alley".

THE WITNESS: Alley. Thank you. Well, {1771|1772} in Vienna we said alley. That is what it was.

Q. MR. CHRISTIE: But by compounds I mean gates and barbed wire.

A. Nothing like that. I didn't see any. It looked like a almost like a retreat. That is what it looked like in retrospect when I look at it, something that is very beautiful. As it happened, it wasn't beautiful, but that is what it looked like as a first impression.

Q. Yes. So that if you had been going through barbed wire gates or locked gates or into a compound –

A. Sorry, sir. I said before, I don't remember. And even if you try to explain to me what you think I saw, I can only say I do not remember that.

Q. You would have noticed a thing like that, I suppose.

A. Again, quote, I say that's wrong, sir. You said I would have noticed. If I would have noticed, I would have remembered.

Q. Mm-hmmm. Now, have you put in your drawing the best recollection you have of the gas chamber itself?

A. Well, I think so. May I?

THE COURT: Yes. Certainly.

THE WITNESS: The only thing that I – yes. It's right there.

Q. MR. CHRISTIE: Okay. Can you put north, south and east and west on it?

A. I didn't know it was day or night. {1772|1773}

You are asking me north and south. It hardly took me twenty years to find north and south in Toronto. North and south. Please, forgive me, sir, but – I am sure there are historians, people that devoted something to them, that can tell you what is south, east or west. I don't know.

Q. Well, you were there for how many years?

A. From August – first of all, told you that four times. Now, why do you ask me again? After all, we're grown-ups. We are not children, sir. You ask me these questions. Now you are asking me again. Okay? I left Auschwitz in October 1944, to make it easy for you. Now, write it down so you will remember it next time. I left 1944 in October. Okay? I was first sent to Buchenwald. We stayed in Buchenwald for two days. We went to Sachsenhausen. We stayed one day. We went to Dachau and stayed till the 29th of April, 1945.

Now, I am not trying to loose my cool. I am trying to be as accurate as I can remember it, but that's it.

Q. I am just curious. So you arrived in Auschwitz ...

A. In August 1942. Now, look, I have written it down. Would you like to get my paper? You are riling me and I don't know why you are doing that. I don't know what you are trying to establish. Would you like my train ticket or something like that? Okay. Down Dennis. That's off the record. That's me.

Q. So from 1944 you couldn't tell us {1773|1774} which way the sun rose from?

A. I didn't look at the sun. I was interested in bread, that lousy soup that I had, and the so-called coffee we had, and being alive within the next hour. I wasn't interested in these things, sir. I am sure that there must be people that know about it. I don't know.

Q. You have given us a description of a wooden door as wide as the panel in the back, and it opened – did it open just to one side, or did it open in the middle, or —

A. I don't know. I don't remember. That part I don't remember. I did not examine it. I know it was a very, very heavy door and I know that there were screw-type wing-type screws on there. That I remember. I remember there was a window on there, but I can't give you any more descriptions.

Q. Do you remember the colour of the room at all?

A. Yeah. Grayish cement-type thing. And there was a lot of lights. It was very bright.

Q. Very bright.

A. Very bright.

Q. So what kind of lights were they?

A. I don't know.

Q. Electric light?

A. I don't know. I am sure they weren't oil lamps. Must have been electric.

Q. Do you remember the colour of the outside of the building?

A. Yes. I would say beige, grayish, {1774|1775} something like that. More beige than grayish, I think.

Q. And you never noticed anything about the roof of the gas chamber at all?

A. Which roof are you talking about? The inside roof or the outside roof?

Q. Well, you looked at the inside roof.

A. Right. But we also faced the buildings, so it could be the outside roof, too.

Q. Well, if you can tell us —

A. I think the outside roof was red. That is what I think it was, but that is surmising that my memory is right that it was red.

Q. And that's the flat part of the roof, is that what you are saying?

A. I think so. Could be.

Q. And it was red

A. I think so, yes.

Q. Now, you've told us that the gas chamber portion had a flat roof, and it was red, and the other portion was higher, was it – what you called the crematoria portion?

A. I think it was the crematorium portion. I told you, I did not see the ovens, but surmised and I think I surmised correct that they didn't gas

the people in one room and then drag them fourteen miles away and burn them somewhere else. I think it is a very astute assumption.

Q. So you say it is a stupid assumption?

A. No, I didn't say that. I said {1775|1776} astute assumption that they didn't carry the bodies fourteen, fifteen miles away, and they certainly wouldn't have buried them, or they would have used the whole of Poland to bury them down there.

THE COURT: Is this a good time to adjourn, Mr. Christie? Twenty minutes.

— The jury retires. 11:30 p.m.

THE COURT: please don't discuss this case until the cross-examination is completed, with anyone.

— The witness stands down.

— Short adjournment.

— Upon resuming.

MR. CHRISTIE: Your Honour, could I speak to you for a moment in the absence of the jury?

THE COURT: Yes.

MR. CHRISTIE: My friend has introduced this witness in the midst of the trial and as a result of that he has provided me with a very brief summary of what the witness would say. On the basis of that I have been {1776|1777} prepared to deal with this matter, but in part the witness says, "After May 1943 he worked in Kanada in Birkenau"; after Dr. Vrba testified that Kanada didn't exist until after April 7, 1944, the witness no longer says he worked in Kanada and Birkenau as I was about to put it to him. He said 54 members of his family did not survive the Holocaust. In his evidence so far he said 154 did not survive.

I am in a bit of a quandary and I don't want to cross-examine in a manner which I shouldn't be able to put to the witness that, "Didn't you indicate to the Crown on a previous occasion that in May of 1943 you worked in Kanada, in Birkenau?" Now, I think that might put my friend in a rather difficult position. I don't know quite how we will do this. It seems to me it is rather relevant in view of other evidence of other witnesses about Kanada and Birkenau; and the 154, I would like to suggest to him that he said 54 on a previous occasion and identify that occasion.

I have never been put in a position when a witness statement provided to the opposite side to facilitate, without notice has been contradicted by that witness' testimony, but it seems that's exactly what {1777|1778} has happened. So I would like to ask, if I may, to put that to the witness in the manner I have suggested, and that's my concern.

Thank you, sir.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour.

First off, my friend represents quite correctly what the witness statement says. And I think the problem may well be mine. I interviewed Mr. Urstein first a week ago yesterday, took notes of that interview and typed up, or had typed up a brief summary. Mr. Urstein never saw either my notes or the brief summary to read over and make corrections or sign, and provided that summary to Mr. Christie last week on Monday.

When I say the problem may be mine, I mean both in terms of not having reviewed the statement of Mr. Urstein before, and also, Your Honour, the phrase, "After May 1943 he worked in Kanada and Birkenau", I frankly couldn't say right now whether that meant that Kanada was in Birkenau or he was living in Birkenau and working in Kanada, and I think that quite properly, if my friend wishes to go into that matter or others, he should {1778|1779} be permitted to do so.

The difficulty, as I see it, is because Mr. Urstein hasn't read over or signed the statement, in essence it is not his statement. It is not a "will say" for the assistance of counsel – obviously, in this case, not as much assistance as it could have been or should have been, and for that I accept full responsibility.

I am wondering whether to deal with this matter – I have asked Mr. Urstein be out of the courtroom, and he doesn't know anything about

this at all o that we are discussing – whether the procedure whereby these matters are gone into should initially be in the absence of the jury, and if Mr. Urstein adopts the statement, then it can go in in the presence of the jury; if he doesn't, indicates that there are errors in this that he did not have a prior opportunity to correct, then I think that that should be the end of it, in the absence of the jury.

And I say that – obviously, if it is not his statement, it is prejudicial to Mr. Urstein to have that put to him. If it is his statement, then it is quite proper. {1779|1780}

THE COURT: Thank you. Mr. Christie?

MR. CHRISTIE: Well, Your Honour, I just take it that when the Crown provides me with the statement of a witness, it's the statement of a witness.

THE COURT: That does not assist me, Mr. Christie. Do you agree or not that the witness be shown the statement in the absence of the jury and be asked? If I know your position I will make the ruling, but I want to know the position first.

Let me see if I can make it easy for you. I take no objection to that procedure whereby the witness is asked to look at the statement in the absence of the jury and is questioned upon it as to whether it is his statement. In the event that you decline – you are perfectly free to do so if you wish – then the only thing I might suggest to you is that as a simple matter of fairness you show the statement to the witness in the presence of the jury and ask him, "Is that your statement? Do you want to make any corrections? Is there anything wrong or right about it?" In other words, give him a fair chance, either in front of the jury or not.

I am not telling you how to cross-examine. I am too old and too wise for that. In the {1780|1781} event that you don't do that, I will have something to say to the jury when my turn comes to address them last. As simple as that.

MR. CHRISTIE: I think, to save time, I will do it in front of the jury.

THE COURT: As long as it is done fairly and above-board. Do you take any objections to that, Mr. Griffiths?

MR. GRIFFITHS: No, Your Honour. I can't.

— Discussion concerning presenting clean copy of witness' statement.

MR. CHRISTIE: Would it be permissible for me to just ask him, "Didn't you say that, at another time, you worked at Birkenau in 1943?"

THE COURT: Why didn't you ask him, "When you were talking to the Crown Attorney did you tell him ..." Very simple.

MR. CHRISTIE: And show it to him?

THE COURT: Witnesses speak to Crown Attorneys all the time. Witnesses also speak to defence counsel before they testify. {1781|1782}

MR. CHRISTIE: Is that all right?

THE COURT: If it is all right with you and all right with Mr. Griffiths.

MR. GRIFFITHS: Yes, sir.

THE COURT: All right. Bring in the witness and bring in the jury.

— The jury returns. 12:08 p.m.

— The witness returns to the stand.

THE COURT: Go ahead, Mr. Christie.

MR. CHRISTIE: Thank you, sir.

Q. By the way, did you tell Crown Counsel that after May 1943 you worked in Kanada and Birkenau?

A. I don't remember.

THE COURT: I'm sorry?

THE WITNESS: I don't remember.

Q. MR. CHRISTIE: Would it have been true if you did tell him this?

A. No. I did not work after May in Kanada. I didn't, no.

Q. Did you tell Crown counsel that fifty-four members of your extended family did not survive the Holocaust?

A. No. Much more than that, sir.

Q. And you said it was a hundred and fifty four, is that right? {1782|1783}

A. Yes, sir.

Q. Can you name twenty of them?

A. Oh, yes.

Q. Let's hear twenty names.

A. Max Brandiss.

Q. What's his relationship to you?

A. He was my uncle. Heinrich Brandriss, my aunt Mania – I don't know what her name was, second name, so sorry. She had, I think, seven children and they were married and had children themselves.

Q. Can you name those?

A. The children?

Q. No. Your aunt's children, your cousins.

A. I don't know.

Q. You don't know them?

A. Because I have only seen them once when I was five years old.

Q. You saw them when you were five.

A. Yes.

Q. You never saw them again.

A. No. They wrote to us frequently. They were in touch. This was on my father's side.

Q. So we have named three so far.

A. I got more.

Q. Okay.

A. There was Esther. She was the oldest one. She had a very large family. They all had large families in my time. I think this was the modus operandi to have large families.

Q. Well, do you remember the families? {1783|1784}

A. Of her? Oh, yes. We lived for years in Vienna.

Q. What were the names of her family?

A. I don't know. Oh, yes, I remember the oldest boy. His name was Dolfi. I think the full name is Adolf. There was – okay, you have to give me a few seconds to recall my memory, but I will. There was Bertl ...

Q. Who were these people? Are they cousins?

A. No. This, as a matter of fact, Bertl was the brother of my mother.

Q. When did you last see him?

A. Bertl?

Q. Mm-hmmm.

A. 1937, 1938. I would say it could be January 1938, but surely December of 1937.

Q. That's a man?

A. That's a man, yes.

Q. How old is he?

A. How old was he?

Q. Yeah.

A. I guess Bertl today would be about ninety or a hundred or something like that. My parents married quite late, so ... As I say, just to bring you up-to-date, my father was born in 1878, and I was born in '24. So he got me when he was quite advanced, I would say, in age. So his family was just as old.

Q. That's the end?

A. No, no. About Bertl, yes. But anything else, other names?

Q. Yeah. {1784|1785}

A. Okay.

Q. And their relationship to you.

A. Bertl was my uncle. Let me see now. There was – oh, yes, of course. My favourite aunt. Her name was Anna Sass, and she was the mother of the girl that I found the letters and photographs in her camp. Her name was Rosa. She had, I guess, two small children that I never met because, as I said before, didn't know that she was married until I found the photographs and some comments on it.

Q. Yes. Any more?

A. Oh, yes. Yes. I'm sorry, can't just rattle it off. I have to think. There was, cousin Finni who had two daughters.

Q. Did you meet the daughters?

A. Oh, yes, I did.

Q. What were their names? These are second cousins, are they?

A. Yes. Let me see, just for a second. I will get there. Johanna – I will get it in just a second. And Francesca. That's right. Let me see. Who else? My mother had, I think, three or four cousins in Vienna whose name I just can't tell you. I don't know. But I do remember that our gatherings that happened were quite large, and the —

THE COURT: A little louder, please.

THE WITNESS: The gatherings were quite large, and when these so-called family reunions came, we had people, some of them lived in Hungary, some of them lived in Czechoslovakia. There was another one, one in the United States, whose name was Leopold Schonthal. {1785|1786}

He was the nephew of my mother. He died, I think, about six or seven years ago. We saw him – I even saw him he went in the States in 1933 or '34. He lived in Los Angeles.

Q. Do you know that all these people were killed by the Germans?

A. Not Germans. I said Nazi. There is a distinction between a German and a Nazi.

Q. Yes. I will accept your term. Were all these people killed by the Nazi?

A. Except for the one in the United states.

Q. Well, how do you know that all these people were killed by the Nazi.

A. Well, the way I see it, there was one way in and one way out. I'm sorry, I cannot bring you a death certificate. I cannot bring you as I have read in the newspaper as you said, you said something that demanded – well that's how I know.

Q. How do you know?

A. A death or an autopsy report? Well, I can't bring you this. The only thing —

Q. Did you see them all go into the camp?

A. No, I did not. That would be a lie. Of course I didn't see them going into the camps.

Q. Some of them were quite old, I expect, when you last saw them?

A. In their fifties, yes.

THE COURT: I don't think that is very old.

THE WITNESS: No, it isn't, because {1786|1787} I am going to be sixty-one.

Q. MR. CHRISTIE: But anyhow, for example, your uncle would be ninety?

A. Oh, by now they would be dead for sure, unless they are Methuselah, they would be dead.

Q. Well, I take it, then, that you don't say that you saw all these people enter the camps?

A. No, sir. No. The only ones that I did see was my parents. That I can testify to. But as far as the rest is concerned, again, you are not allowed to talk about hearsay or that say or what say. There was one uncle, incidentally, that was left, and he lived in Switzerland. And I was a stamp collector in my time – you don't let me finish my sentence, sir.

Q. I'm sorry.

A. I think it would be of interest to you. After the War I was lucky enough to visit him in Basil, in Switzerland, and he asked me what my hobbies are. I said stamp collecting.

Q. I will ask you about that another time, sir. The only thing I want to know is who you saw going into the camps.

A; Just my parents; and the others not I saw them, but I found effects.

Q. That's ...

A. That's Rosa.

Q. Okay. And she had two daughters.

A. Yes, sir.

Q. Okay. When you were inside this building where you took the bodies out, did you see anything unusual about the colour of the bodies? {1787|1788}

A. Yes. I said that they were a little bit, their stomach was extended, their chest cavity was slightly extended. I think that one can say when you overeat a lot and your stomach extends, this is what I would say it looked like, right now – at that time I didn't.

Q. Have you ever seen people who starve?

A. Oh, yes.

Q. Don't their bellies get distended?

A. Well, I was even in that situation once. I weighed approximately seventy-three pounds when I came out of the camp in Dachau, and I am sure that you see that, too, yes. I saw a lot of people that had distended stomachs, but I think it was more pointed. Also their legs were very, very thick. I think it is called phlegmona or phlegmena. I had this

myself, where you put your finger into your leg, a cavity exists and it stays there, and that is water. And again, I wasn't ordered to do this, but somebody told me that the only way that I can get rid of it is to try and keep my legs in this position when I lay down in my bunk. So that is what I did. So then I run to the toilet which was a torture in itself, because the toilet was quite a piece away and I got rid of it somehow, the swelling of the legs.

Q. I was curious about the colour of the bodies. Anything unusual?

A. A little grayish, yes, but again, I didn't take any notice of that as one would to testify. This is by memory and it's a heck of a long time ago, but that's what I saw, yes.

Q. If they were bright red or bright {1788|1789} blue you would have noticed that, I suppose?

A. Maybe. I don't know. I just – I can only tell you what I think I saw.

Q. How do you know they were gassed?

A. Well, I don't think they died a natural death in there, because – well, two things. First of all, after we saw the bodies and we smelled the smell which was a mixture of something unknown to us and some thing that smell like excrement, I don't think that – I am not trying to be ironic, all right? But I don't think they crawled on top of each other, closed the door and died.

Q. Do you know what a Leichenkeller means?

A. Oh, yes. That is a death chamber. I know that better than you. I speak German.

Q. But isn't a Leichenkeller an underground mortuary?

A. Yes. But this wasn't underground. It is on the same floor. A Leichenkeller is something where you deposit your bodies. That is a Leichenkeller. Agreed.

Q. Did you tell us how you knew they were gassed? I mean, you told us —

A. I'm afraid I cannot answer that. I cannot answer this question, this particular question logically. It's like you asked me – you asked me the same question that a defence attorney asked me in Vienna ten years ago. He asked me, "How did you know this man was dead?" I said if I see a dead man and I touch him, I know he is dead. So that is the same answer I give you {1789|1790} right now.

Q. There is a difference between a dead man and somebody who is gassed, isn't there? And if so, what is it?

A. I respect your opinion. It is your opinion. It is not mine. As far as I am concerned I saw it. If there are twenty-five thousand people that go into a room and don't come out but dead ones, maybe it was asphyxiation, and I think gas did exactly the same thing. I'm sorry, I cannot get into technical terms with you because I am not a doctor. I don't pretend to be one. This is what I believe in, and that's all I can say.

Q. Yeah, but you weren't talking about twenty-five thousand, were you?

A. No. I said if twenty-five thousand people that were at the time in the camp and it starts to diminish and you see selections and you know where they are going, what are they going to do – take ten thousand people and shoot them somewhere? The Nazis had a much better way of getting rid of the surplus of what they wanted to do, and this was one means of doing it. I mean, it's like the humane society. I mean, the humane society might have ten cats that have no owners and are very, very sick, and what are they going to do – take a gun and shoot it? They have another way of doing it. Again, I only hear what I hear, that they give them injections or they can do some other things, but they get rid of them. What is the difference between death and death? It's death. You are talking the end result, the Endlesung.

Q. You say Endlesung means what?

A. That's it. It's a fait accompli. {1790|1791} If I put you into a room right now with some other people or with your family and I use the methods that they've used, this is the Endlesung. There is no other way out. Which way are they going to go?

Q. Did you say that this gas came n through the shower heads?

A. I didn't say that. You say it. I did not say it. Look, my – I am old, with respect to you, sir, but I feel that I'm old. Inside I am a hundred and twenty, but the point I am trying to say is this: I said to you before, and this memory is good, I said, quote, if I may repeat myself – this is not

hearsay – I said I saw the shower fixture in the ceiling. I did not say that there was water coming out. I did not say that there was any gas coming out down there. This is nothing else but a ruse, because why in heaven's name would they put "Brausebad", which means shower, put it on the outside?

Q. Did they?

A. Yes. And I saw it in three languages, and I only understood one which was Dutch.

Q. So now I gather there was some other foreign phrase.

A. Oh, yes. And this was, how shall I say, a way of putting people at ease, and again this is not hearsay, just my feeling and my gut feeling is pretty good. Even my parents probably felt at ease. The only – and this is not editorializing, but I don't believe that when the moment comes that you have to undress, which they had to do because their clothes didn't fall away from them, and you have men and women in one room, {1791|1792} somebody will say to them, "Hey, what the heck is going on?" I mean, let's be honest about it. You must understand that now we go to the German culture. The German culture is something that has been there for years. They are no slouches. No German would take his wife or his daughter and walk into one room without clothes on. Maybe if they are in a nudist camp, but not under normal circumstances.

So I know that my parents probably knew for whom the bell tolled, if I may use that expression from Hemmingway [sic]. That is the way it was, and I am very sad about it, and I am also very, very mad, sir, that I have to go through this whole thing again. I say this to you as a person, and – no —

Q. Well, thank you very much.

A. You are a human being, but to go through this whole thing again is very, very annoying to me. It really is.

Q. Well, can we just deal with questions?

A. Yes. Okay. Count to five and then you can start all over again, because I am getting all hot as a crackerfire. And I say this with a smile.

Q. Are you telling us there was nothing on the ceiling other than the showerheads?

A. No, sir, not that I saw.

Q. Thank you very much, sir.

A. You are very welcome, and I'm sorry if I have – but that's it.

Q. Oh, did you ever work in Kanada command in Birkenau?

A. Oh, come on. Do I look so naive to fall for a simple ruse like that? I told you that in {1792|1793} the beginning. I've told it to you at least fourteen times. Yes, I did. Why do you ask me that question now, sir? I mean, this is rather – I think that you —

Q. You did work in Kanada in Birkenau?

A. Of course I did. I told you that.

Q. Could I ask some questions about that?

A. Please do.

Q. I was going to show you some pictures and ask you if you recognize them.

A. Please show me.

Q. I think maybe I should start with the map. You've got the map in front of you.

A. Mm-hmmm.

Q. Is that area there Kanada? Just below "F"?

A. No, wait a minute. Just a second. You are talking about two different things. Kanada originated in Block IV in Camp No. I, which was the main camp. From Block IV it went into "D", when you build that thing. Okay? And then it was, I think, in Block 24, and later on they moved everywhere from here to this.

Q. Now, you are looking at a map, believe?

A. From Herman Langbein's book.

Q. And that is what you've used to refresh your memory?

A. As best as I could.

Q. And it has the designation for Kanada on it – it refers to 37 barracks.{1793|1794}

A. I don't know how many barracks there were.

Q. It's just next to the sauna.

A. Yes. It looks like it here. Another thing that you must remember, sir, is that when Krematorium II and III was built, Kanada wasn't there. Kanada was in Block 24 in Camp "D". I mean, I am sure that you know that.

Q. Well, you are the one giving the evidence here, and I just thought I would ask you a couple of questions about this. Is that the kind of thing that went on in Kanada? I am looking at page 127 of the Auschwitz Album.

THE COURT: That is Exhibit for Identification number

MR. CHRISTIE: I don't know.

THE COURT: It says right on it.

MR. CHRISTIE: Maybe I shouldn't do that.

THE COURT: No, you shouldn't do that.

THE REGISTRAR: It is Exhibit "B", Your Honour.

MR. CHRISTIE: Page 137 is what I want.

Q. I am showing you the same picture as on page 137.

A. May I see what this is, please? That's the Auschwitz Album. Just a second. Yes, sir. I never seen this, no. No, I haven't.

Q. Or anything like that?

A. I certainly seen something like that. {1794|1795}

THE COURT: Page?

MR. CHRISTIE: Page 138.

THE WITNESS: Page 138, 158. That's the number.

Q. MR. CHRISTIE: Yes, I see that. There's two numbers on the page, 138 and 158.

A. 138 is on the bottom, and 158 is for the picture. Each number has a picture

Q. I wasn't trying to mislead you.

A. No. No, you can't.

Q. But I put it to you that they are unloading onto a truck.

A. That's right. And this, if I remember, was the type of truck that was put on the ramp when the luggage was taken out at the cattle cars. As I told you before, they were dumped onto the ramp, and then later on, when the luggage – I said this – I am sure it is here somewhere – when it was taken out of the cattle cars, once the people were out, it was then collected, put on the truck and put to the barracks where they were to be sorted, and they were just dumped there.

Q. And this is being sorted there, and —

A. No, this is not being sorted.

Q. It is being unloaded?

A. Unloaded. That is what I will call it. Sorted was done on the ground.

Q. And the people are up on top of the truck. {1795|1796}

A. That's right.

Q. Unloading the truck.

A. Yes. If I look closer, maybe it's me. I don't think so.

Q. It's not a dump truck, though, is it?

A. I don't know what kind of truck it is. Maybe you can identify it better than I could. Well, it may be; I will tell you why. Why don't you look at this when I talk to you, sir?

THE COURT: Go ahead, witness. Answer the question.

THE WITNESS: You see this little hinged door that is down there?

Q. MR. CHRISTIE: Tailgate?

A. The tailgate. Okay. Now, every truck or dump truck had a tailgate. Remember when I said to you that the walls on the side of the truck were about that high at the beginning? I think I said it to you, Mr. Griffiths. Okay. And to dump this off – now, you cannot see any hydraulic lift underneath, you can't see this here; nobody can see that – not you, not anybody.

Q. I just see people unloading on the flat there.

A. I know, but what I do see is this: If this would have a hydraulic lift, it needed that type of a gate, because it has to fall down, and then you unload it and then it runs down. That is what they used to do with the people that they picked up between the barracks every morning. Anyway, what else do you want me to look at? {1796|1797}

Q. I was just going to ask you a final question. You said that the people in the pile of bodies in the gas chamber had the strongest at the top, struggling to get to the top of the pile. Is that your evidence?

A. That's what it looked like to me, yes. Again, without having anybody smirk at me, and I see somebody smirk at me and I can smirk right back in the audience, in the room, but what I say is this, that if you are extremely strong and you are trying to escape something, you are just going to crawl over everything, and this is really the indication, the view that I had, you know. Like, "It's coming. Now, let's get out of here. Where are we going to get out?" Like somebody to a door, he isn't going to go to this side where there isn't a door, but this side where there is a door.

Q. Where would they climb – something that is lighter than air, why would they go to the ceiling?

A. Because they must have been choking on it. Somebody must have happened to them.

Q. All right. Thank you, sir.

THE COURT: Thank you. Mr. Griffiths?

#### RE-EXAMINATION BY MR. GRIFFITHS:

Q. In the summer of 1944 where were you working?

A. Summer, where I was working in, I {1797|1798} was in Dachau.

MR. CHRISTIE: Excuse me, before my friend goes any further, rather than cause any difficulty, I wonder if you would permit me to ask a couple of questions in addition?

MR. GRIFFITHS: Certainly.

MR. CHRISTIE: Does that meet with Your Honour's approval?

#### FURTHER CROSS-EXAMINATION BY MR. CHRISTIE:

Q. How do you leave the camp – by transport, or did you walk?

A. Which camp?

Q. Auschwitz II, Birkenau.

A. Oh, Auschwitz. We went by cattle car. We went first to Buchenwald and we stayed there, I think, two days. Then from Buchenwald to Sachsenhausen, and stayed one day.

Q. I want to know how you got out.

A. Oh, by cattle car.

Q. You left by train?

A. By cattle car, sir. There is a difference between a train and a cattle car. It may be the same vehicle – you have a locomotive put on – but a cattle car is a cattle car.

Q. What is the difference between a cattle car and a box car?

A. Well, if the train you can sit {1798|1799} down, you have seats – there you just stood. As a matter of fact, we were tramped into such an extent that if somebody died, it didn't even fall down. Just stood up. And there were a lot of people who died during that trip because it took us a hell of a long time to get us where we were supposed to go.

Q. And you knew the secret of the gas chamber, but you were never killed yourself?

A. I, kill? I wouldn't even kill you, sir. I wouldn't kill anybody.

Q. You knew the secret of the gas chamber, but you were never killed yourself.

A. No, I was not, sir.

Q. Now, were you ever injured in Birkenau?

A. Yeah. Once. Right there. I am not going to – there is one thing I will tell you right now. I will not go back and destroy my life by thinking I on things that I sincerely tried to forget, and no matter, anybody, nobody is going to do to me. Yes, I have injuries, sir.

Q. And you went to the hospital?

A. No.

Q. You got better.

A. No.

Q. You didn't get better?

A. No. I got better, yes. What I did was that I found a Dutch physician and a Czech physician; and to go to the hospital was almost "like signing your own death warrant". They cut me open – it is still very visible because all the flesh grew the {1799|1800} wrong way. They cut me inside there, down there, and the pus came out. I got hit by a type of a

walking stick. It wasn't a whip or something like this. Right on here. And this started to swell up and it got worse and worse, and they cut it open and they put on paper bandages. There weren't other ones. And I tried to hide it when I went out because I didn't want anybody to know that I was injured.

Q. Thank you. Just one final question. How is it that you got away with such a secret about the gas chamber?

A. Whose secret is this? It isn't my secret. It may be somebody else's, not mine. Look, if it happens to you, you react in a completely different way. In other words, if it is something that is very, very bad – and this is very bad – you try to suppress it. What do you want me to do – go around in my office at Loblaw's and say, "Hey, you know me? I used to work in the gas chamber for one afternoon. I saw dead people." What do you want me to do? I don't suppress anything. I only wish to God that this wouldn't have come out, sir.

Q. Yeah. You left Auschwitz and went to other camps knowing what you tell us now.

A. Yes, sir.

Q. All right. Thank you.

A. You are very welcome.

THE COURT: Now, Mr. Griffiths.

—— {1800|1801}

#### CONTINUED RE-EXAMINATION BY MR. GRIFFITHS

Q. The Dutch and Czech doctors that treated your hand, were they part of the administration of the camps, or were they prisoners?

A. Prisoners.

Q. And in the summer of '44 I believe I asked you where you were working.

A. The shingling Kommando.

THE COURT: You were working ...

THE WITNESS: As repairing roof.

Q. MR. GRIFFITHS: Repairing roofs. All right. So you're on a rolling command, the Kanada command at that time?

A. No. I got out of it. I became quite ill, mentally and physically, and I couldn't see it any more, and I had to get out. So after being there for some time, I got to know certain people and there was one, if I may relate this – this is not hearsay, it happened to me – there was one Kapo which run the roofs, the Kommando – sorry, I didn't know I was going to fall into German. Through somebody that worked with me I expressed my desire, and also a prisoner, that I have to get out of there. Kind of just blow my mind, as you say, it was, really. I had illnesses, too, and I got out and started with him.

Q. Okay. Stop there. I have no further questions.

THE COURT: Thank you. You can step down.

MR. CHRISTIE: What was the last {1801|1802} statement by my friend?

MR. GRIFFITHS: I have no further questions.

THE COURT: We will adjourn till two-thirty.

— The witness stands down.

— The jury retires. 1:00 p.m.

— Luncheon adjournment.

——

— Upon resuming.

— The jury enters. 2:30 p.m.

MR. GRIFFITHS: Call Henry Leader, please.

#### HENRY LEADER, sworn.

#### EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:

Q. Mr. Leader, I am going to ask you to speak in a loud, clear voice so that the jury can all hear you. All right? I understand, Mr. Leader, that you were born in Lublin, in Poland.

A. Right.

Q. In 1919.

A. Correct.

Q. And you were living in Lublin with {1802|1803} your family when War broke out in Poland?

A. Yes.

Q. 1939?

A. Yes.

Q. And can you tell us whether you and your family were ever arrested?

A. Before the ...

Q. In 1941.

A. Yes. We were all rounded up, and not only us, but several thousand people, and they were taken to a marketplace and from there we were transported to Maidanek Concentration Camp.

Q. How far is Maidanek from Lublin, approximately?

A. Twelve kilometers.

Q. And how large a city was Lublin back then, again approximately?

A. Lublin was a city about seventy-five thousand.

Q. Did you have any family living with you in Lublin in 19 —

A. Well, I lived with the whole family. All of us lived in Lublin.

Q. How large was your immediate family?

A. The immediate family would have been around a hundred or —

Q. All right. By "immediate family" you mean brothers, sisters, mother and father?

A. Brothers, sisters.

Q. And were your parents both still alive in December 1941? {1803|1804}

A. Yes.

Q. And do you know what month it was that you were all rounded up and taken to the Central Plaza?

A. Month of December.

Q. After you were taken to Maidanek did you ever see any of your brothers and sisters or your parents again?

A. No.

Q. Can you tell us what you found when you got to Maidanek? What was it like as a camp?

A. We were taken to Maidanek. The first thing is like the able-bodied people were taken into a room where we had to disrobe and give up a lot of possessions, and then we were – we got the hair cut, and disinfected, went through a shower, and got striped clothes and took us into the barracks.

Q. How large – did you get a number when you were in Maidanek?

A. Yes.

Q. What number did you get?

A. 1967.

Q. 1967?

A. Right.

Q. And how long were you at Maidanek for?

A. I was in Maidanek December 1941 until June 1943.

Q. While you were in Maidanek can you tell us the youngest age of any of the prisoners that you can recall seeing? {1804|1805}

A. What I can recall, there were two young boys about the age between fifteen and sixteen.

Q. Were there anybody, any boys or girls younger than that?

A. Girls we didn't have. This was a men's camp. The women's camp was in a different camp.

Q. Were there any boys, then, younger than fifteen or sixteen?

A. No.

Q. And can you tell us approximately the oldest age of the inmates that you can recollect?

A. Probably about fifty.

Q. In the year and a half that you were in Maidanek, did you see any boys under sixteen or men over fifty that were brought into the camp?

A. No.

Q. Did you have a job at the camp?

A. Yes.

Q. And can you tell us about your job at the camp?

A. My first job was at a building company. It was called the —

Q. Maybe you can give us the English translation and save the reporter.

A. It was a construction company where we were digging trenches for



sewers or water trenches, and I was on that job for about five weeks. And then, after that, the camp was very filthy. We all had lice. The lice were crawling all over us. So they close up that camp for the period of three weeks, and they took us into another camp. Like Maidanek consisted of five camps {1805|1806} and like I, II, III, IV and V. Now, I was in Camp II. They took us over to Camp III, which it was just about brand newly constructed with no heating. They kept us there for three weeks while there they fumigated Camp II.

Q. You said about when in 1941 and '42?

A. That was at the end of January until the later part of February.

THE COURT: 1942?

THE WITNESS: Right.

Q. MR. GRIFFITHS: Were you sick at that time?

A. I had typhoid.

Q. Did you get any treatment for typhoid?

A. Not at all. As a matter of fact is that I had to go to work.

Q. Were there other people that had typhoid in Camp III during that quarantine period?

A. Yes. I would say sixty or sixty-five per cent of the people had typhoid.

Q. Did you see anybody get any treatment?

A. No, there was no treatment whatsoever.

Q. Where did you work when the quarantine was lifted?

A. Then we were assigned to, they called it transport gang. It was like one of those vans.

Q. Vans?

A. Yes. And we were eight people to {1806|1807} a van, and what we used to do, we used to haul from the railroad station to the kitchen, or potatoes or kohlrabi. And then, after about five weeks, they assigned us to carry people from the crematorium – from the gas chamber to the crematoriums, because I will explain that.

In Maidanek the gas chamber was a separate building out of the crematorium. It was about three to three hundred fifty yards away. So what they used to do, like the people inside in the gas chamber, they used to throw the people out on a ramp. It was like about two meters by two meters square opening.

Q. Two meters square opening where?

A. In the gas chamber.

Q. All right.

A. In one of the walls. And we used to pick those people up from the ramp.

Q. Would they be living or dead?

A. They were dead. Dead, naked. And we used to load them up on a wagon and transport them over to the crematorium. And in there we drove up again those ramp and we loaded them up on those ramp, and the people inside used to take them in.

Q. All right. Now, the building that you called the gas chamber, was there anything else in that building aside from this place where you would take dead bodies?

A. I'm sorry, sir?

Q. Was there anything else in that building aside from this area where you would pick up dead bodies?

A. No. There was – there were showers. {1807|1808}

Q. There were showers in the same building?

A. Yes. And in the gas chamber building.

Q. Were you ever inside the room that the bodies came out of?

A. No.

Q. How was it that you were able to see inside through this two-meter square opening?

A. Oh, we could see the people inside were dragging the bodies up. They were wearing masks.

Q. What kind of masks?

A. Face masks. Just a face mask.

Q. Face masks.

A. Yes.

MR. CHRISTIE: I wish my friend would not cross-examine his own witness by putting to him what he said and hope that he will change his

answer. I don't think he should repeat the question more than once.

MR. GRIFFITHS: I haven't repeated the question, Your Honour.

MR. CHRISTIE: Well, I suggest you put to him what he said again. It amounts to the same thing.

THE COURT: Go ahead.

MR. GRIFFITHS: Thank you, Your Honour.

Q. Can you describe to us the "mask" any more than that?

A. It was a mask over the face, like., In reality, or like myself, I didn't pay too much {1808|1809} attention to it because the most important thing was to try to survive.

Q. How many bodies would your van hold?

A. About twenty-five.

Q. And can you tell us [ ] whether or not this was a motorized van?

A. No. It was a one pulled by eight prisoners.

Q. Were there any more vans of a similar nature?

A. There were three vans altogether.

Q. And can you tell us [ ] whether the bodies were clothed or naked that came out?

A. The bodies were naked, completely naked.

Q. Can you recollect if there was anything that you noted as to age or sex of the bodies?

A. Oh, there were children, women, men.

Q. How often would you be called upon to perform this task?

A. If the transports were heavy, so we were working sometimes constantly for the day. And if there were only people who sort of died in camp or half-dead, so we were called sometimes twice a day or three times a day, depends on the workload.

Q. Did the routine ever change – taking them from one area of the camp to the crematorium?

A. No. I did not get it, that question, sir. {1809|1810}

Q. All right. Did you ever take the bodies anyplace other than the crematorium?

A. No. At one point, in March, actually. they brought a transport of white Russians. like families – men, women and children – and the crematorium couldn't handle it, so what they had outside the camp. there was what they call a pit, something like a ravine, and we used to transport the bodies to that ravine. And in that ravine we used to put a layer of wood, a layer of bodies, and then again. And they would pour some kind of liquid and put it on fire.

Q. And how long would those fires burn?

A. I'm sorry?

Q. How long would those fires burn in that ravine?

A. In some cases it was going on for twenty-four hours. The same thing also happened when the Warsaw Ghetto was created. Again, it was a lot of gassed people, so they used the pits at the time, also.

Q. How far outside the camp were these pits?

A. Approximately about one kilometer.

Q. And other than the – when you went outside the camp, was there any other transportation used other than the three vans?

A. Oh, when the load was heavy they also used land trucks.

Q. In June of 1943 you left Maidanek?

A. I didn't leave there. They took me to Auschwitz. They selected several hundred people and {1810|1811} they transported us to Auschwitz-Birkenau.

MR. GRIFFITHS: May I see Exhibit No. 1 please?

Q. On page 18 of Exhibit No. 1 under a chapter heading, "Auschwitz and Polish Jewry", Chapter 6, there's a sub-heading called, "The Warsaw Ghetto", and the first sentence of that sub-heading says:

*"In terms of numbers, Polish Jewry is supposed to have suffered most of all from extermination, not only at Auschwitz, but at an endless list of newly-discovered 'death camps' such as Treblinka, Sobibor, Belzec, Maidanek, Chelmno and at many more obscure places which seem suddenly to have gained prominence."*

Do you have any comment on the word, "newly-discovered death camps", sir, from Maidanek?

A. I'm sorry, I didn't get it.

Q. All right. Well, I will leave that.

In June of '43 when you went to Auschwitz, can you tell us which camp you were in?

A. I was in Camp "D", Birkenau.

Q. All right. Have you ever looked at a map subsequently to see if you can find where Camp "B" [D] in Birkenau was?

A. I went personally back twice after the War.

Q. All right. And how long were you in Birkenau for?

A. I was in Birkenau from June 1943 {1811|1812} until October '43.

Q. October '43. Okay. Could I see the exhibit, the large map of Birkenau, Exhibit No. 21.

Now, can you find, down here, the camp that you were assigned to?

MR. CHRISTIE: Maybe he could mark it with a pen so —

MR. GRIFFITHS: Yes. I will have it marked. I have a coloured pen. It can be distinguished from others.

Q. Can you orient yourself on that map, or if you can't, just say so.

A. Not very well.

Q. All right. Your recollection is, though, that you were working in "BIID", Birkenau "D" camp?

A. Right.

Q. And what was your job while you were in Birkenau?

A. We were in construction company where we worked on roads, digging trenches, building construction.

Q. All right. Can you describe for us the area where you were working?

A. I was working beside the crematoriums like between the road to the crematorium and the hospital.

Q. All right. Can you describe for us how you would get to your work site? And perhaps that way we can figure out which crematoria you were working near.

A. Well, we worked out from Camp "D", {1812|1813} turn to the left, and down the road. The crematorium were located on the righthand side, and hospital was on the lefthand side.

Q. All right. And what were you doing in this area again? You are building roads?

A. We were building roads, gravel roads, digging ditches, right adjacent to the crematorium fence.

Q. Can you tell us what kind of a fence this was, what material it was made out of?

A. It was a wire fence.

Q. Did you ever have an opportunity to look through that fence and look in the direction of the crematoria?

A. Yes.

Q. Can you tell us what you saw when you looked through there?

A. Well, we saw daily transports come again by dump, dump trucks. It depended, some days there would be six or seven trucks at a time. Certain days there would be three trucks, and some incidents there was a single truck that yanked people.

Q. And are you able to estimate how many people would be on the truck, or did they vary, or can you tell us anything about that?

A. Oh, rough estimation would be about a hundred people.

Q. And what would happen when that truck came?

A. When the truck drove in through the gate in the matter of approximately a half an hour, there {1813|1814} would drive out empty.

Q. Did you ever see anything on those trucks?

A. Coming out?

Q. Yes.

A. Empty. On some instances, like after a day's operation, there would be a truck-full of clothes.

Q. Where did the people go that were on the truck, the hundred people on one of those trucks?

A. Into the gas chamber.

Q. Well, did you see where they went?

A. They went in the doors of the gas chambers.

Q. And were you ever inside that building?

A. No.

Q. Okay. Did you ever see any of those people come out again?

A. No.

Q. Do you know where the shower was, or we have also described it,

described as a sauna at Birkenau.

A. Yes.

Q. Where was that in relation to where you saw the people dropped off?

A. It was in the same area.

Q. And did any of the people enter the shower building dropped off?

A. I really cannot tell those. I don't know it. {1814|1815}

Q. In October you said you moved to a different camp?

A. Right.

Q. And —

MR. CHRISTIE: He said October 1943.

Q. MR. GRIFFITHS: And how long had you been at Auschwitz?

A. Pardon?

Q. How long had you been at Birkenau?

A. From June 1943 until October '43.

Q. Where did you then go in October of '43?

A. October '43 we were taken again, a group of us, to a place called Yavochnov (phonetic), to the coal mines.

Q. And what was your job there?

A. We went to the pits and we were, loading coal on the conveyers, putting in charge to —

Q. How many people would be in your work group, in your Komando at the coal mine?

A. We were two hundred people; two hundred day shift, and two hundred night shift.

Q. Would you always work one shift?

A. Once days and one nights. One week days and one week nights.

Q. Did anybody ever die in the coal mines?

A. All kinds of them. In some cases we had to take our corpses with us, so in some cases there weren't enough people to carry those corpses home.

Q. How long were you at the coal mines {1815|1816} for?

A. Until January 5th, 1945.

Q. And where did you go then?

A. Then, when the Red Army advanced, so they took us to a railroad station and we were transported to Mauthausen in Austria.

Q. Yes. How were you transported?

A. We were transported by cattle cars, on a train, in cattle cars.

Q. How long was that journey?

A. That journey took about six days. To begin with, when they loaded us in into those trains, they did not have a locomotive. So we were sealed up in that railroad station for about eighteen hours. And then, finally, they got a locomotive and they transported us, and then there were, at intervals, at certain stations, they had to stop to give priority to the Army, Army trains.

Q. Was your wagon ever opened, the cattle car that you were in?

A. No. No.

Q. Was there any food or water given to ...

A. No. No food, no water.

Q. Did anybody die in that trip, in your wagon?

A. Quite a few. About thirty to thirty-five per cent of the people.

Q. How long were you in Mauthausen for?

A. Mauthausen I was there for two {1816|1817} weeks, and then I was transferred to Gussen II.

Q. And how long in Gussen?

A. In Gussen it was approximately two and a half weeks.

Q. And where did you go from there?

A. And from there they took us to a place called Risa (ph) near Theresien, which was a munition factory.

Q. And how long were you in Risa for?

A. About seven weeks.

Q. So about where are we now in 1945 when you are finished with Risa?

A. We are now beginning of April.

Q. What happened then?

A. And then again, when the Red Army advanced, so they evacuated us on foot. We didn't know where we were going, but eventually we

arrived in Theresienstadt, in Czechoslovakia.

Q. How long did that march take?

A. That took thirteen days.

Q. Were you fed during the thirteen days?

A. No. We were fed what we call three times during those thirteen days.

Q. Anybody die on that trip?

A. About thirty-five to forty percent of the people, that when a person could not march any more, so he would fall off to the side and then he was shot and left behind. Or if someone got out, then ...

Q. Just take a minute. {1817|1818}

A. Or if someone got out of line, you know, there was grass already or leaves, and wanted to catch a leaf or so, and so then he was shot also, because that meant that he was running away, because, you know, we were marching in five. Once you stepped out of line, that means that your attempt was to run away.

Q. And I understand that you were liberated at Theresienstadt.

A. Right.

Q. Can you tell us if any members of your family, cousins, aunts, uncles —

A. No. Nobody.

Q. Nobody survived.

A. No, nobody from both sides. Whole two generations were wiped out.

Q. And did you ever apply to the West German government for indemnification or compensation?

A. Yes, I did.

Q. And were you given any award of indemnification compensation?

A. Yes.

Q. Can you tell us how much?

A. Yes.

Q. How much?

A. I got once, I think, about \$3,500.

Q. That's it?

A. Now I am getting a monthly pension.

Q. How much is your pension?

A. About \$230 monthly.

Q. Mr. Leader, are you involved in any conspiracy or fraud to try to fool the world into thinking {1818|1819} that millions of Jews died?

A. No, sir.

Q. Thank you. I have no further questions.

THE COURT: Yes. Go ahead, Mr. Christie.

#### CROSS-EXAMINATION BY MR. CHRISTIE:

Q. I just want to show you a couple of photographs and ask you if you will recognize these as the gas chambers in Maidanek that you looked at.

I am showing you two photographs, actually. The one at the bottom is the one I am asking you if that is the gas chamber you spoke about.

A. No, I don't. No, I don't.

Q. What do you mean, sir? You don't agree that that is, or you don't recognize it?

A. I don't recognize it.

Q. Okay. Thank you.

MR. CHRISTIE: Could that be marked for identification, Your Honour?

THE COURT: Yes.

— EXHIBIT "M" (For Identification): Two photographs.

Q. MR. CHRISTIE: I will show you another photograph. Does that look like the place you described as the gas chamber?

A. No. This does not describe anything {1819|1820} to me, because this is an inside photo, unless I stated in my testimony that I haven't been inside a gas chamber.

Q. No. I thought perhaps you had looked inside. That is what I understood.

A. Through the opening to the ramp, which it was the side of the gas chamber.

Q. So you don't recognize that, either?

A. No.

MR. CHRISTIE: Could we mark that for identification?

THE COURT: Yes.

— EXHIBIT "N" (For Identification): Photograph.

Q. MR. CHRISTIE: Do you remember where, in the camp, this was in Maidanek?

A. Yes, I do.

Q. If I showed you a map of Maidanek you could identify it; could you? Could you?

A. I'll try.

Q. Okay. Does this look like Maidanek?

A. Yes.

Q. Okay. So if I give you a coloured pen you could maybe mark it in with a green circle as to where the gas chamber was?

A. Well, let me get my orientation.

Q. All right. Would it be possible now to find it, sir?

A. Which one was the main road into the camp? {1820|1821}

Q. I will give you a pen, and if you can identify the area where the gas chamber was, perhaps you could circle it, sir. Would that be okay?

A. Okay.

Q. Thank you.

THE COURT: Any problems? You are having a problem?

THE WITNESS: Yes, I do. I want to locate the entrance to the camps.

THE COURT: I see.

Q. MR. CHRISTIE: If it's impossible, sir, you can just tell me and —

A. Sir, it's now about forty years, you know, and I really did not anticipate that after forty years that I'll be in Canada as a free citizen and testify and re-live my experience. So it is a little emotional.

Q. Well, it's my understanding that you contacted the prosecutor to volunteer in the middle of the trial to give testimony. Is that right?

A. Yes, I did.

Q. Okay. So I am not trying to put you into any emotional difficulties, but can you draw that location of the gas chamber for us?

A. I am not a hundred per cent [sic] sure, because this little map doesn't really tell me too much.

Q. Okay.

A. If you will appreciate, that being there one doesn't pay too much attention how the layout is. The only attention was paid is to try and get a hold of a slice of bread or try to avoid beatings or to {1821|1822} stay alive.

Q. Mm-hmmm.

A. I don't think that any of the prisoner was pre-occupied with little details how the camp lies, and it's been a long time. It's forty years now, sir.

Q. Yeah. Well, do you know where the crematorium was?

A. The finish line, Maidanek Camp.

Q. In Maidanek Camp. You said you took the bodies to the crematorium in Maidanek Camp.

A. Right.

Q. Can you identify that on that map?

A. Not very well.

Q. When you were taking the bodies out of a room through an opening that was two meters by two meters, and some people you said were with masks over their heads, it seemed to me ...

A. Mm-hmmm.

Q. ... was there rigor mortis? Were they stiff?

A. I didn't get it.

Q. Were the bodies stiff?

A. Were they stiff?

Q. Yes.

A. Not really.

Q. No? Were they coloured, a bright colour at all?

A. I really didn't pay too much attention, because there was always an S.S. man with a big whip standing aside and rushing us. {1822|1823}

Q. Mm-hmmm. Do you remember what colour they were at all?

A. What colour of a body? Some bluish.

Q. Bluish.

- A. Or
- Q. Is that right?
- A. Yes.
- Q. Okay. Now, did you see anything in there that indicated that there was gassing going on, or —
- A. All I saw that there were gas people throwing out on the ramp, and we were loading them in our wagons.
- Q. How do you know they were gassed?
- A. Oh, I don't know how to answer you that question.
- Q. Well, was there anything about them that was unusual — their bodies, colour?
- A. I don't think that I can answer that question, because as I said before, that I did not pay any attention what colour they were. The only thing, you know, we were supposed to is grab him, load him up to the wagon, grab him, load him up as fast as we could, and as fast as we did it wasn't fast enough.
- Q. Now, the doorway which was two meters by two meters through which these bodies were hurled toward you — right?
- A. Right.
- Q. What was it like?
- A. You mean the opening? {1823|1824}
- Q. Yes.
- A. Well, the opening was about approximately two meters off the ground.
- Q. Yes.
- A. With a platform.
- Q. Yes.
- A. Of about two by two square meters. And there was a square opening in that crematorium wall.
- Q. I see. How was it opened or closed? Was there a door on it?
- A. I cannot answer, because when we drove up, that opening was open.
- Q. Mm-hmmm.
- A. And the minute we backed our wagon up, the bodies were tossed out on that ramp.
- Q. So you don't recall if there was a door at all.
- A. Not really.
- Q. No. How would you distinguish this from a mortuary where bodies are kept?
- A. You mean an ordinary mortuary? Like a ...
- Q. Well, I am not suggesting one like the local funeral parlour; but how was this different from a place where bodies are gathered up and kept until they can be cremated?
- A. I never saw one.
- Q. I see. Well, you said you were cremating people who had died in camp as well.
- A. Right.
- Q. And you took them on the same carts, {1824|1825} I suppose.
- A. In camp the people who died in camp, if I can give you a little — the way it was in Maidanek, we were fed once a day, and in the evening when we lined up for our ration, if someone did not look too well, so he was taken to a Block 19, what they call it, and there, in that block, those people would be finished off like, you know — killed or ...
- Q. How do you know that? Were you there?
- A. Well, it's obvious that ...
- Q. Well, how was it obvious? They were there.
- A. It was obvious that we took people and they lined up for a ration and went to Block 19, which was two barracks away, and the next morning they were layed [sic] out in the roll call field, in fives, counted, and then they were carted the crematorium.
- Q. So because they died overnight in Block 19, you figure they were starved?
- A. They didn't die. They were murdered, gagged or whatever.
- Q. How do you know?
- A. Well, you are asking me questions, how do I know? I have been there for so long, and obviously, that was what happened.
- Q. Well, you were there for quite a while unloading these bodies out of this two-metre square hole, and you didn't look inside and you don't know what's in there, so how do you know it was in Block 19?
- A. Block 19 was a special gang who {1825|1826} they were occupied with finishing people off, and we didn't have any entry. It wasn't like an exhibition, or that we were let in and watch.
- Q. No. Well, obviously you are relying about what other people told you.
- A. No, I am not lying. This is a fact.
- Q. Well, how do you know it is a fact?
- A. The fact is that there were people who worked with me side by side —
- Q. They told you?
- A. — around us, and the next morning they were taken away in the evening to Block 19, and the next morning they were layed out on the ground.
- Q. Mm-hmmm. Why were they taken away?
- A. Because they were too weak.
- Q. Too weak to work?
- A. They figured they were too weak to work.
- A. Yeah. Well, did you get typhus, or typhoid? There is a difference, isn't there?
- A. Typhoid.
- Q. Do you know the difference between typhus and typhoid?
- A. Well, the difference is that I am not a physician, but I had a high fever, dysintery. [sic]
- Q. Well, I put it to you that typhoid you get from drinking bad water; is that right? Do you know that?
- A. No, I don't know. But we were {1826|1827} getting typhoid because it was dirt, lice.
- Q. You get typhus from lice, don't you? Do you know the difference between typhus and typhoid?
- A. Not really.
- Q. No. Well, what symptoms did you have? What did you suffer? What was your disease?
- A. Diarrhea, fever, lack of appetite or no interest in food whatsoever.
- Q. Were you aware that — well, do you speak German?
- A. Yes.
- Q. Did you understand German at that time?
- A. A little bit.
- Q. Was it referred to black fever?
- A. No. This wasn't.
- Q. No? What was the word in German you used to describe the disease you had? Was it Typhus in German?
- A. Fleckenfieber [Fleckfieber].
- Q. Yes, that's what I thought. Fleck fever.
- A. Fleckenfieber.
- Q. Yeah. And that's typhus from lice, isn't it?
- A. I suppose so.
- Q. You obviously recovered from the disease, [sic] eh?
- A. Yes, I did.
- Q. Lots of people didn't, though. Right? {1827|1828}
- A. Right. Correct.
- Q. A lot of people died from that disease, isn't that correct?
- A. Correct.
- Q. They became emaciated and lost interest in food and got dysintery [sic] and diarrhea.
- A. Correct.
- Q. Was there a delousing chamber?
- A. A delousing chamber?
- Q. Yeah.
- A. Well, the delousing chamber, I think I explained before, they took us over to Camp No. 3. While we were in Camp No. 3 they deloused Camp No. 2, sealed up the barracks, and then they took us, gave us a shower and a hair cut and new set of clothes.
- Q. Yeah. Were these bodies that you handled emaciated bodies?
- A. I'm sorry, sir?
- Q. The bodies that you handled, took to the crematorium on the carts,

were they emaciated bodies?

A. How do you mean?

Q. Were the bodies that you took to the crematorium emaciated, skinny bodies?

A. Not really. What do you mean by skinny – like we looked in camp?

Q. Yes.

A. Well, there were very well good-looking bodies, tall bodies.

Q. Were they covered in bright colours at all? We have gone through this. I don't know if you {1828|1829} recall.

THE COURT: I think we have.

THE WITNESS: Yes.

Q. MR. CHRISTIE: And these occasions when you had to haul more bodies was when transports arrived, right?

A. Right.

Q. And on your transports to and from various concentration camps, many people died from the lack of food and water, didn't they?

A. Correct.

Q. In some cases you said thirty-five per cent.

A. Correct.

Q. When you handled these bodies did you cover yourself with anything?

A. No, sir.

Q. Did you wear gloves?

A. No, sir.

Q. Did you ever get sick from handling those bodies?

A. Well, nauseated, at times.

Q. Because of the appearance, I suppose?

A. Well, whatever it was.

Q. Was there a smell, of course, associated with these bodies?

A. Definitely.

Q. Could that have been why the people were wearing the masks in the room while they were handing them out to you? {1829|1830}

A. I'm sorry?

Q. Could that have been why there were masks on the bodies inside the room when they were handing them to you?

A. I assume so.

Q. When you went to Birkenau, you travelled in a train?

A. Yes.

Q. Now, you referred these as cattle cars. These are just boxed cars, aren't they?

A. Well, they call them box cars, you know, sealed box cars.

Q. I think the box cars are with solid wood, sides up to very close to the top where there is a small space. Is that right?

A. Right.

Q. Whereas cattle cars are either open halfway up, or they have a —

A. No. These were closed boxes.

Q. So these were box cars;

A. Right.

Q. Now, when you got to Birkenau, you were there doing — did you go through a delousing procedure yourself at Birkenau?

A. Yes.

Q. Isn't that where they take you to the place where there's showers and they take your clothes and they either steam or put your clothes into a chamber and you have a shower and then you get your clothes back?

A. No. You then — they didn't get our clothes back. When we were taken to Birkenau we were {1830|1831} taken to the women's camp, which there were two camps, and in there we went through showers, gave our clothes up, because like in Maidanek and the last year they took away our striped clothes and we were wearing like civilian garb with a mark on the back, "KL" — Konzentration Lager, and the same thing we had on our right pant, red paint mark with "KL", and when we came to Birkenau, our clothes was taken away and we were given —

Q. Another new set of clothes.

A. — a new set of clothes, like striped clothes.

MR. CHRISTIE: Could I have that Birkenau map again?

Q. When you got to Birkenau did you go to the camp on the railroad?

A. No. We got off near Auschwitz.

Q. Mm-hmmm.

A. And then they marched us into the women's camp.

Q. Into Birkenau.

A. Right.

Q. When was that again?

A. 1943.

Q. I am going to show you the map again. I am going to make a suggestion to you, and you tell me if I'm right. Is that the women's camp there on the left where it says, "F"? Would you agree that the object immediately left of the "F" would be the showers and the Women's camp?

A. I don't recall, sir.

Q. You don't remember, eh? {1831|1832}

A. No.

Q. You were in "D" you say?

A. Camp "D", yes.

Q. Camp "D". And that is the one that's marked "BIID", is that right?

A. That's right.

Q. And you worked where when you went to work?

A. This one, if I am correct.

Q. Around here somewhere.

A. In here, if I got my orientation right.

Q. Well, as I heard you before, you said you went out of Camp "D" and went left and you turned down the road.

A. Right.

Q. How far down the road did you go after you turned left?

A. Oh, approximately about three to four hundred meters.

Q. And was the road straight or did it turn?

A. It jogged a little bit to the right, I think.

Q. You think it jogged to the right.

A. Right.

Q. I suppose it is pretty hard for you to identify exactly where you were in the camp?

A. Well, I can recognize the Camp "D".

Q. Where you went to work and saw the people go into the building and the clothes come out, I {1832|1833} don't suppose you are really sure where that was.

A. I am positively sure where that was. I may not recognize it on the map, but I am positively sure where it was.

Q. Was it a building that you, yourself, had been into at all?

A. The crematorium?

Q. Yeah.

A. The gas chambers.

Q. Well, you call it —

A. No.

Q. You have never been in there.

A. No.

Q. Have you ever been in the building marked "F"?

A. No.

Q. When you went to Birkenau you went into the camp with your old Maidanek clothes on.

A. Right.

Q. You went into a shower room somewhere.

A. Mm-hmmm.

Q. You left your old Maidanek clothes and got some new clothes.

A. Right.

Q. Did you ever see what they did with your old clothes?

A. No.

Q. You just left them there.

A. That — we did what we were told to do.

Q. I am not blaming you; I am just {1833|1834} asking you.

THE COURT: We will adjourn for fifteen minutes.

— The jury retires. 3:30 p.m.

— The witness stands down.

— Short adjournment.

— Upon resuming.  
 — The jury returns. 3:58 p.m.  
 — The witness returns to the stand.  
 THE COURT: Go ahead, Mr. Christie.  
 MR. CHRISTIE: Thank you, Mr. Leader. I have no further questions.  
 THE COURT: Yes, Mr. Griffiths.  
 MR. GRIFFITHS: There is nothing arising out of that, Your Honour. Thank you very much.  
 THE COURT: Thank you, Mr. Leader. You can step down.  
 — The witness retires.  
 THE COURT: Mr. Griffiths?  
 MR. GRIFFITHS: Your Honour, I have no other witnesses available this afternoon.  
 THE COURT: Will you have some available in the morning?  
 MR. GRIFFITHS: I certainly will. {1834|1835}  
 THE COURT: Members of the jury, please-keep an open mind. Please resist the temptation to follow this trial on television or in the media. Please don't speak to anyone about it beyond your number. Nine thirty tomorrow morning. Thank you.  
 — The jury retires. 4:00 p.m.  
 — Whereupon the hearing is adjourned to January 29, 1985.

### **JANUARY 29, 1985**

— Upon the hearing resuming.  
 THE COURT: The jury, please.  
 — The jury enters. 10:40 a.m.  
 THE COURT: Go ahead, Mr. Griffiths:  
 MR. GRIFFITHS: Thank you, Your Honour.  
 I call Mr. John Burnett.

### **JOHN THOMAS BURNETT, sworn.**

#### **EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:**

Q. Mr. Burnett, I understand, sir, you are employed with the Royal Bank of Canada? {1835|1836}  
 A. That is correct.  
 Q. And what is your position with the Royal Bank?  
 A. I am a senior vice-president and general counsel.  
 Q. And are you, in your role of senior vice president and general counsel, familiar with the workings of the Royal Bank?  
 A. To a large extent.  
 Q. How does the Royal Bank compare in size to other banks in Canada?  
 A. Well, it's the largest bank in Canada, measured by assets. It is the fourth largest bank in North America, again measured by assets. And it ranks somewhere in the top twenty banks in the world in size, again measured by assets.  
 Q. All right. And can you tell us who owns the Royal Bank?  
 A. Approximately ninety thousand shareholders.  
 Q. It is widely held?  
 A. Widely spread, most of whom are resident in and citizens of Canada.  
 Q. Does the Royal Bank do any business in countries other than the United States?  
 A. Oh, indeed. The bank carries on business in approximately forty-five different countries throughout the world through various vehicles, branches, subsidiaries, representative offices, agencies.  
 Q. All right. And in Canada are there any domestic controls, government controls on the operations {1836|1837} of the Royal Bank, or any other Canadian Bank?  
 A. Yes. Chartered banks in Canada are governed by the Bank Act, which is a Federal Statute.  
 MR. CHRISTIE: Your Honour, the witness is venturing into the realm of opinion, and I haven't heard any qualifications of him as an expert.  
 THE COURT: I wouldn't have thought that would be necessary. He indicated he was the general counsel of the bank. Do you want to go into that?

MR. CHRISTIE: Yes.  
 THE COURT: Please.  
 Q. MR. GRIFFITHS: As general counsel for the bank, Mr. Burnett, what are your duties?  
 A. I am responsible for the provision of legal services to the bank from both resources within the bank, the bank's law department, and through the use of external counsel. We deal with approximately fifteen hundred law firms throughout the world.  
 Q. And your —  
 A. I have a department of approximately forty-five lawyers.  
 Q. As senior Vice-president and general counsel, is your focus domestic or international or both, of you, yourself?  
 A. My responsibilities are for both operations of the bank, both domestic and international. I, of course, am supported by internal staff, and the international banking activities fall into one part of my department, and the domestic banking activities into another.  
 Q. Could you speak up just a little {1837|1838} bit?  
 A. I say the domestic banking operations fall into another part of my department, in terms of the direct day-to-day responsibility.  
 Q. All right. And general counsel, does that mean you have to be a lawyer to be general counsel, or are you a lawyer?  
 A. Yes, I am a lawyer. I have been a member of the Ontario Bar since 1958, and I am a member of the Quebec Bar since 1975.  
 Q. And I understand that you are Queen's Counsel?  
 A. That is correct.  
 Q. And does it form any part of your responsibilities to be familiar with domestic and international law dealing with banking?  
 A. To the extent that it's humanly possible, yes.  
 Q. And are you familiar with the Bank Act, for example, here in Canada?  
 A. Yes.  
 Q. And the legislation in other countries would govern the operation of the bank in other countries?  
 A. In principally, of course, relying on counsel to a large extent in foreign jurisdictions.  
 Q. Have you had occasion to travel to other countries to see the operations of the bank?  
 A. I have, yes, extensively.  
 Q. And have you had occasion to meet with representatives of other banks for whatever reason?  
 A. Oh, yes, indeed. {1838|1839}  
 Q. And would those be limited to Canadian banks, or would it be a broader field?  
 A. No. Understandably, most of the contacts are with Canadian banks, but I've had frequent contact with representatives of many foreign banks American, British, German.  
 MR. GRIFFITHS: Subject to Your Honour, I would submit that Mr. Burnett, by virtue of his employment, is an expert in the field of banking.  
 THE COURT: Mr. Christie, do you want to ask any questions?

#### **CROSS-EXAMINATION BY MR. CHRISTIE:**

Q. Do you have knowledge of the history of banking?  
 A. Some knowledge of the history of banking. Not extensive.  
 Q. Do you have knowledge of the history of international finance in relation to events in history, such as the American Civil War, the French Revolution, Rothschild connections in regard to banking and history? Do you have knowledge of those matters?  
 A. Very superficial knowledge of those matters. Only what has appeared in novels.  
 Q. Have you been trained in economics?  
 A. No.  
 Q. Do you have any academic or personal experience in terms of economics?  
 A. No. {1839|1840}  
 Q. Do you have any background in the understanding of the Talmud as it is related in the pamphlet, "West, War and Islam"?

A. No.

Q. As it is relevant subject to the charge, are you familiar with the Koran and its rules in respect to banking?

A. No.

Q. Are you expert in regard to the activities of the Arab Nations in regard to loans and the handling of petrodollars?

A. I have some knowledge of that. I would not claim expertise.

Q. Sorry?

A. I have some knowledge, but I would not claim expertise.

Q. Are you familiar with the manner by which the Soviet Union has financed its enterprises?

A. No.

Q. Are you familiar with the manner in which Eastern Bloc countries have arranged loans from Western banks?

A. To a degree, yes.

Q. Are you expert in this field?

A. I could not claim expertise.

Q. Those are my questions. Thank you.

THE COURT: What are your submissions?

MR. CHRISTIE: My submissions are that the article deals with the financing of Eastern bloc and Soviet countries being referred to as Communist countries, and being referred to as International Communism. {1840|1841} The article deals with the relations between the Talmud and banking, the Koran and banking, and these are the areas of expertise which I suggest an expert could testify. Otherwise, I am not here to debate what the Royal Bank does, whether it is a good or bad bank.

This article does not have any criticisms of the Royal Bank or any other bank. It deals with international bankers. It deals with the moral qualities of international finance, and I, with the greatest respect, do not consider, from what I've heard, and I submit that this witness hasn't any expertise in the relevant areas in relationship of international finance to Communism, to the Talmud or to the Koran or in the realm of the manner of dealing with petrodollars, which is the subject – those are the three subjects raised by the one paragraph in the article, "The West, War and Islam".

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Oh, with respect, Your Honour, I don't see any reference here to Eastern bloc countries. I see a statement —

MR. CHRISTIE: Communist countries.

MR. GRIFFITHS: The pamphlet says, "The foremost evil concocted and directed by the international bankers is international communism."

Mr. Burnett has testified that his field of employment is in the field of international banking, and he can comment on whether international bankers are directing international communism. There are value judgments that are set out here. International bankers are said to be the focal point for the dark forces {1841|1842} against all mankind for the control of the world's wealth and determines what is done and not done in the world, and whether what is done is good or evil. Judging from the state of the world today, there can be no doubt what these evil men are doing with the vast wealth we have put at their disposal. These are areas that Mr. Burnett can testify to as a member of the international banking community, how loans are made and not made, how banks are regulated by various countries, to what extent control is regulated by various countries, and the climate in which international banking communities work in the world.

My friend says, well, he has to know about the Talmud or the Koran. Well, the next sentence is, "While the Bankers' Act is in harmony with the Talmud, they act in defiance of the Koran for their wealth is based on usury and thereby is acquired without honest, productive work."

Well, he can certainly indicate whether he does an honest day's work or not, Your Honour, and whether or not the banks rely on usury for their profits or losses.

"The Islamic Nations are vulnerable to blackmail by bankers who can devalue the money with the stroke of a pen." That doesn't make reference to petrodollars. It is international funds are devalued is what they seem to be referring to there.

THE COURT: What portion of Exhibit 1 are you looking at?

MR. GRIFFITHS: I am looking at page 2, Your Honour, about halfway down the page. There is a {1842|1843} paragraph with bold print, "International Bankers", which is underlined, and there is a paragraph there. This is Exhibit 2.

THE COURT: Yes. Exhibit 2, sorry. Anything further?

MR. GRIFFITHS: No, Your Honour.

THE COURT: You have the last word, Mr. Christie.

MR. CHRISTIE: The portions of the paragraph read by my friend are indeed the value portions of the article. The statement of fact portion of the paragraph in the article relevant to international finance and international bankers makes specific reference to and comments upon the Talmud, the Koran and oil earnings. It also deals with international communism and makes a statement in relation to the relationship between international bankers and international communism. While the value judgment portions of the article, anyone could comment on, the factual portions which come after the words, "While the world bankers act in perfect harmony with the Talmud", the rest of that paragraph is an area upon which, I suggest, the witness has quite rightly said he has no special knowledge or expertise. I am not critical of his immense knowledge of the activities and qualities of the Royal Bank of Canada, which is not the subject matter of the article. I am well aware that the gentleman is a highly qualified member of the staff of the Royal Bank of Canada, but with the greatest respect, if that is no more the issue, then it would be the issue on a subject such as international grain cartels, they call a very good {1843|1844} farmer, or call somebody in the field relatively close, but not the subject matter – I mean, his expertise does not cover the fields that this article deals with. And I suggest that for that reason his expertise is established in an area, but it isn't an area relevant to the subject matter of this article.

#### RULING

THE COURT: In the presence of the jury, counsel for the Crown is in the process of leading the evidence of a witness whose name is John Burnett.

Mr. Burnett, under oath, has sworn that he is the senior vice-president and general counsel of the Royal Bank of Canada. He has testified with objection that he is familiar with the workings of his bank. He has testified as to the size of his bank, comparatively speaking, with other banks, and the rank of the Royal Bank of Canada with regard to assets as compared not only to the North American banks, Canadian banks, but other international banks.

He has sworn that he is responsible for the legal services to the bank. He has a staff of lawyers. He deals with hundreds of law firms {1844|1845} throughout the world. He has testified that part of his responsibilities encompass administering legal matters, as general counsel, through firms or representatives of his bank in about forty-five countries throughout the world.

He has also testified that he, in the normal course of his duties, communicates with other member banks other than his own in the international community. When he was asked a question concerning the regulations of Canadian banks by Canadian federal law, Mr. Christie, counsel for the accused, has taken objection and has questioned the propriety of the answers that might emanate from the witness.

Mr. Christie takes the position that in certain fields this witness is not a qualified expert. Counsel for the Crown, in reply, points to a paragraph entitled, "International Bankers", on page 2 of Exhibit 2 which is entitled, "The West, War and Islam".

It is submitted on behalf of the Crown that there are contained within the confines of that paragraph many subjects upon which this witness {1845|1846} is qualified to testify in his capacity as an expert.

Counsel for the accused, with my permission, has cross-examined the witness on some of the subjects of that particular paragraph such as his knowledge of the Talmud and the Koran, and how Soviet Russia finances its enterprises.

Mr. Burnett has indicated that he has no knowledge on other subjects

put to him by counsel for the accused. He professes knowledge, but not necessarily expertise. On yet other subjects put to him by counsel he does state that he is expert.

The subject matter of the evidence of this witness essentially pertains to a paragraph on page 2 of Exhibit 2 entitled, "The West, War and Islam". It is entitled, "International Bankers". I quote as follows:

*"These men are the focal point for the dark forces arrayed against all mankind, for their control of the world's wealth directs and determines largely what is done or not done in the world and whether what is done is good or evil. Judging from the state {1846|1847} of the world today, there can be no doubt what these evil men are doing with the vast wealth we have put at their disposal. While the world bankers act in perfect harmony with the Talmud, they act in perfect defiance of the Koran, for their wealth is based on usury and thereby is acquired without honest, productive work. The Islamic nations are vulnerable to blackmail by the bankers who can devalue the money derived from oil with the stroke of a pen, and who can, bribe and browbeat governments into freezing or seizing Islamic assets. But the foremost evil concocted and directed by the international bankers is international communism."*

I need not read any further.

This witness has stated that he has certain fields of knowledge which are such that he is very knowledgeable in those fields. He has stated other fields of knowledge in which he does not have that {1847|1848} familiarity.

He is certainly qualified to speak on the subject for which he has professed knowledge. I do not understand the Crown to be placing this witness as an expert in the field of expertise involving the Koran and Islam. Certainly if that is the case, he cannot give his opinion, even if he is asked. When he is cross-examined he can give whatever answers he feels he is capable of giving, provided that they are truthful, and I assume they will be.

In most fields with which he has knowledge as a general counsel, member of the Bar of this Province insofar as the law is concerned, he is certainly entitled to give his opinions. On those which he is not he will not. It is as simple as that.

THE COURT: You may proceed.

MR. GRIFFITHS: Thank you, Your Honour.

(Volume IX follows) {1848|1849}

## VOLUME IX

### CONTINUED EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:

Q. I think, Mr. Burnett, I have just asked you whether there are any regulations controlling ownership of the Bank in Canada.

A. Yes, there are. There are provisions in the Bank Act that regulate the maximum number of shares that may be owned by anyone person and/or associates, and that is limited to ten per cent of the shares of any class. And there are provisions in the Bank Act that control the percentage ownership by foreign interests, and those, in the aggregate, cannot exceed twenty-five per cent of the shares, issued shares of any class.

Q. Is there any reference in the Bank Act that you are aware of specifically controlling or encouraging Zionists, Jews or any other group or organization to own more than ten per cent of the Bank?

MR. CHRISTIE: Is this relevant to the subject matter, Your Honour? I don't think the article – I mean, I object to the relevance of this question. The article doesn't say anything of the kind. It shouldn't be imputed that it does.

THE COURT: You can answer the question.

THE WITNESS: There is, to my knowledge, no reference in the Bank Act to any religious sect or organization or denomination.

Q. MR. GRIFFITHS: Can you tell us what the primary money-making

operations of the Royal {1849|1850} Bank are, world wide?

A. The nature of the operation of the Royal Bank, as with most commercial banks, retail banks, is the borrowing of money at varying rates of interest for varying terms, and the lending of the money so borrowed, together with its capital, at varying rates and for varying terms.

Q. Okay. And —

A. That's the principal source of income. It also derives income of a fee nature for the provision of financial services of a great variety.

Q. Can you tell us if there is any, again, any restriction by race, creed, religion, colour as to who the Royal Bank will lend money to or borrow money from?

A. Absolutely none.

Q. And what controls, then, the borrowing and lending?

A. The estimate of the capacity to repay, the credit worthiness of the borrower is of prime concern.

Q. So more specifically is there anything that – any policy of your international bank to not lend money to Islamic nations?

A. Absolutely none.

Q. Is there any policy with the Royal Bank to not lend money to certain nations, or some nations that ...

A. Yes. I believe our Chairman has announced that it is our present policy not to make loans to South Africa, and he's given that assurance {1850|1851} to the lobbyist group from the United Church and others who have urged that course of action on the bank.

Q. Are there any other countries that you are aware of that the Royal Bank will not do business with?

A. Yes. I believe there are other countries, but our unwillingness to deal with them is certainly not based on race or religion. We may be concerned about the political stability in some places; but beyond that, there is no prohibition, there are no prohibitions other than those which I have enumerated.

Q. Now, do other countries have regulations as to ownerships of their banks similar to Canadian regulations?

A. Yes, they do. Nearly every country has regulations of that sort. In the United States, if I may speak in the general sense – now, the United States and Great Britain have been more open than most other countries. We have only recently, in Canada, in the 1981 revisions to the Bank Act, admitted foreign banks to carry on business in Canada. And so that we now have what are described as "Schedule B" banks in Canada. They are Canadian banks, but they are Canadian subsidiaries of foreign banks. And there is some curtailment on the scope of business they are permitted to have in Canada.

Q. All right.

A. Reciprocity, though, tends to be the trend in terms of international banking – reciprocity in terms of freedom of access.

Q. Reciprocity in terms of —

A. Freedom of access of foreign banks {1851|1852} into other major economic areas.

MR. GRIFFITHS: Could I see Exhibit 2, please? Thank you.

Q. I am showing to you, Mr. Burnett, Exhibit No. 2 in this trial. It's a pamphlet called, "West, War and Islam". And on page 2 of that pamphlet there is a reference to international bankers. You just heard His Honour a moment ago read through that entire paragraph. There are some items in there that I would like to ask you about.

Can you tell us, the first two sentences there, where it talks about international bankers being the "focal point for the dark forces arrayed against all mankind for their control of the world's wealth directs and determines largely what is done or not done in the world and whether what is done is good or evil. Judging from the state of the world today, there can be no doubt what these evil men are doing with the vast wealth we have put at their disposal."

Is there any policy of the Royal Bank to direct international loans to evil purposes?

A. Absolutely none.

Q. "While the world bankers act in perfect harmony with the Talmud, they act in perfect defiance of the Koran, for their wealth is based on usury and thereby is acquired without honest, productive work."



Do you have any comment on that?

A. First I would want to know what the definition is to be applied to the term "usury". Is usury simply the lending of money at interest rate, or is there some connotation that the rate of interest has to be so excessive as to constitute that rate be usury? {1852|1853}

As I earlier stated, the principle function of banks throughout the world is the marshalling of capital and resources by borrowing or seeking investment capital and at various rates and on various terms, and to lend money to accountable borrowers with the full and reasonable expectation that this money will be repaid in accordance with the terms of the agreement, freely and openly negotiated between the parties.

The difference, of course, between the cost of the money that the bank makes available to the borrower and the rate of interest or earnings that the bank receives from the borrower is the profits of the lender, and in most jurisdictions he must first, out of his profits, pay for his own operating costs in his own facilities. He must, in most jurisdictions, provide reserves in the event of the non-payment of the money that has been loaned, and in the case with most Canadian banks, their growth has been funded by the retention of the balance of those earnings other than what is paid out to its shareholders by way of dividends, or to its bonds, the debenture holders, to its debenture holders by way of interest on the money that is borrowed in that way.

Q. "The Islamic nations are vulnerable to blackmail by the bankers who can devalue the money derived from oil earnings with the stroke of a pen, and who can bribe and browbeat governments into freezing or seizing Islamic assets."

First of all, is it the policy of your international bank to bribe and browbeat governments into freezing assets?

A. It is absolutely not the policy of {1853|1854} the Royal Bank nor, to my knowledge, of any other major Canadian bank bank [sic] or any other major American bank or British bank.

Q. Or British bank?

A. Or British bank.

Q. And would that be possible in Canada, to freeze or seize Islamic assets?

A. Not without judicial process.

Q. "But the foremost evil concocted and directed by the international bankers is international communism."

I want to ask you about the concocted part of that, because you've told us the history of banking is not a field of your expertise. But can you tell us whether you are involved in directing international communism?

A. I can tell you categorically, certainly the Royal Bank is not involved in the direction of international communism.

Q. All right. And would you compare at all, or care to compare at all what bankers do in terms of borrowing and lending and charging a fee for services to communist principals? Are you able to do that?

MR. CHRISTIE: I don't think the witness is so far qualified to compare communism with banking practices.

THE COURT: What do you say to that, Mr. Griffiths?

MR. GRIFFITHS: I see Mr. Burnett shrugging as well, so I am content with that, Your Honour. I won't pursue that. {1854|1855}

THE COURT: Go to the next question.

MR. GRIFFITHS: Thank you, sir.

Q. Are you aware of any of the banks in the United States that you deal with as participating in international communism, directly in international communism?

A. No, I have no knowledge of any involvement by any American bank or any bank in the Western world in the direction of the management of communism.

Q. Now, does the Royal Bank loan money to communist countries?

A. Yes, it does.

Q. And are the terms to loan monies to communist countries any different than capitalist countries?

A. No. I could say that the terms – there are variations to the terms because of the state, nature of the borrower. In most instances —

Q. Can you give us an example?

A. Well, these become essentially sovereign risk loans that are made

to Poland, Yugoslavia, Rumania – our bank is seldom, not to my knowledge, ever one on one, but is a participant in a syndicate of banks who have joined together to make this credit facility available to either the government or some State agency in that communist country – State agency meaning a government-controlled agency. And so some of the commercial terms that would normally appear in a loan agreement, if a syndicate or a single bank were making a loan to the Gdansk — {1855|1856}

Q. Just a little louder.

A. If they were making a loan to the subsidiary of Alcan, which is a Brazilian company, the subsidiary being a Brazilian company, the terms and conditions of that loan would not be identical to those which would be imposed upon or found in a sovereign risk loan or risk to a government.

Q. Would the loan to the government be on better terms, or not as good terms?

A. The terms to governments are usually better, because of the risk factor being less.

Q. And is there any special treatment given to communist countries vis-a-vis capitalist countries?

A. No. And in terms of rate, no, and other terms and conditions, there would be very little of any significant variance in the terms of the loan agreements, comparing those agreements with loans that would be made to Barbados, Mexico.

Q. Other sovereign risk loans, country loans.

A. That is correct.

Q. Thank you very much, Mr. Burnett.

I have no further questions.

THE COURT: Mr. Christie.

#### CONTINUED CROSS-EXAMINATION BY MR. CHRISTIE:

Q. Isn't it true that any sovereign risk loans that certain syndicates have of which the bank {1856|1857} is an apparent partner enter into that from time to time the syndicate has to lay down terms of repayment that they insist on?

A. Yes. But that is so of every loan agreement.

Q. Yes. And when there are larger loans, like with Dome Petroleum or Mexico or Poland, the fact that so much money is at stake, and if the loan went into default, it would be very serious for the bank, motivates the bank to negotiate what is called a change of payment schedule. Right?

A. A re-scheduling, right.

Q. Yes. And that means that all of a sudden, when certain interest payments are due, they are re-scheduled to a later date. Right?

A. Right. Yes. That could be part of a re-scheduling programme.

Q. And sometimes, as a condition of these terms of re-scheduling, governments are expected and encouraged and advised, shall we say, to take certain political measures to cut their spending and to increase taxes in certain areas, is that right?

A. The syndicate of lending banks to the sovereign states are not in a position to dictate such terms, nor do they.

Q. I didn't suggest limitation, but suggestion. That was very clear in my question, sir.

A. Yes. Absolutely. And in the international monetary fund which may be counselling that sovereign state and the management of its internal economy, the lending banks may say to the borrowers, {1857|1858} "You shall first come to an agreement with the International Monetary Fund as a condition precedent to our entering into or re-scheduling the loan."

Q. Yeah. Isn't it true that it's easier to deal with the communist country that has firmer control over its people than it is to deal with, say, a Latin American company where there might possibly be political problems?

A. I can't make this observation.

Q. Isn't it true that a lender concerned with the ability to repay would prefer to deal with a solid communist bloc country like Czechoslovakia than an unstable communist country like Poland where you might not

be able to get repaid?

A. I suppose those who make the credit evaluations might have that view.

Q. So that your interest is in repayment and making money, not in equitable fair play or such abstracts; isn't that right?

A. That is not correct.

Q. Well, let's put it this way. If you had to make a loan or reschedule a loan to Poland, and you were part of the international syndicate, I guess, of which the Royal Bank is a part – right?

A. To Poland?

Q. Poland, yes.

A. Yes.

Q. You might make a suggestion to the government about certain things to maintain political stability. Wouldn't this assist your collection?

A. No. {1858|1859}

Q. Are you familiar with the book, "Towers of Gold, Feet of Clay" by Waiter Stewart, on Canadian banks?

A. I am familiar with the book. I have not read it.

Q. You have not read it.

A. No. Nor anything else of Mr. Stewart.

Q. Well, do you consider it improper as a book, or do you think that he's some sort of a purveyor of false news?

MR. GRIFFITHS: He can't say that. He hasn't read it, Your Honour.

THE COURT: I agree.

MR. CHRISTIE: I am asking a question. I agree he hasn't read it.

THE COURT: Ask him another one. He hasn't read that book. He doesn't know. He hasn't read any of that authors works. He just said that.

Q. MR. CHRISTIE: I put it to you that in Canada you have to keep certain reserves; correct?

A. Correct.

Q. I put it to you that the reserves are two kinds – primary and secondary reserves. Correct?

A. Yes.

Q. Is it true that the bank is required, in Canada, to put in a reserve in proportion of its liability?

A. Yes.

Q. Is it true that a deposit to a bank from a depository – like if I put money in a bank that – {1859|1860} is a liability to a bank?

A. No. It's regarded as an asset.

Q. All right. And a loan from the bank to someone else, is that regarded as an asset?

A. Correct.

Q. The level of reserves is currently being shifted downward over a period of time; is that correct?

A. The level of reserves is —

Q. ... is currently being shifted downward over a period of time.

A. No. I don't believe that to be correct.

Q. What are the —

A. In fact, there are pressures to increase the reserves.

Q. I put it to you that historically the reserves required of banks in Canada have decreased.

A. Over what period of time?

Q. Over the last twenty years.

A. And as a percentage of assets?

Q. That's right.

A. The reserves have ...

Q. Yes.

A. I can't comment. I don't know what the provisions were twenty years ago.

Q. The new primary reserves will require two per cent of notice to deposit, one per cent of the amount for which it's Canadian currency noted deposit exceeds five hundred million dollars, and three per cent of residents of Canada held in Canadian banks. Is that true? {1860|1861}

A. That sounds correct. All right.

Q. The secondary reserves by the Bank of Canada on Canadian currency deposits; is that true?

A. That is correct.

Q. And foreign currency deposits held by Canadians in Canadian banks. Is that right?

A. Correct.

Q. And the secondary reserves have historically amounted to about five per cent; in addition, some banks maintain voluntary reserves with the Bank of Canada to provide more flexibility. Is that true?

A. Sounds correct.

Q. And the proportion of reserves to statutory deposits held by the Bank of Canada as of October 1st, 1981, was 4.71 per cent, or about one dollar in twenty. Would that be correct?

A. I have no way of knowing.

Q. I put it to you that when Canadian banks create loans or make loans with Japanese yen or Euro currencies, they are involved in a process of making loans in which reserve requirements are not required at all under Canadian law.

A. When Canadian banks —

Q. All right, I will put it to you this way:

"Thus a Canadian bank can only create a certain number of Canadian dollars". Do you agree?

A. Correct.

Q. One in twenty or twenty times one, really. Right – on the average of reserves? {1861|1862}

A. That's the fact that I said I could not accept.

Q. You don't accept that fact?

A. No. I was unable to comment on the correctness of the statement.

Q. But generally reserves are a very small portion of the amount on deposit – about five per cent?

A. Correct.

Q. So you keep one dollar in deposit for every twenty that are deposited. You are required to do that.

A. Yeah.

Q. All right. I say, thus a Canadian bank can only create a certain number of Canadian dollars – that is, loaning twenty times the amount of money on deposit. Right? You are shaking your head. I want an answer yes or no.

A. No, I am not shaking my head. I am thinking about your question, and I am not understanding it.

Q. All right. I say, thus the Canadian bank can only create a certain number of Canadian dollars by loaning them.

A. I don't understand that statement.

Q. All right. But it can create Japanese yen without numbers as long as someone is willing to accept them in short as the creations are fungible [fungible] and —

THE COURT: What does "fungible" [sic] mean? {1862|1863}

Q. MR. CHRISTIE: Do you know what "fungible" [sic] means?

A. Meltable.

Q. Well, do you agree with this statement?

A. I don't understand it.

Q. You don't understand it. I suggest to you that for foreign currency tradings and for loaning money to foreign sources and foreign borders you don't have to keep reserve requirements. You don't have to have one dollar on deposit for every twenty that you loan, under Canadian law.

A. Right.

Q. So you really don't have to keep reserves.

A. Right.

Q. All right. So I put it to you that the Euro currency market and markets where you are dealing with loans to other borrowers overseas has been called a giant ponzi scheme. Are you aware of that?

A. That it's called a giant ponzi scheme?

Q. Yes.

A. No.

Q. Well, I put it to you that in fact, without reserve requirements for those kind of loans in foreign currencies or to foreign borrowers, you are in the position where you can loan any amount of money, provided that you can satisfy the borrower that you are able to raise it. You are

not required to keep reserves in Canada or anywhere else. {1863|1864}

A. That is not entirely true.

Q. Where are you obliged to keep reserves for these foreign loans?

A. In the United States.

Q. Are you? In American dollars?

A. Yes. In American loans.

Q. For all foreign loans?

A. No. For loans made in the United states.

Q. Yes, but not for, for example, European loans, Japanese loans.

A. No. In the U.K. there are ratios of assets to capital. There are limitations to the amount that you can lend based on your capital base.

Q. I'd like to put it to you that in regard to Poland or Latin America or such countries as these, that there is no limit to how much you can loan.

A. No regulatory limit?

Q. Right.

A. Imposed either ...

Q. ... by the borrower or by Canadian law.

A. That is probably correct.

Q. And as a result, massive amounts of money, without reserve requirements, have been loaned by your bank and other banks to Latin American countries. True or false?

A. Massive amounts of money, you say?

Q. Well, I don't know whether we are going to quibble about massive. I say millions, hundreds of millions of dollars. {1864|1865}

A. Correct.

Q. Billions of dollars to Argentina, to Mexico, to Brazil – true or false?

A. In terms of our bank, not billions.

Q. Hundreds of millions.

A. Correct.

Q. You are participants, again, with syndicates of other banks.

A. Correct.

Q. American banks?

A. European banks, Japanese banks.

Q. Yeah, all of which has some influence on the International Monetary Fund.

A. Correct.

Q. And the International Monetary Fund, in fact, is kind of an international cartel of financial interests. Would you agree?

A. No.

Q. Well, who are they? Who elects them? Who appoints them?

A. I am not sure what you mean by a cartel in that sense.

Q. Well, who is the International Monetary Fund?

A. It is a United Nations sponsored agency.

Q. And who appoints the people that are in it on the board?

A. I am not sure how these people are appointed, Nominated, I am sure, by the member states.

Q. Are you sure of that? {1865|1866}

A. No.

Q. Who is Paul Volcker?

A. He is a member of the American cabinet.

Q. He is?

A. Paul Volcker?

Q. Yeah. You say he is a member of the American cabinet.

A. Is he not a member of the American administration?

Q. Are you stating that as a fact?

THE COURT: He is answering your question. Go ahead and ask the next one.

MR. CHRISTIE: I didn't hear him whether he was asking me or telling me.

THE COURT: No. He answered it. Do you want to answer it again, witness?

Q. MR. CHRISTIE: I just want to have it clear. I didn't hear you say whether is he, or he is.

A. He is.

Q. All right. You say he is a member of the American administration. Is

he the Chairman of the Federal Reserve Board?

A. Right.

Q. And would you refer to him as the other man who runs America?

A. No.

Q. Well, I put it to you that he is frequently referred to as such in the media. Would you agree? I will just show you a headline, for example, {1866|1867} November 26, 1984. Have you met Mr. Volcker?

A. No, I have not.

Q. The other man who runs America, Federal Reserve Chairman Volcker gives a little but does not loose.

Is this accurate of his position?

A. Yes. It's an accurate description of his position of Chairman of the Federal Reserve Board.

Q. Is the Chairman of the Federal Reserve Board an elected office?

A. No.

Q. Is the Senate Committee on Banking in Canada the source of the Bank Act?

A. No.

Q. What is?

A. The Senate Committee of the Parliament of Canada?

Q. Right.

A. Parliament itself is the source of the Bank Act.

Q. Isn't it true that all modifications to the Bank Act have been drafted by, in advance, the Senate Committee on Banking?

A. I don't believe that to be the case at all.

Q. Do you take the position that you understand the workings of international finance in respect to the international monetary fund and the position of the Federal Reserve Boards, etcetera?

A. No, I do not take that position.

Q. Do you know who the Rothschilds {1867|1868} were and are?

A. There have been several generations of them. Some of them own vineyards in France.

Q. Well, are they a mercantile banker?

A. Arthur Rothschild was, continues to be a banking house.

Q. Where, in New York?

A. They are in London primarily. I believe they would have representative offices in New York as well.

Q. You consider them a mercantile bank and you are distinguishing them by virtue of what, that you a commercial bank?

A. I wouldn't call them a mercantile bank without more definition of what you mean by that term. The term "merchant banking" is one that means a lot of things to a lot of people, and all different.

Q. What's it mean to you?

A. A merchant bank, in my understanding, in the sense that I would use that term, is a financial services organization whose primary function is to bring capital or debt together with opportunity bring borrower and lender together to assist in mergers and acquisitions.

Q. Are these banks in that category of which you are familiar: Warburg, does that ring, a bell?

A. Yes.

Q. Is it a bank?

A. It is a merchant bank, investment banker.

Q. How about the name Schiff? {1868|1869}

A. That. one doesn't mean anything to me.

Q. Jacob Schiff doesn't mean anything to you.

A. No.

Q. Kuhn

A. Yes.

Q. Are they a large bank?

A. Large merchant banking, investment banking, yes.

Q. Dreyfus & Company?

A. Dreyfus & Company, I tend to know them as funding managers.

Q. Mm-hmmm. Lazard Freres?

A. Again, merchant bankers.

Q. Vlochdassault?

A. Not known to me.

Q. The Chase Manhattan Bank is known to you?

A. Yes.

Q. Where most of your money is owed; is that right?

A. Where most of our —

Q. Where money borrowed even by your bank is sometimes owed. Is that not right?

A. They are a correspondent bank of the Royal Bank.

Q. Do you ever go into syndicate arrangement with them?

A. Indeed.

Q. Yes. And in Latin America, {1869|1870} I suppose, to some extent.

A. Yes.

Q. How much money does the Royal Bank of Canada owe or have owed to it, rather, maybe owed, in Latin America?

A. I don't know.

Q. Would it be in the billions?

A. In the billions?

Q. Yes. Sovereign loans to Latin American countries, billions of dollars?

A. I don't know. I doubt that.

Q. And how do you expect to get repayment from government when they have these political problems like collecting taxes and that sort of thing?

A. How do we expect to get paid because they are having problems collecting taxes?

Q. Yeah. How do they pay you if they are not collecting taxes?

A. The taxes are not the only source of their revenue.

Q. Well, how else do governments get money?

MR. GRIFFITHS: I don't think he had finished answering the question, Your Honour.

THE WITNESS: We have negotiated terms of repayment along with the other members of the group who form the part of the syndicate in that we are in the capacity or believe to be within the capacity of the borrowing country to repay. These are predicated on, of necessity, on certain expectations as to the level of economic activity that will be carried on in the country, {1870|1871} the growth in trade balances that the country will experience, that will generate U.S. dollars, with which these loans can be repaid.

Q. And when the country says it can't repay and won't repay, what do you do then?

A. We have not been faced with the situation yet where the country has said, "We won't repay".

Q. No. But there are certainly countries that said, "We can't repay this so and so many millions of dollars of interest." Isn't that right?

A. Oh, absolutely Absolutely.

Q. It's my understanding, then, that this cartel, I suggest, or syndicate as you want to call it — would you call it a cartel?

A. No, I wouldn't call it a cartel.

Q. What is the difference?

A. Well, a cartel, I would suggest, is one which has some suggestion of exclusivity to it, whereas, in fact, syndicates of banks are very, very competitive for the business. One syndicate may end up with the business, but it has derived that business only after a very competitive negotiation with the lenders.

Q. I put it to you, sir, that there isn't a great competition, in fact no competition, to lend money to Argentina, Brazil, Mexico or Poland. In fact, a lot of competition to get out of there.

A. Once you're in, you're in.

Q. That's right. And now the banks, including yours, are in; right?

A. Right.

Q. And they are wanting to get out, {1871|1872} right?

A. We want to get repaid. We don't necessarily want to get out. We have continued interest in doing business in Brazil and Argentina and Mexico and elsewhere.

Q. By what means did the Government of Canada authorize banks to loan money to other governments? Is there an agreement to that effect?

A. There was no prohibition on the Bank Act from their doing it.

Q. No. But if these loans to foreign governments, some of them com-

munist governments, go into default, isn't it true that you, therefore, restrict your lending activities in Canada?

A. Not at all.

Q. Not at all.

A. Not at all.

Q. Because you know you can collect from Canadians, right?

A. If you are suggesting that, because of our foreign lending —

Q. That's right.

A. — we are limited as to the amount of dollars that are available for lending in Canada, that's just not correct.

Q. No. I suppose you may be right because there is no reserve requirements, so you didn't have to have deposits in the first place on those loans.

A. It has no relationship to that at all.

Q. So nothing happens to the Bank of {1872|1873} Canada or any other Canadian bank if these international loans to communist and other countries default; you won't have any insurance at all.

A. Well, of course it would, because if all of the domestic loans were to fail or become nonproductive, it would have a massive impact on Canadian banking. The banking is a risk business, and if all of the assets become non-productive, then there isn't a bank in the world that is strong enough to withstand that, and then I would suggest that that is a condition that would only pertain if economic conditions were that disastrous throughout the country.

Q. What I am suggesting to you is that the international loans you have spoken about, to Poland, Rumania — what other country? ... Czechoslovakia —

A. Rumania, Poland, Yugoslavia.

Q. Yugoslavia. And other Canadian banks loan to other countries?

A. Yes.

Q. You are just speaking about the Royal Bank.

A. Right. Well, other Canadian banks are in those ventures with us.

Q. These loans, you say, if they went into default, would have no impact whatsoever on Canada's domestic situation?

A. If those loans were repudiated, cancelled, not —

Q. Yes.

A. Of course they would have, because it would have affected the banking institutions generally. {1873|1874}

Q. Yeah. So far they haven't been repudiated, but many loan repayments have had to be rescheduled because countries have not been making their payments; is that right?

A. That is correct.

Q. I suggest to you that this international relationship that you've described with Canadian banks and other banks has created an international network of financial control. Do you deny that?

A. I deny that.

Q. I suggest to you that the International Monetary Fund and the syndicates you refer to actually do indicate to governments changes in their legislation, changes in their laws and things they must do in order to allow re-scheduling to occur.

A. I suggest that the arrangements negotiated with the International Monetary Fund are not imposed; they are negotiated with the country not in any other area than in the management of the economy of those countries.

Q. In the management of the economy of those countries, yes.

A. Mm-hmmm.

Q. And the syndicate of which your bank is one at times makes suggestions and gives advice on the "management of the economy of those countries" in order that re-scheduling may occur.

A. No. We give no direct advice.

Q. No direct advice.

A. Some of the changes that are required in the management of the economies of these {1874|1875} countries are so self obvious that they do not have to be told; it's having the determination to make some of the hard and maybe politically unpopular decisions. Otherwise there is — as a prudent lender you can see no assurance of the ability of the borrower to repay.

This process, I suggest, might be some inferences to direct emphasis to patrol the management of these countries. There is nothing more that happens in the relationship with the commercial banker and the commercial firm with whom he is financing, providing financing, and his conduct of his business in Canada, in Metropolitan Toronto.

The banker works with the borrower. He is interested in the continued success of the business. In the international lending we are interested in the continued survival in growth and development of those countries. We are not interested in having them collapse or die. We are looking to them to be a source of business for hundreds of years to come.

Q. Well, to put it very simply, without too much of that type of – don't you mean the bank wants to make money?

A. Of course the bank wants to make money.

Q. And the way it makes money is to get the loan repaid. Right?

A. That is correct.

Q. And the terms under which it can be repaid are negotiable, but I put it to you that when the final decision is made, the international syndicate of bankers who loan the money could make life very difficult {1875|1876} for a country who refused to repay or failed to follow certain advice.

A. A banker could also make life very, very difficult for the ABC Motor Company in Toronto.

Q. I am not denying that.

A. It is not in the bank's interest to do that. The banker is interested in certainly seeing that the loan that he has negotiated is repaid. He is interested whether that be a commercial enterprise in Ontario, whether that be a sovereign country somewhere in the Caribbean or in Latin America or Europe.

Q. Why is it that the banks decided not to make loans to South Africa?

A. I was not part of the bank when it made that decision, so —

Q. Well, let me give you a suggestion. Isn't it a political reason?

A. Or moral.

Q. All right. So the bank makes a moral or political judgment on South Africa. Correct?

A. Correct.

Q. Why doesn't it make a similar moral or political judgment on Rumania or Czechoslovakia where people could be just as oppressed there? May I suggest that they have a preference to those countries?

THE COURT: Which question do you want him to answer first?

Q. MR. CHRISTIE: May I suggest that there is a preference for countries like Poland, Czechoslovakia and Yugoslavia [sic]? {1876|1877}

A. Preference to what?

Q. As opposed to South Africa.

A. As opposed to South-Africa? I suppose that is a valid observation.

Q. Well, I put it to you that it is obviously a political decision.

A. No. It is a moral posture that has been taken by the bank.

Q. Well, do you think that there is oppression in the countries of Rumania, Yugoslavia [sic] and Poland that is somehow subsidized by foreign loans to keep the government from facing some economic difficulties?

A. I have no way of knowing that.

Q. You what?

A. I would have no way of knowing that.

Q. Nor any particular interest in it, neither.

THE COURT: Whether he is interested in it or not, Mr. Christie, is not the issue here.

MR. CHRISTIE: I suggest it is, Your Honour.

THE COURT: I suggest it isn't, and I am saying it isn't, so what is your next question?

MR. CHRISTIE: I am saying, Your Honour, that the question is whether this individual, as an expert for banking, can tell us whether there is a relationship in support of world communism.

THE COURT: Well, ask him that.

MR. CHRISTIE: I was making that same suggestion in the form of a question. {1877|1878}

THE COURT: You were asking him whether he as a person was interested in this.

MR. CHRISTIE: Well, he is an expert. I thought I could ask that.

THE COURT: It is not within the realm of his expertise. It is a political matter. You were the one that was taking objection to that. Ask him the questions that pertain to the issues that each one of these twelve citizens have to decide.

Q. MR. CHRISTIE: I put it to you that, in fact, on behalf of the Royal Bank or any other bank, there is more desire to support communist countries than South Africa, obviously.

A. No. No.

Q. Do you or has anyone in your capacity considered the effect of supporting communist countries with loans?

A. Have we considered the effect of supporting communist countries with loans?

Q. Yes. Have you or anyone in the bank that you are aware of considered the effect of that?

A. I am sure some consideration has been given of what effect the lending of money to communist countries would have on the life in those countries, the lives of people in those countries. Most of the lending that is done to those countries – and it represents, I hasten to add, a very minute portion of the total assets, assets of the bank

Q. Of what bank?

A. Of the Royal Bank.

Q. Are you commenting on what propor-{1878|1879}tion of the assets of other banks it reflects?

A. No.

Q. No. I am not suggesting the Royal Bank is somehow extraordinarily culpable when I suggest to you, as I am about to, that lots of other banks are supporting, with loans, communist countries as well as the Royal.

A. Most of the financing that is going into these countries is in the form of trade financing. It is to finance export of Canadian products and services. And if we should be apprehensive as to making Canadian products available to communist countries, if that is sustaining communism or serving the demeanour, the aspirations of world communism to finance this export of Canadian engineering or consumer products —

Q. Or computer parts.

MR. GRIFFITHS: Excuse me, let him finish.

THE WITNESS: — then I think this is a political decision that our own government should tell us that we are not to do it. It is not the case. We are being strongly encouraged by the government to assist in trade financing, wherever that might be.

Q. MR. CHRISTIE: Is that the answer to the question as to whether consideration has been given to the effect of this upon communist countries?

A. Well, that is such a vague and general question, I don't know. Depends what you mean what the effect is. If you mean to affect the stability, to improve the level of conditions of these people by improving technology and products and know-how so people {1879|1880} can be employed and their products can be exported and we buy some of their products, certainly we have taken into account this. Financing in the stimulation of world trade is a very desirable thing to accomplish.

Q. Have you ever considered what would have happened to the economies of those countries if this form of exchange of wealth, shall we say, had not occurred?

A. That would engage me in an exercise of speculation that I —

Q. I take it, then, you haven't considered it.

A. No. I have, as others, I am sure, have considered, that we are not an exclusive source of anything that they want, and the fact that if we, as Canadians, said, "We will not export, and our banks will not finance and assist the export of our products", that they aren't going to have those products is naive. They are going to get those products. They are going to get them from somewhere, and they are going to be financed by somebody, by some government or some banking institution.

Now, we are not exporting atomic bombs; we are not exporting military arms. We are exporting capital goods; we are exporting consumable products without which – and we have given a lot of consideration to this – the impact on Canada, if Canadian banks do not do that to pro-

vide that kind of support wherever the products are going – and our governments have urged us to play an even more active role in this, and they participate with us in those transactions through the Export Development Corporation – so if we are guilty of sponsoring and supporting and sustaining communist regimes, so is the {1880|1881} Government of Canada.

Q. Is it correct that you suggest the loaning of money to Poland, Rumania, Yugoslavia was so that they can buy Canadian products?

A. Primarily, yes.

Q. And without those loans they couldn't buy Canadian products.

A. Realistically they are going to buy the product where the financing is provided. If they can get that product – and there is very little that is unique in what we produce – if they can get that product in West Germany, if they can get that product in the United States or they can get it out of Brazil or whatever, and they can get the financing there, they'll take it. So they are going to have it. And we can't sit back piously and say, "We disagree with you politically; we disagree with your political system and therefore we aren't going to export Canadian goods to you; we won't sell our wheat to you; we don't think, because you are Communist, that you should have Canadian wheat" – do you think they are going to do without wheat? They are going to get their wheat from Argentina, from the United States, from Australia, wherever. And I don't know that it's the role of the banker to be making those political, international political decisions. If we were to receive any directive from our government as to how we were to conduct our banking business, it would be absurd.

Q. Is it not the case that your position in banking is rather influential in government, in fact?

A. I wish it were more so. {1881|1882}

Q. Yes, I'm sure. But isn't it true that fairly prominent Canadians have sat on the board of the banks for some time?

A. Yes. That's indeed —

Q. Some of the same people who are the directors of the companies who benefit from the exports are also sitting on the board of the banks; is that right?

A. Right.

Q. So you say that to save Canada's economy we allow trading with Soviet countries, whereas I say to you that the people who benefit from those types of arrangements are the same people who sit on the boards of the banks.

A. That they benefit, that their employees benefit, that the shareholders benefit I cannot deny; if it were otherwise why would they be in business?

Q. Well, I don't have to answer your questions for a moment.

A. No.

Q. But what I am suggesting to you is that there is a very close relationship from the major exportees to these communist countries and the major banks who base these decisions to make the loans.

A. There is a connection that they sit on the board; that there are a common membership of boards would not be denied; but to then make the big logic leap that their presence – that they were in a position to urge or require the bank to make a business decision that was irrational or irresponsible is incorrect.

THE COURT: I think, Mr. Christie, {1882|1883} we will adjourn for twenty minutes.

— The jury retires. 11:00 a.m.

— The witness stands down.

— Short adjournment

— Upon resuming.

— The jury returns. 11:30 a.m.

— The witness returns to the stand.

THE COURT: Yes. Proceed, please.

Q. MR. CHRISTIE: Mr. Burnett, the last thing I raised with you was the question of the ability to benefit from some of these foreign loans to certain people who sat on the boards of some of the companies making the foreign arrangements. We do agree that that does include many

directors of the banks on those boards, do we not?

A. I would suggest that if you examine the Board of Directors of all of the Canadian banks, Schedule A and Schedule B banks, that you would find represented on those boards nearly all of the —

THE COURT: Would you speak up, please, witness?

THE WITNESS: — of the chief executive officers of most of the major Canadian corporations.

Q. MR. CHRISTIE: Most of the major Canadian corporations having trading relationships with other countries, not domestic companies like small companies. {1883|1884}

A. Yes, there are large and small ones represented. Those who engage in international business and those whose business activities are confined to the domestic market. All are represented on the boards of these banks.

Q. Are you familiar with the quote from Vladimir Lenin in which says, "The capitalists would sell us the ropes with which we will hang them"?

A. I believe I may have heard that before.

Q. Do you think that the relationships of the banks in certainly in promoting the ability of communist companies to, shall we say, import with loans from Canadian banks actually has the effect of supporting those countries in those systems?

A. It obviously is of some economic benefits to those countries, or they wouldn't engage in that activity, but what I attempted to say earlier is, to suggest the refusal of Canadian banks or Canadian manufacturers or suppliers of those commodities, their goods or services, to sell into those markets would be naive, to suggest that you are going to deny them access to those goods, commodities or services.

Q. Why isn't it naive regarding South Africa, then?

A. South Africa, in the view of a number of Canadian companies, a number of Canadian banks and in the view of the — as evidenced in the United States now, the American government — represents a particular moral issue that has led these governments and financial institutions to the conclusion that they {1884|1885} prefer not to deal with them. They may also feel that these degrees of social unrest are such that it will ultimately result in some political and economic instability and thereby affect the creditworthiness of the loans; but I suggest that in the case of our own bank it is a moral posture that has been taken.

Q. In your case it is not a matter of practical concern for the ability to repay; it is a matter of morals.

A. We don't get to that second question because of our position on the first.

Q. Mm-hmmm. Are you aware of some of the sanctions applied by banks against sovereign countries for not being able to repay within time?

A. Do you want to name some specifics?

Q. I will. I suggest to you that the International Monetary Fund and certain banking syndicates have required countries to devalue their currencies. Is it true or false?

A. Yes.

Q. It is true?

A. Yes.

Q. They also have insisted, shall we say advised and encouraged increased taxes on consumer goods in some countries?

A. Yes.

Q. They have in the case of Argentina, in a meeting of the International Monetary Fund with the Minister of Finance of that country, laid down a series of economic measures which he, in fact, at a meeting agreed to. Are you aware of that? {1885|1886}

A. Yes.

Q. And he went home to his country and he was fired.

A. Yes.

Q. Because this country, at least, indicated that they felt it was interfering in their sovereignty.

A. I understand that the government of which he had formed a part was unwilling to accept the terms he had negotiated.

Q. And in the case of Egypt is it true that the International Monetary Fund has even directed the raising of the price of bread?

A. I am not aware of that detail.

Q. Is it true that the United States Government has assumed guarantees of interest payments on the loans to Poland to certain banks in the United States – in fact, I think two other banks, too; is that untrue?

A. Again, I am not familiar with those transactions.

Q. Let me put it to you. You are giving evidence as an expert and I recognize your expertise and I want to ask you a hypothetical question, if His Honour will permit me. Before you try to answer, maybe see if His Honour is prepared to accept this question.

I put it to you that if banks find defaults from countries such as Poland, and governments take over the payments, then the people, through their government, are subsidizing the banks' errors.

THE COURT: The witness can answer it if he can. {1886|1887}

THE WITNESS: Can I ask you to repeat that?

Q. MR. CHRISTIE: Yes.

A. Which people are subsidizing whom?

Q. Well, in the case of Poland, in the United States, I put it to you that the American government has now taken over and guaranteed the payment of interest on the loans of Poland.

A. Mm-hmmm.

Q. Now, I suggest to you that —

THE COURT: I'm sorry, was there an answer there?

Q. MR. CHRISTIE: You are aware of that, aren't you, sir?

A. I had earlier said I wasn't familiar with that, but I don't deny that it is a fact.

Q. All right. Let me put it just as a hypothetical question that when these countries, be it a Latin American country, Poland, or a communist country, defaults, the government has two choices: to allow the bank to be in a position of massive insolvency, or to assume the liability themselves and pay it off. Right?

A. The government of the borrowing country, or the lending country?

Q. The lender country. The bank of the lender country. For example, your own situation – I am sure you would not be in a position of default of any loan, but if you were in a default to, say, Poland, just simply after several re-negotiations, said, "We are not able to pay", the bank, then, is either guaranteed by the government of Canada, which it is – right, today? Banks {1887|1888} are guaranteed by the Government of Canada, aren't they, in defaults?

A. No.

Q. They're not?

A. No.

Q. All right. But in the case of a default of that kind, doesn't the government have the responsibility to either take over the liability and pay the interest to the bank or watch the bank become insolvent?

A. Are we in Poland, or back in Canada now?

Q. No. The Canadian bank that you represent loans money to Poland. Right?

A. Correct.

Q. I suggest that Poland can't or won't pay, or Argentina or Mexico or Brazil; you are in serious trouble.

A. Because of the diversity of our portfolio, a default on that particular loan would not put the Royal Bank in serious difficulty. To suggest that the government of the lending country would come to the support of its lenders ...

Q. Yes.

A. I don't know of one situation where that has happened. So it's very, very hypothetical. And I suggest that before that would happen there are many steps that would have to be taken, that first of all there would be the capital resources of the bank itself would have to be —

Q. Yes. That's the reserves. {1888|1889}

A. The reserves and the capital base that form part of the capital base of the bank would be, first of all, there answerable, and the funding for that loan would be discharged out of revenues from other sources and out of that capital base. To suggest, as think you are – and correct me if I'm wrong – that the Government of Canada is going to come in and say to any of its major banks, "Okay. You're all right. Don't worry about that" – the fact that you aren't going to be repaid that loan is so hypo-

thetical as to be just totally unrealistic. As you know, there is the Canadian Deposit Insurance Corporation that provides protection for depositors of the bank whose money is being used by the banks to fund loans wherever they may be.

Q. Well, wait a minute. I don't think we understand each other. I suggest to you that it's not depositors' money that's loaned. Do you agree?

A. No. I disagree entirely. If that is the postulation you are making, then it is totally incorrect.

Q. Well, you —

A. The major sources of the funds of the bank are, in order of their magnitude, are its deposit liabilities – deposits can be in a variety of forms, whether it's a chequing account, a savings account, a certificate of deposit or whatever, whatever form the bank may use to attract funds is a deposit, and it takes that fund; it has, first of all, its own capital base, equity paid in by its shareholders – and this is a constant daily process, shares are being issued and purchased by the public – you've got that capital base and then your {1889|1890} deposit base, longer term debentures that the bank, like any other institution, may issue, and then, on top of that comes your depositor liability base; and then you may borrow for shorter terms. We have commercial paper where you go in and borrow for sixty, ninety days; you borrow in a variety of means, a variety of techniques for a variety of periods and on a variety of terms; and you lend for a variety of terms and on a variety of conditions and at varying rates.

Q. So do I understand you to mean that the only required reserves are, for every dollar loaned you have to have a dollar on deposit; is that it?

A. No.

Q. That's right. I didn't think that's what you meant. What do you mean?

A. I never suggested that.

Q. No. I suggest that takes us back to what reserves are, and it comes to about five per cent.

A. Right. I guess on average.

Q. So you can loan, in fact, \$20 for every dollar on deposit.

A. Mm-hmmm.

Q. And that only applies to domestic loans; and foreign loans there are no reserve requirements.

A. Right.

Q. Right.

A. Except in the United States I pointed out.

Q. That's right. So when it comes to loans to countries like Poland, there are no reserves requirements, there are no deposit requirements either. {1890|1891} Right?

A. No deposit requirement, no.

Q. No reserve requirement.

A. No reserve requirement.

Q. So just where do you fund these loans from?

A. We fund them in a variety of means, in a variety of locations and at a variety of rates. If you'd like me to recite some of them ...

Q. I think – it might take a while, but you just generalized, and I am not going to argue about it.

A. There are a variety of markets. The money market is a commodity, it goes out —

Q. So it relies on markets in the United States and elsewhere?

A. Yes.

Q. It enters the commodity market?

A. To the extent that you accept my definition to money being a commodity, yes.

Q. And it can vary and fluctuate the value of the Canadian dollar, in fact.

A. No. No. I think – you mean the value of the Canadian dollar relative to other foreign currencies?

Q. That's what I meant, yes.

A. Those decisions are taken not by banks. Those decisions are taken by government.

Q. Do banks speculate in currency trends?

A. Speculate? {1891|1892}

Q. That's right.

A. They engage in currency transactions in a very sophisticated [sic] way. To suggest speculation, that there is a high element of risk in their foreign currency transactions, I think, would leave an entirely false impression.

Q. Now, in respect to financing of communist countries you, yourself, speak only of Poland, Czechoslovakia and Yugoslavia. Do you consider those countries have more or less moral turpitude than South Africa?

A. I haven't formed a personal view.

Q. No, as a representative of the bank.

A. I don't know that the bank has formed a view on the issue of the relative morality of the manner in which these countries are governed.

Q. What about Argentina, has your bank got loans to Argentina?

A. We have a very large presence in Argentina.

Q. What does that mean? Is that a loan presence?

A. We have several branches, and we have a large loan portfolio in local currency, local deposits, funding, local loans, and we have sovereign risk loans, and we have private sector commercial loans in both local currency and in U.S. denominated transactions.

Q. Let me put it to you that in these loans you have thus described there are no reserve requirements.

A. Right. {1892|1893}

Q. Although there are in Canada, for Canadian domestic loans.

A. Right.

Q. And let me put it to you —

A. No. No. No. For Canadian assets, or for Canadian liabilities.

Q. That's right. That's right. Now, what I am suggesting to you is, is there a significant difference to your loans in Argentina in another respect? You really can't be sure of foreclosing on the Argentine Government, but you can be sure of foreclosing on a farmer in Western Canada.

A. Well, I think — yes, that should be very clearly obvious.

Q. So it becomes a matter of —

A. But to suggest, however, that lenders to international or sovereign foreign states are without remedy and without security is a wrong impression, as well.

Q. Well, let me put to you the suggestion that the real security is that other banks are also very much concerned about their liabilities in that you protect each other in a network whereby if a government such as Argentina and Mexico defaulted, they wouldn't get loans anywhere else, and you could get them in economic chaos mighty quick.

A. That is hypothetically correct but, suggest, totally unrealistic.

Q. When it is hypothetically correct I suggest to you that the Argentine or any other government doesn't need to have someone tell them the consequences {1893|1894} of not coming to terms with you; they are not that stupid. Right?

A. It is, in these negotiations, the position of both parties is not disproportionately strong. They have very strong negotiating positions in terms of the dislocation to the whole international financial system, monetary system, that a default would cause and stimulate. They are not insensitive to that and they know that banks are not insensitive to that. So to suggest that the great, big, mean old banks are ganging up on these countries and telling them, "Increase the bread's high price to the poor and deny imports of medicine", or whatever you may suggest, is to, you know, totally distort the reality of what this whole process is all about.

Q. Well, this whole process is all about, I suggest to you, very obviously, power.

A. But it's power that I've suggested to you that is shared.

Q. It's an interdependent sort of situation, isn't it, because if the country defaults, the banks suffer, but it couldn't get loans elsewhere; and if a country pays, it still has to cope with its own citizens. Right?

A. If I can — I don't want to phrase it in the form of a question, but I would suggest that if you were to make a loan to someone and that loan were not repaid, you would be disinclined to continue lending to that person when you have options open to you where you can lend

money and get repaid. So these sovereign states are not insensitive to this fact, either. {1894|1895}

Q. Isn't it true that it's entirely a matter of the discretion of the lender bank as to when they declare a loan which was an asset to be in default and become a liability?

A. No.

Q. What is the criterion for that?

A. I believe that there are now, in Canada, regulations imposed by the Inspector General of Banks that have to be uniformly applied by all banks. There was an inconsistency in the manner in which various banks treated that question, and I believe, and I may not be entirely correct, but the principle is there that if there has been no payment of interest for ninety days beyond the due date, then it has to be classified as a non-productive loan, and if there's been no interest or principle paid at the end of six months, then it has to be treated in a different manner, and I can't tell you that.

Q. Does that apply to loans to sovereign, foreign countries?

A. Not at the present time, although there is a —

Q. If it did —

A. — there is a tacit —

Q. If it did, it would be in default.

A. Well, being in default is merely a disclosure matter. It's not to suggest that a loan in default has to be written off. It is merely indicating to those who are interested in monitoring the income stream of the banks that that block of money is no longer generating income. {1895|1896}

Q. But it becomes a matter of discretion as to when you say that it can no longer and will not be paid; is that right? You can still hold out hope that it will be paid and call it an asset, meaning a loan, until such time as you decide to say, "Well, there's no hope", and then it becomes a liability.

A. Yes. What you disclose, make a disclosure that it is non-productive, and then the discretion is governed within some confines of reasonableness and sound accounting practices and what your independent auditors will require of you to disclose. So that the integrity of your balance sheet can go forward and support it by their certificate.

There have to be judgment calls with regard to commercial loans as well as sovereign risk loans. Argentina has been there for a long, long time, and it's expected to be there for a long, long time. Mexico was seen as an almost total disaster area five years ago, and today they have generated and declared a very positive foreign exchange trade balance, and it is the country which voluntarily agreed to observe some of the dictates of the International Monetary Fund.

Q. Dictates?

A. Well, the suggestions as to how they could stabilize their economy and regain the confidence of the International Monetary system. They have now moved into a position of a positive trade balance, significant trade balance, notwithstanding the decline in oil prices. And so where you might have been inclined to say five years ago loans to Mexico are just a disaster and should be written off, it would be just totally {1896|1897} unrealistic to have done so, and you have a legitimate expectation that what has occurred would occur. And now those loans could hardly be regarded as in jeopardy — enormous wealth of Brazil; they've got some liquidity problem; they've got exchange problem; they've got balance of payment problem, but the wealth of Brazil will be there for the next hundred years.

Q. And a lot of it will end up in the hands of the banks that loan them the money.

A. Some of it will, but a good portion of it will end up — most of it will end up being enjoyed by the people of Brazil who have received the support of the international banking community in the development of those resources which could not have occurred had the banks not joined in and supported and permitted that to happen.

Q. Let me suggest to you that if you are applying that to the nation of Mexico, it is, in fact, the case that those in the government who made the deals with the International Monetary Fund seem to be doing very well, but are you suggesting that the people benefitted?

A. I suggest to you that unless the economy of Mexico is returned to



stability and successfully and properly operated, the people of Mexico have no hope of anything. And the degree to which two or three or so have thrived, I can offer no comment, I have no knowledge or information, and I suggest to you that when – the general level of economic activity in Mexico has increased and if you'd look at the per capita income in Mexico, there's been some significant increase throughout the past five {1897|1898} years.

Q. Are you a Mason?

A. No.

Q. Do you know how many members of your Board are masons?

A. No. It's not part of the qualification test that we put to nominees for presence on the board.

Q. Do you know how many of the machinery and industrial plants of the Soviet Union were financed by Western banks?

A. No.

Q. Do you think it possible that truck plants, motor plants, machine tool plants, chemical plants, atomic plants have been financed by Western banks in the Soviet Union?

A. Let's go down the list. I know that there has been an export of technology. I think Fiat entered into a deal that – where they exported technology, and perhaps some capital funds and capital equipment, machinery, to permit the manufacture of a small compact car in Russia, and I have forgotten the man's name ...

Q. What's the definition of a banker? Is that somebody who loans money at interest?

A. Well, a banker is one, I think, who is engaged in the business of banking, and what is the business of banking in this country is yet to be judicially determined.

Q. I suggest to you that a banker could be anybody who lends money. {1898|1899}

A. Well, if that's the definition you want to adopt then, you think the lending of money constitutes the business of banking, then can't quarrel with your decision to regard him —

Q. Let's not make it just my decision. Is there some legal definition of banker?

A. I suggest a banker is one who is engaged in the business of banking, and there is no legal definition of banking in Canada yet.

Q. Do you know a man by the name of Arnold Hammer?

A. Yes. That is the name I was trying to think.

Q. He financed various Soviet enterprises in the United States?

A. Yes, and some in Libya, I understand, and elsewhere.

Q. Are you familiar with the name Cyrus Eaton?

A. Yes.

Q. Is he a financier?

A. I believe he was.

Q. David Rockefeller a familiar name to you?

A. Yes.

Q. Has he got something to do with the Chase Manhattan Bank?

A. A great deal.

Q. And is international finance apart of his activity?

A. I would think so. {1899|1900}

Q. And Donald Kendall, are you familiar with him?

A. The Donald Kendall I know I doubt it's the one to whom you are referring. This one is the Treasurer of Northern Telecom.

Q. I see. Pardon me, then, it is a different one. I suggest to you that those persons – Arnold Hammer and Rockefeller – have participated in financial enterprises to the development of activities in the Soviet Union. Would you agree?

A. I wouldn't disagree.

Q. And again, your position is that dealing with the Soviet bloc countries is a matter of expediency because if you didn't, others would.

A. I didn't say it was a matter of expediency. I did say that to refuse to deal with communist countries predicated on the assumption that the needs of those countries were not going to be filled is naive.

Q. Would you agree that banks can create inflation by lending large sums of money?

A. I suppose they could.

Q. And can they also —

A. But to remember, inflation is a very complicated and difficult economic notion. And I, again, I don't want to presume to have any great knowledge of that, but inflation is, in one sense, a consequence of the supply of money.

Q. Well, isn't credit today one of the largest sources of money supply?

A. Credit today is a means of dis-{1900|1901}tributing the money supply. The money supply is a decision of central banks of the country that authorizes the issuance of the currency. The Bank of Canada will determine the amount of money supply, and the Treasurer, Mr. Volcker, and his allies will determine the money supply in the United States, and that is to bear some relationship between the goods and services that are available to which the money supply is to represent.

Q. So that's a decision made by, you call it, the central banks.

A. That's right. And you've seen in the past examples of conscious and deliberate policy decisions by central governments, central banks and governments to increase the supply of money which led to the inflationary cycles. The reasons for issuing the money, we were told, was to help finance the Vietnam War, and that these were not producing durable, capital goods and services. The money supply was out there and it meant that there were more dollars available than reflected the value of the goods and services that were produced. As a consequence, the relative worth of the commodity of the product in relation to the dollars dropped and the amount of dollars increased.

Q. To put it in simple terms, would you not agree that banks five years ago were lending a lot more money than they are now?

A. Yes.

Q. In Canada.

A. Yes, indeed. The demand for borrowing was much stronger five years ago.

Q. The price of things was rising then; {1901|1902} is that right?

A. That's correct.

Q. Now, the price of things are dropping, right?

A. Right.

Q. And the banks are asking for their money back at the rates that they lent it, plus interest, five years ago; right?

A. The banks do not escape the realities of change in economic conditions any more than the parties with whom they deal. They have been required, in many and most cases, to enter into negotiations with the borrowers to reschedule those things.

Remember, too – and it is very critical – that the big, bad banks borrow that money at rates of interest then extant, and they are still left with the burden of repaying that money that was borrowed.

Q. But didn't they lend \$20 to —

THE COURT: Had you finished with your answer?

THE WITNESS: No.

Q. MR. CHRISTIE: Sorry. Go ahead.

A. And therefore, if the borrower is faced with the necessity of meeting those interest rates and terms entered into at that time in an inflationary period, so is the borrower, the bank, to its depositors [sic] who bought term certificates, bought debentures or whatever, at rates of ten, twelve – retirement savings plans, certificates, paid ten and twelve per cent. Those obligations remain.

Q. But isn't it true you loaned at the {1902|1903} rate of twenty to one on deposits?

A. Could have, yes.

Q. So although you might pay interest on deposit which is one dollar, you gain interest at that rate on twenty dollars loaned. True?

A. Mm-hmmm. But that interest, that money had to have been borrowed; it cannot exist if it hasn't been borrowed. How can we lend up to twenty times our deposits if we don't have the deposits?

Q. Because that's what the Bank Act says you can do.

A. That's the ratio of —

Q. Twenty to one.

A. Of deposits, to deposits. The loans you are suggesting can be, the liability can be twenty times the assets, can be twenty times the liabilities?

Q. That's right, because you are allowed to loan \$20 for every dollar on reserve.

A. Where are you going to get that money to lend?

Q. You negotiate by virtue of previous loans.

A. No. No. Where do you get the money? Where do you get the money to hand over to the borrower?

Q. Well, when you are only —

A. You go out and you borrow it. It doesn't — this is not manufactured in the air. You borrow it.

Q. It's credit. It's credit, sir, I {1903|1904} suggest. And I am asking you whether it isn't true that, in fact, with one dollar on deposit you loan twenty dollars, it becomes an asset to you alone.

A. Yes.

Q. That's exactly right.

A. But where do we get the money?

Q. I suggest, frankly, sir, that you create it by loaning money more than you have on deposit, which the Bank Act says you can do, twenty times as much.

A. If you are a borrower, you are an oil company and you want funds with which to pay a drilling company, pay your own operating expenses and things of that sort and you say, "I want to borrow two million dollars", you want two million dollars; you don't want two million dollars that exists somewhere on my balance sheet. You need the two million dollars. Where do I get that two million dollars? I borrow it. I borrow it at better rates than you are able to borrow.

Q. Sir, I suggest to you that when the man gets the two million dollars he gets, usually, a cheque. He doesn't get cash. And all he does is turn around and deposit it and you pay certain bills out of it and he pays interest on it; but I suggest to you you didn't have two million dollars on deposit by necessity at any time; you only need to have one dollar for every twenty that you loan.

A. Well, where does — if that theory is correct, where does the money come from?

Q. By the issuing authorities' power to lend credit, sir. That's what I put to you, which is exactly what the banks have under the Bank Act. {1904|1905}

A. The money that is loaned by the bank is real money. The borrower takes that and pays his workmen in real money. He pays his suppliers in real money. That is real money. It's not notionally created.

Q. It's real currency.

A. Real currency or transformable in real currency if it is in real paper.

Q. I suggest to you if all those people who had money on deposit at any time went to claim it, you wouldn't have any money in the bank, sir.

A. Of course we would. We wouldn't be alive if we were sitting in the bank — it's out with the oil company, paying for his employees, paying for other useful economic activity that's going on.

Q. Twenty times as much as you had on deposit.

A. If you are suggesting that that is the case, I am asking you again to explain to me where that money came from.

Q. I'll answer you, sir, because you are asking me. It comes from the fact that when you issue a loan, you issue not currency but credit. And you are entitled to issue twenty times as much credit as you have on deposit; and in fact, it becomes an asset to the bank the minute you have a loan of the amount that you've loaned.

A. I suggest that you are mixing up some accounting notions with reality. Do you think that — you suggested that it was not real currency that was loaned or delivered into the hands of the ABC Oil Company; it wasn't real money, it was credit. {1905|1906}

Q. It was credit. It's not currency.

A. It's not currency, so then payday comes for the ABC Oil Company and what he gives to those people in those pay envelopes is not currency, it is credit. Is he giving them credit?

Q. It is a cheque, a credit on the bank.

A. It is a means of distribution of it.

Q. Yes.

A. But he could, and many do, coin it around, dollars, put them in an envelope and hand them to the employee. Are you suggesting that isn't

real currency?

Q. When he does, no, that is real currency; but I am suggesting to you —

A. Well, where did it come from?

Q. I suggest to you that isn't one twentieth of all the transactions that go on. Eighty per cent of them are in the form of credit, cheques and other negotiable instruments. Do you disagree with that? People don't do massive transactions in currency, sir.

A. Of course.

THE COURT: Gentlemen, it seems to me that I am back in first year at University studying economics. Is there a point to all this, Mr. Christie?

MR. CHRISTIE: I am just suggesting that the banking institutions create money to credit, and that is what I am trying to establish.

THE COURT: Well, I think you can put that to the jury when your turn comes. Now, can we get back to something that is, perhaps, a little more {1906|1907} meaningful to the jury?

Q. MR. CHRISTIE: I put it to you, sir, that it's evil to create massive loans that in a depressed economy cannot be repaid so that the people who have taken those loans have to surrender their assets. Do you consider that reasonably fair?

A. I think it's extremely unfortunate for those who are caught in such situations.

Q. I put it to you —

A. I also suggest, though, that for you to suggest that the story ends there is a game, telling only half of the story, because what has been in the past loans freely and openly negotiated between people of equal bargaining strength in a competitive framework have, on occasion, been required to be renegotiated and converted from debt into equity, or the term of repayment changed, or the interest rate changed. The lender is not interested in having a farm, a house, a business; he wants that enterprise to continue, he wants to be repaid so that he can repay the obligations he has undertaken to fund that loan.

Q. I put it to you, sir, that when you say equal bargaining strength", it might apply when you are dealing with a foreign country, and it might apply with Dome Petroleum, but there is no reality to the suggestion of equal bargaining strength when you are dealing with the small debtors of this country.

A. That, sir, is incorrect.

Q. So they have —

A. It is a highly competitive market, and if you are witnessing what's happening in mortgage {1907|1908} rates, in the last: six weeks, you will see evidence of the competition between lending institutions and the impact —

Q. Do banks have vast wealth?

A. Vast wealth?

Q. Yes.

A. That's a definitional issue again. They are financially strong and stable.

Q. I put it to you that certainly the largest buildings in every city in Canada are banks; is that true — a sort of real indication of vast wealth?

A. Yes.

Q. Can you tell me any bigger buildings in Toronto than banks?

A. Well, do the banks own those buildings, or do they occupy them?

Q. You tell me. You are the banker.

A. You made the assumption.

Q. Well, tell me the facts if it is a false assumption.

A. As far as I know, the banks do own — the Royal Bank of Canada, through a subsidiary does own the Royal Bank Tower. I don't know what the relationship is with regard to the Toronto Dominion and the Toronto Dominion Centre. I don't know what the relationship is with the Bank of Montreal and the First Canadian Place, and I don't know what the situation is with the Commerce and the Commerce Tower, but that's —

Q. Is that vast power as well? Would you say they have vast power at their disposal?

A. Of course they do, and very {1908|1909} responsibly administered.

Q. Yeah. Well, I put it to you that when it comes to, for example, the

Royal Bank, the relationship of the Royal Bank to Canadian Pacific, is that there are four members of the Board of the Royal Bank on the Canadian Pacific Board. Right?

A. Four —

Q. Yes.

A. You mean four people who are directors of the Royal Bank are also directors of the Canadian Pacific?

Q. Right. Sinclair, Terry Pratt and —

A. The last is no longer on the board.

Q. The others were and are?

A. I think so.

Q. I suggest to you that the Canadian Pacific, it also has the directors from the Bank of Montreal on its board, and the Bank of Nova Scotia and the Canadian Imperial Bank of Commerce on its board. Would you agree?

A. No, I wouldn't disagree. I would be surprised if it were otherwise. These are prominent business executives; those are people that you would want on your board.

Q. Would you say that would put them in a position of equal bargaining strength when it came to arranging matters of a financial nature as would be the case of an average farmer or businessman?

A. I don't think the presence on the board would make, have any impact whatsoever. The vast majority of the banking activities between large cor-~~{1909|1910}~~porations and the banks would be negotiated at a management level and would be in accord with market and competitive conditions.

Q. Would you agree that it's likely that the Soviet Government was given treasury fund from the Federal Reserve Board and Federal Reserve Bank and through the Chase Manhattan Bank to build the State Bank of the Soviet Union?

A. I have no idea.

Q. Is it the case that — you said something about the Vietnam War. Isn't it also true that at the same time banks were financing Eastern block countries who were munitions manufacturers in that same War?

A. I have no personal knowledge that they were financing the manufacture of weaponry for that War.

Q. Well, in the journal of the Vietnam War was the Royal Bank of Canada still loaning money to Yugoslavia, Rumania and Czechoslovakia and Poland?

A. That pre-dates my association with the bank. I have no personal knowledge.

Q. Well, is this a new development that monies are loaned to those countries?

THE COURT: You are not saying that as a matter of fact because you are reading from a book, are you? Do you intend to prove any of this?

MR. CHRISTIE: I intend to prove that this is the basis of my client's honest opinion.

THE COURT: Do you intend to prove what you just suggested from reading from a book that {1910|1911} there was the financing of a building in the Soviet Union, and that money from the United States of America financed the other side, in effect, in the Vietnam War? Do you intend to prove any of that?

MR. CHRISTIE: I intend to place before the jury

THE COURT: Do you intend to prove that by calling evidence? Yes or no?

MR. CHRISTIE: I intend to attempt to prove that by calling evidence, sir.

THE COURT: Thank you. Then proceed.

Q. MR. CHRISTIE: Do you think it likely that the Vietnam War was, in part, financed by funds loaned from Western banks to Eastern bloc countries?

A. I have no way of knowing. Lending on the part of Western banks of which I am familiar, during the time in which I have been involved in such transactions, have for the most part been for the purposes of financing trade or specific project financing of an infrastructural nature — airports, highways, ports and things of that kind, or to finance the sale of consumable products manufactured in Canada for which there may

not have otherwise been a market.

Q. Is it your contention that banks do not have anything to do with the politics in those countries to which these loans are made?

A. Yes. It is also my contention that they have little or nothing to do with politics in Canada other than is permitted by and expected of good corporate citizens.

Q. Of course, that's unlimited, isn't {1911|1912} it? Any good corporate citizen can do as much as they like to influence politicians in this free society.

A. No, they couldn't. There are certain bounds of propriety. There are limitations on the contributions that can be — made in support of candidates and policies. They attempt, through, in the public forum, to help formulate public opinion in the direction of certain issues with the hope that government will be persuaded to the propriety and efficiency of those policies.

Q. Well, do you deny that the limits of influence, as far as donations are concerned, may be specified, but the amount of influence and inter-connection between the board of directors of banks and learned and distinguished politicians seems to be rather extensive? Would you agree?

A. No, I would not agree.

Q. What about John Turner and Brian Mulroney — did they sit on boards of banks?

A. Not to my knowledge.

Q. You don't think so?

A. I know Turner did not sit on the board of a bank.

Q. Did he act for a bank?

A. His firm acted for a bank, acted for several banks.

Q. So you are just telling me that there was no connection of any kind between the political leaders of this country and banks other than just casual acquaintances.

A. I am saying that there was nothing {1912|1913} improper in the relationships of banks and the Government of Canada or the Province of Ontario. There are open and continuous dialogue between officials of the bank and officials of government, and that would be insensible for that not to be the case.

Q. Are you familiar with the reason why, in the currency of the United States, there appears a certain Freemasonic symbol?

A. No.

Q. Are you familiar with the Bank of Ambrosiano in Italy?

A. Very much so.

Q. Why?

A. Because of the dramatic events that surrounded its demise and —

Q. Was it a big bank?

A. Yes, it was a fairly substantial bank in Italy.

Q. Did it have anything to do with Masonry or secret societies?

A. It is alleged that that particular bank, it is alleged, was involved in some rightist movement. So it was one bank that clearly was involved in politics and was not interested in the support of communism. In fact, it is alleged it was attempting to prevent the spread of communism through some of its covert activities.

Q. And it is no longer a bank, is that it?

A. No. I believe that the bank still exists. The Italian parent company, the ownership has changed and the management of it has changed. Its {1913|1914} Luxembourg subsidiary is in the process of liquidation, and its Bahamian subsidiary is in the process of liquidation.

Q. You suggested earlier in answer to my questions that it was improper to suggest that banks created money out of nothing, right? Well, how do governments, then, create money?

A. They have the controls of the central banking system, and it is within their power to determine the amount of money that is to be created and distributed.

Q. So they loan it to you, then; is that your evidence?

A. No. No, they do not. They put it into circulation. They use the banking system as a means of distribution.

Q. Then how does the interest get attached to it?

A. Through Treasury Bill interest.

Q. Through what?

A. How does the interest get attached?

Q. Yeah. You say that the government simply creates money out of nothing, simply prints it; then how does it acquire interest? Because it certainly gets attached to interest or with interest when you loan.

A. Well, interest is the – I think, correct me if I am wrong, but interest is the reward attached to the assumption of risk in terms of the obligation to repay an obligation, and the rate of risk will determine the rate of interest.

Government itself has to borrow money {1914|1915} from time to time; it does so through the issuance of Government Bonds and through Treasury Bills for shorter term financing arrangements, and the rate that they have to pay to compete in the money market for that commodity money is what impacts on the rate of other borrowings that have to take place or do take place.

So that one who is in possession of the money and has the opportunity, and that is a depositor, that is a bank, have a number of choices open to them as to what they are going to do with that money. They can decide to put it in Treasury Bills at a relatively low rate of return; they can put it into equity stock at no rate of return but high expectations as to capital gains, or they can put it into one of now eighty-five competing banks and get a fixed, sure return on their money and feel comfortable that there has been no loss experienced there.

Q. You say the governments have to borrow money from time to time.

A. Yes.

Q. I thought you indicated they printed it.

A. Well, they have that option, too, but if they are wanting to keep the money control, the supply in control – because if they were not to do so you have a period of inflation ...

Q. So they borrow it from lenders such as large financial institutions?

A. They borrow it from dentists, doctors, mechanics, everybody.

A. [Q.] But the largest amount of it comes {1915|1916} from large financial institutions.

A. Not so.

Q. Not so?

A. Not so. I think the Government Bond issues would be very broadly distributed and held by people, Treasury Bill transactions ... I don't know if anybody has ever really analyzed these things, but it is an open market transaction.

Q. The largest purchaser [sic] of Treasury Bills, I suggest to you, are the large financial institutions such as the Chase Manhattan Bank, and if they decide not to buy Treasury Bills from Canada, the value of the Canadian dollar drops; is that true?

A. The value of the Canadian dollar drops, or the interest rate on the Treasury Bill goes up.

Q. That's right. Therefore the interest rates to all the banks go up and the economy would grind to a halt.

A. No. You have to put on the brakes. It doesn't follow that —

Q. You put on the brakes, shall we say.

A. No. If the interest rate on Treasury Bills was not such as would attract, if you say Chase Manhattan is the biggest buyer of Canadian Treasury Bills —

Q. I put that to you as the case.

A. I don't know whether that is true or not, but if it were so that they decided they were not going to buy and there were no other people prepared, or {1916|1917} institutions prepared to buy at that rate, then the rate goes up.

Q. Until we get a buyer.

A. Until we find a buyer, or until we decide that, well, there are other ways of financing. If the cost of Treasury Bills and short term financing is too expensive, then you look for other means of doing it. You take a longer term.

Q. What I am suggesting is that these financial interests who deal in great quantities of money such as we have been discussing really have control over the economy of countries like Canada and every other country in the world.

A. They have a very, very important, indispensable role to play in the

operation of the economies of these countries, Canada included, but that they have with that a responsibility and a self interest to see that the economies of these countries, Canada included, are kept buoyant, and if they fail in the discharge of that mission, then the economies of these countries will be pulled down, but so will they. And why would they be motivated to do so?

Q. Well, let me put it to you simply that they wouldn't be too badly hurt by the fall of one country's economy, whereas they might if more than one collapsed. In other words, they can manipulate certain countries through that final control.

A. Certainly they are going to be more impacted with two than one, and three than two, but it is not in their self interest. And with respect to this, it seems irrational to suggest that they seem so {1917|1918} motivated.

Q. What I suggest is not that they are so motivated to destroy a country, but to put certain controls on that country to make it, shall we say, more productive, to repay them more capably.

A. It would impose, as a lender today in this city – I might say I am unwilling to lend to you today because of the manner in which you are conducting your business – the amount that you are taking out in salary, the amount that you are paying out in dividends, your existing debt structure is such that you cannot, on your own projected cash flow, meet your obligations as they fall due, and we would suggest to you that if you want x number of dollars from us on these terms, we would be prepared to lend them if these conditions were met; and if they are not met, then try some other lender.

Q. And if there is an International Monetary Fund, I suggest there isn't any other lender.

A. And if you are in that position I guess that is correct, but there are a lot of countries in the world who are just in the position of not being able to accept anything other than what the International Monetary Fund recommends, and there is a certain logical compulsion to what is being recommended in these things. When spending is exceeding revenues there is a distribution of wealth in the state that isn't there. It's ...

Q. So you blame the countries for overspending in their budgets.

A. I believe that the financial difficulties of a good many of these countries are attributable to a lot of factors, not the least of which {1918|1919} was the dramatic escalation of the price of oil in the last decade which brought a lot of smaller nations to their knees because of their need to import sources of energy not otherwise available to them, and that there were some governments told who entered into international borrowings to finance consumables, which is a politically more palatable thing to do than to face the need for the larger capital projects.

Q. Wasn't that very process encouraged by the lenders in order to create a financial dependency upon them?

A. Lenders don't want to create a financial dependency. They want a strong, self-sustaining borrower who is in the position to repay the money that they lend them.

Q. But isn't it the case that countries that have substantial resources such as oil are encouraged to borrow, by lenders such as your bank and others, because of the security of those assets, regardless of the present ability to repay?

A. No. These are the people who least need to borrow. They are generating their own wealth. Why would they borrow? Many of the Euro-dollar market is monies that were paid to those countries for these resources that now have to be recycled, and the London money market interbank offering has provided the mechanism; otherwise there would have been economic chaos the amount of U.S. dollars flowing into the Middle East.

Q. Otherwise it would have been supply and demand without monies borrowed, right?

A. What would be supply and demand? {1919|1920}

Q. Perhaps the price of oil might not have been able to be accomplished if it hadn't been for the fact that international financiers lent them the money to pay those prices, in fact encouraged that spiral, sir.

A. You are waiting for a response?

Q. I am indeed.

A. That if we had refused to lend money, we, the international financial community, refused to lend consumers who needed that money —  
Q. Governments and consumer.

A. Yes. If we refused to lend them the money.

Q. Yes. Then the law of supply and demand would have taken effect and the price would not have risen as it did, because there would not have been buyers at those inflated prices.

A. It would have meant that those countries to whom you are referring would have been without.

Q. Or the people who supplied the oil would have had to lower their prices.

A. Provided the loans were not made to the major consumers of Middle East oil. Middle East oil was not consumed by Jamaica, it was not consumed by Mexico, not consumed by these smaller states, but it was the Western powers of Germany, France and the United States, and to a limited degree Canada, who were importing this oil and paying those prices.

Q. But it was not the result of the fact that money was loaned by international financiers that you acknowledged as loaned without reserve?

A. No. {1920|1921}

Q. I don't like to go back over the same ground, but let me just recapitulate what I understand from you, and that is that you acknowledge that the loans in Eurodollars and foreign loans are without reserves; these loans were made at times when you say inflated oil prices occurred.

A. No. I said that this is one of the difficulties in the —

THE COURT: A little louder, please.

THE WITNESS: One of the contributing causes to the economic difficulties now being experienced by a lot of small Third World countries was a consequence of this dramatic escalation in the cost of petroleum. You then suggested to me that the banks contributed to the increase in that price because we loaned the money to the borrower, or to the consumer, and if we hadn't done that they wouldn't have been able to pay the high price so the price would have gone down. And I suggested to you that the United States, Canada, Western Europe were not borrowing; they didn't come and borrow to purchase petroleum products. So your explanation just doesn't seem to be logically consistent.

The others, Third World nations, had no option. They had no choice but to say, "Look, we aren't going to import." We saw what happened in Jamaica last week when they increased the price to forty cents a gallon — the whole industry in jeopardy.

Q. So you are saying that the international financial exchange of wealth, shall we say, that the banks accomplished to finance purchases of oil benefitted Third World countries. {1921|1922}

A. No. They effected a recycling of those dollars. The monies were made available to governments and concerns elsewhere in the world to finance development, to finance, undertake industrial projects, to finance roads, to finance whatever, not just to buy oil. Those dollars were recycled through the international banking system. It worked well and fairly in an open, competitive market which had the effect of minimizing the spread between cost and earnings.

Q. And increasing debts throughout the world to the point where governments now cannot pay them; is that right?

A. In some instances, unquestionably, governments are having difficulty in meeting the obligation that they have, but the international banking community has demonstrated its sense of reality and its willingness and the necessity to re-negotiate the terms that were first entered into by people freely and openly in negotiation.

Q. Such re-negotiation as you described occurring with governments such as Argentina and Mexico.

A. Haiti, the Dominican Republic, whatever. There is a continuous process of dialogue.

Q. By laying down the economic rules under which these loans can be re-negotiated don't you think those dictates that you acknowledge have political effects, too?

A. Why, of course they do.

Q. Did they bring the left wing government in — {1922|1923}

MR. GRIFFITHS: Excuse me, he is not through with his answer.

THE WITNESS: If, in the view of supposed experts or those who are being called upon to advance additional funds, the affairs of that independent nation are being conducted in a manner which I may analogize to the business in Metropolitan Toronto where it is clearly impossible for those states to meet the obligations that they are now willing to undertake in the course of these negotiations, or seeking from other lenders, if it is clear that they cannot meet these obligations it is — and the conditions necessary to demonstrate that there will be, in the longer term, an ability to repay monies that are borrowed, and if the imposition of those conditions requires the paying of some political price and some adjustment and making the government of that country answer to those political governments, have the responsibility of developing a political consensus [sic] within the country to accept these regimes, then that is something less, I suggest to you, than exercising political control over those countries.

Q. Whereas in a business in Toronto you might petition him into bankruptcy or put someone in charge of their business, I suggest that what you do in the countries we've mentioned is simply put pressure to change the government.

A. I suggest that that is totally without foundation, in fact, historically.

Q. It didn't happen in Argentina?

A. No.

Q. The Minister of Finance of Argentina {1923|1924} was not forced out of office by the dictates of the International Monetary Fund?

A. He was forced out of office by his government. His government was still in power.

Q. Yeah, because he wouldn't accept —

A. The government changed, but according to free election in accordance with their constitution. You can't name [blame] the dictates of the international banking community or the dictates of the International Monetary Fund. It was a change of government.

Q. May I suggest that certain changes in the Government of Poland have been brought about by the International Monetary Fund? Would you disagree?

A. I would disagree.

MR. CHRISTIE: Thank you.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour.

#### RE-EXAMINATION BY MR. GRIFFITHS:

Q. Just a couple of things, Mr. Burnett. Now, my friend asked you about — Mr. Christie asked you about merchant banks, if you will recall, and named some of those banks. If you will just have patience for a minute I will name some of those banks that you indicated that you were familiar with. I believe one was called Warburg. {1924|1925}

A. Yes.

Q. And there was one called Kuhn, Loeb. A couple of questions around that. First of all, do you have any — can you give us any information as to whether the Royal Bank has a merchant bank affiliate?

A. Yes, it does. A subsidiary, Orion Bank situated in London.

Q. And what about other major banks?

A. I'm not sure whether they have. I don't think they do.

Q. And did Mr. Christie exhaust the list of merchant banks when he named the half a dozen he did?

A. Oh, heavens, no. There must be hundreds of them of various sizes. Those are some of the most prominent and better known. He did not mention Solomon Brothers, and Leeman [Lehman] Brothers, and there are several others.

Q. And are you familiar with the management of some of those merchant banks that Mr. Christie mentioned?

A. Some of them. I had direct dealings with Warburg's, with Solomon Brothers, with Leeman [sic].

Q. And can you tell us if any or all of those banks are controlled by

Jews?

A. I can tell you the people I was dealing with, some may have been of the Jewish persuasion or religion, I did not ask, but clearly the majority of the managing partners of these firms that I was dealing with did not appear, on the basis of name alone, to be of {1925|1926} the Jewish religion.

Q. Okay. Mr. Christie asked you whether you morally preferred Poland and Yugoslavia and Rumania over South Africa, and you responded to that.

A. Yeah.

Q. The next logical question is, do you prefer communist countries including those named as borrowers of your funds to capitalist, to Western countries?

A. I think we are far more comfortable with capitalists, far more comfortable with capitalist countries in Western Europe than in the Pacific and Latin America, Asia.

Q. And Mr. Christie mentioned some names of individuals to you. Armond [Armand] Hammer, Cyrus Eaton, David Rockefeller, and the last name you didn't recognize Donald Kendall, and he asked you whether they participated in financial enterprises for the development of the Soviet Union.

A. Yes.

Q. Can you tell us what financial institutions are behind those men? What financial institutions they work for?

A. David Rockefeller is the Chase Manhattan Bank.

Q. Is that a publicly owned bank?

A. Yes. But I think – it is publicly traded – I think the Rockefeller interests still have a very, very substantial interest in the bank.

Q. And does the Chase Manhattan Bank loan to others aside from Soviet Russia?

A. Oh, indeed it does. It is, in fact, {1926|1927} very active in Central and Latin America and is, in most of the loans in which we participate, is the lead bank in the syndicate lending to those countries.

Q. Cyrus Eaton.

A. He was – was he not from Eastern Canada, New Brunswick?

Q. I am asking you. I really don't –

A. Well, I have heard of the name. He, I understand, had made, amassed a very considerable personal fortune and then took up a number of causes and was freely and openly associated with people who were thought to have been of communist persuasion.

Q. Is Mr. Eaton connected with a bank? Does he own a bank or work for a bank?

A. Not to my knowledge.

Q. And what about Armond [Armand] Hammer, is he connected with a financial institution?

A. Certainly not in Canada, and I would doubt if he were involved in any substantial way with any financial institution in the United States, although his, again, personal wealth is so considerable that he may very well own a bank.

MR. GRIFFITHS: Thank you very much. I have no further questions.

THE COURT: Thank you. You may step down. Two thirty.

— The jury retires. 1:00 p.m.

— The witness stands down.

THE COURT: Before I rise, your request {1927|1928} with respect to Mr. Tomaszewski's reference to the camp commandant, when he was incarcerated, told all the assembled prisoners that that camp was an extermination camp, I wanted you to give that plenty of thought before this afternoon, either tell the jury to ignore it or ...

What is your pleasure now that you have had some time?

MR. CHRISTIE: I have had time. I thought you were going to do it in your charge to the jury.

THE COURT: No. If I was going to do it, I will do it while it is still fresh in their minds. Do I tell them or not?

MR. CHRISTIE: May I have till after lunch?

THE COURT: You certainly may.

— Luncheon adjournment.

— Upon resuming.

THE COURT: Mr. Christie, what is your pleasure?

MR. CHRISTIE: I have concluded that {1928|1929} that evidence is inadmissible and that they should disregard that evidence, that it was hearsay. I think it would have been appropriate to do that as soon as it had happened, but in view of the fact that that did not happen, it should occur as soon as possible.

THE COURT: Thank you. Bring in the jury, please.

— The jury enters. 2:40 p.m.

THE COURT: Members of the jury, you will recall yesterday or the day before that Chester Tomaszewski testified as a Crown witness.

During the course of his evidence, without being asked, he stated in his evidence that the commandant of the camp known as Mauthausen gave a speech to the assembled prisoners, informing that that camp was an extermination camp.

Members of the jury, you will please ignore that particular piece of evidence. It was hearsay and should be ignored by you and not considered at all by you.

Yes, go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour. {1929|1930}

### **RENE DE GRACE, sworn**

#### **EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:**

Q. Mr. De Grace, can you tell us where you are employed, sir?

A. I am employed with the Canadian Red Cross Society as a National Director International Affairs.

THE COURT: I'm sorry, you are the Director of International Affairs?

A. The National Director International Affairs.

Q. MR. GRIFFITHS: And can you tell us what relationship, if any, the Canadian Red Cross bears to the International Committee of the Red Cross?

A. Yes, I can. If you will allow me, maybe I could give you a definition of what the International Committee of the Red Cross is and how it fits into the Red Cross movement.

Q. Please do.

A. We do hear about the International Red Cross and we use it ourselves, but the International Red Cross is not an organization; it is a movement, and it is a movement composed of the International Committee of the Red Cross, the League of the Red Cross, and Red Cross or Red Crescent Societies.

The International Committee of the Red Cross is a private non-political institution composed of a maximum of twenty-five Swiss citizens. It acts as a neutral intermediary in humanitarian matters {1930|1931} during international conflicts, civil wars and international disturbances. It provides protection and assistance to both military and civilian victims, to prisoners of war and civilian detainees, to the war wounded, and to civilian populations in occupied or enemy territories. It also visits political detainees.

The International Committee of the Red Cross role during conflicts is defined in the four Geneva Conventions of 1949, and their additional protocols of 1977.

The International Committee of the Red Cross is responsible for promoting these international humanitarian laws and works for their development and world-wide dissemination.

The League of the Red Cross and Red Crescent Societies is the International Federation of Red Cross and Red Crescent Societies. It co-ordinates the activities of these societies with the main objective of preventing and alleviating human suffering, and contributing to international understanding. The League encourages the creation of national societies in countries all over the world. It advises and assists national societies in the development of their services to the community. It organizes and co-ordinates international relief for victims of natural and man-made disasters, often launching world-wide appeals for aid. It also promotes the adoption of national disaster preparedness plans. The League is a liaison body of societies and acts as their spokesmen and representatives internationally.

Q. So there is a difference between the {1931|1932} League and the International Committee of the Red Cross, the League of Red Cross and the International Committee of the Red Cross. Are you a member of the Committee of the League of Red Cross and Red Crescent Societies? By "you", I mean Canada.

A. Yes. The League of Red Cross and Red Crescent Societies acts as a secretariat on behalf of 145 national societies, but all national societies are independent one from the other, and the League is independent from the National Society, and so is the International Committee of the Red Cross.

Q. Now, are you authorized to speak on behalf of the International Committee of the Red Cross?

A. No, I am not. And that is the reason why I wanted to clarify the fact that each and every body of the Red Cross are independent one from another. The only thing that links all these bodies together is a common goal – alleviating human suffering in natural disasters or manmade disasters.

Q. All right. Do you receive any correspondence or magazines or bulletins from the International Committee of the Red Cross?

A. Yes, we do. We do receive all publications that are produced by the International Committee of the Red Cross, or the League of Red Cross and Red Crescent Societies.

Q. And what do you do with those publications that you receive from the International Committee of the Red Cross?

A. Well, at the National Office we do have a librarian where we keep a copy of each publication {1932|1933} issued by the International Committee of the Red Cross, or the League, or from other National Societies, and with these documents we disseminate copies of these documents to all of our divisions across the country.

Q. I am showing to you an enlarged word which says "Bulletin". Have you ever seen that document before?

A. Yes, I did. This is one of the regular bulletins that we are receiving. I saw it for the first time, I think, in June of 1984, but it was there in the library.

Q. All right. And who was this bulletin from?

A. This is from the International Committee of the Red Cross based in Geneva.

Q. And is there a date on there?

A. The date is 1st February, 1978.

Q. And can you tell us how often such a bulletin would come from the International Committee of the Red Cross?

A. I believe it is a monthly publication, but it comes in regularly.

Q. And you told us that all those publications you keep.

A. Yes, we do.

Q. A right. Now, I propose to enter that —

THE COURT: Have you seen that, Mr. Christie?

MR. CHRISTIE: I don't know if I have. It hasn't been shown to me. It is not clear what my friend {1933|1934} is referring to.

THE COURT: Perhaps you should show it to him.

MR. GRIFFITHS: Certainly.

MR. CHRISTIE: I wonder if my friend could refer to Your Honour under what section of the Canada Evidence Act he proposes to introduce this document.

MR. GRIFFITHS: Section 30, Your Honour.

MR. CHRISTIE: It is my understanding that s.30 is one of those sections that does require notice.

THE COURT: Members of the jury, would you excuse us for a few moments while we tackle this problem.

— The jury retires. 2:48 p.m.

THE COURT: Yes. Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Your Honour, this document was entered at the preliminary enquiry. Notice was given in that manner. There was also — and it hasn't been introduced yet, if I could see the exhibits from the preliminary inquiry, I believe there was a formal notice served as well as the factual notice given at the preliminary inquiry, and I am prepared to call evidence to this effect given by Sergeant John Luby, who is the {1934|1935} next witness. The notice is on the regular standard Metro-

politan Toronto Police form which indicates that certain copies of and/or original books, records and documents, without limiting the generality of the foregoing, including the following: Certified copies of letters of incorporation for Samisdat Publishers Limited, Red Cross documents, Chambers Encyclopaedia, books entitled, "Under Two Dictators", "Adolf Hitler", other publications and writings.

THE COURT: That was served on whom?

MR. GRIFFITHS: That was served, Your Honour, I believe, on Mr. Zundel.

THE COURT: Yes. Would you please show that to Mr. Christie?

MR. CHRISTIE: I haven't seen this before. Thank you.

THE COURT: Mr. Christie?

MR. CHRISTIE: Yes, Your Honour. The Crown seeks to lead this evidence under s.30 (1), I assume. That is what I understood from my friend.

MR. GRIFFITHS: Yes.

THE COURT: I heard s.30. Is it subsection (1), Mr. Griffiths? {1935|1936}

MR. GRIFFITHS: I believe it would be under subsection (1), yes, Your Honour.

THE COURT: Go ahead, Mr. Christie.

MR. CHRISTIE: Of course, that is simply a matter of introducing evidence by document where otherwise oral evidence might be admissible. This document, for one thing, is originating from a source from which this witness is not qualified to speak. He has, apparently, received the document. I assume it is being tendered to prove the truth of the contents of that document.

For that reason, I would submit that neither is it admissible as an oral account of anything, because the witness, the person who made it, is not here, nor has notice been provided pursuant to s.30 or the requirements of the Canada Evidence Act referable [sic] to s.30 (1), because in the notice provided which preceded the preliminary hearing — I concede it says "and/or trial" — there is no specification of what particularly is meant. It says, "Red Cross document".

Now, it's my submission that to properly provide notice of the introduction of a document such as this, it should be sufficiently described to enable {1936|1937} the accused to be alerted in a reasonable and timely manner as to what document they are speaking about so, therefore, it could be challenged if need be, by either the calling of other evidence or subpoenaing other documents.

It's my submission that [the notice is therefore defective. The evidence itself introduces large elements of hearsay which otherwise would not be admissible orally without the witness who is making these statements present for cross-examination; and simply because it's a business record doesn't make it necessarily admissible unless the requirement of s.30 (1) is met; and the notice that is required, which I believe is referred to as reasonable notice and not less than fourteen days, I think also implies the specificity of the document itself should be included in the notice. Simply to say "Red Cross documents" by no means alerts us as to what is meant.

THE COURT: Was this document, Mr. Christie, put into the preliminary hearing?

MR. CHRISTIE: It's my understanding that having now seen what the Crown is tendering and

having compared it from my file, it is a document that was {1937|1938} put in at the preliminary hearing.

It is my submission that nothing that was done by the Crown at the preliminary hearing has in any way bound the Crown, and I have been in receipt of no end of surprises as to the change from the Crown's case at the preliminary hearing, and I don't think, with respect to the fact that it was tendered there is any indication that it would be tendered here or that I should have assumed it would be tendered here.

THE COURT: Was there an objection taken to its use at the preliminary hearing as far as the record discloses?

MR. CHRISTIE: I don't see any. No.

THE COURT: Mr. Griffiths? Sorry, are you finished?

MR. CHRISTIE: Yes, sir. I am. Thank you.

MR. GRIFFITHS: Well, Your Honour, the requirement for notice under s.30 (7) of the Canada Evidence Act indicates no set format that the notice must be given in – it simply must be a reasonable notice, and it should be for the Court to decide then what is reasonable notice; but at least seven days' notice, and there {1938|1939} have been two notices given, one in a formal document served on Mr. Zundel that Red Cross documents would be served, and second the introduction of that document at the preliminary inquiry – and indeed, a production of a copy of the document to the defence counsel, albeit a different defence counsel, at the preliminary inquiry.

As to the argument that my friend makes – I just simply suggest that notice is properly given here. It is my understanding that the argument my friend makes under s.30 (1) – and I do not have a case in Court, but if Your Honour gives me a half an hour I have it in my office – that the first phrase of s.30 (1) reads as follows:

"Where oral evidence in respect to the matter would be admissible in a legal proceeding ...".

That phrase has been judicially interpreted as meaning relevant, and nothing more. And I would submit —

THE COURT: May I see the document, please?

MR. GRIFFITHS: I submit that the document is relevant.

MR. CHRISTIE: I have the document {1939|1940} right here. Looking at it, Your Honour can see that my concern is that it makes editorial comment about the booklet, "Did Six Million Really Die?", and it calls it conspiratorial and specious, and such remarks as these, I suggest, are a matter of argument, but they are very much a part of the document.

Similarly, I suppose I could introduce opinions from a wide variety of sources on the subject of what the booklet, "Did Six Million Really Die?" is, but I suggest it introduces a high degree of prejudicial effect to the document.

THE COURT: Mr. Griffiths, what type of document, as a matter of law, in your view, is contemplated by s.30 (1) of the Canada Evidence Act?

MR. GRIFFITHS: In my view, Your Honour, what is a record is included in the definitions provisions of s.30 as follows:

*"Record" includes the whole or any part of any book, document, paper, card, tape or other thing on or in which information is written, recorded, stored or re-produced. Except for the purpose of ss. (3) or (4), any copy {1940|1941} or transcript received in evidence under this section pursuant to ss. (3) or (4) ..."*

which definition, Your Honour, I would suggest includes this bulletin that Mr. De Grace has indicated he received in the usual and ordinary course of his business as International Director and stored in the usual and ordinary course of his business, and that that meets the requirements of s.30 (1).

THE COURT: Do you say that you have case law on the matter?

MR. GRIFFITHS: Down in my office, Your Honour, if I can have a half an hour. I can then put it in a more presentable form in presenting you with the case names. Grimba is set out in Martin's, Your Honour, and it stands at least in part for the propositions of Ontario County Court decisions – 58 C.C.C. (2d), 469.

THE COURT: 38 C.C.C.

MR. GRIFFITHS: Yes, I'm sorry Your Honour. It's 38. That indicates that notwithstanding that there may be some hearsay information within a document, that the document can go to the truth of its contents, and it is for the jury to determine the weight {1941|1942} to be given to any document.

THE COURT: Yes. I'd appreciate your getting what law you have.

What I propose to do is to have this witness sworn on the voir dire. If, on consent, what he says now applies, that's fine. I would want to hear from Mr. Christie if he wants to cross-examine the witness. Perhaps he might want to do that. Then I will hear submissions. Do you really need half an hour?

MR. GRIFFITHS: What I have, Your Honour, frankly is a brief that was used – I have borrowed it – by Mr. Justice Hart in the documents case essentially involving Mr. Joe Burnett – no relationship to the gentleman this morning – in New Market, and I have both the Crown brief and defence brief which contains all the articles and the leading cases in

the field of evidence.

THE COURT: There is no secret about it; Mr. Christie can see it too if he wishes?

MR. GRIFFITHS: Yes. I haven't got an extra copy, but there is no secret to it.

THE COURT: Does this sound agreeable to you, Mr. Christie? {1942|1943}

MR. CHRISTIE: Yes, sir.

THE COURT: I think time might be saved if you gentlemen looked at what you have there, will full disclosure being made, and then we will decide that after.

If somebody wants to cross-examine now or examine further, that can be done, but I suggest a little later..

— Short adjournment.

— Upon resuming.

MR. CHRISTIE: Your Honour, I must confess that at the time I raised my objection I wasn't aware of the complexity of this rather involved legal issue.

My friend has given me a considerable volume of authority from another ongoing case that has no definitive ruling at the moment, but I am afraid, having seen and considered more extensively what I said earlier, there are some other matters that come to mind as reasons for the exclusion of this evidence, and I am specifically referring to the volume that my friend and I have agreed {1943|1944} we should both give to you, both the defence and the Crown's.

I have read the Crown side of the argument because there it is, whatever it is. A couple of points that I wanted to add is that from what I can see briefly, first of all it has to be a record made in the usual and ordinary course of business.

Now, this is a sort of editorial comment entitled, "False Propaganda" which refers to the book, "Did Six Million Really Die?". I don't think it could[ ] be said that this comes in the category such as was indicated in the case of Venner, where a nurse makes a chart which is looked upon as true. It is an involved editorial comment which goes much beyond what I say is

an ordinary business record which I take to be true, because people are making them all the time, and they are not judgments, value judgments or things of that kind, or analysis [sic] of situations which gets a little more involved.

I note, too, that ss. (1) says:

*"Nothing in this section renders admissible in evidence in any legal proceeding*

*(a) such part of any record as is {1944|1945} proved to be*  
*(1) a record made in the course of investigation or inquiry ..."*

— I think that could be a description of the document in question —

*"... or*

*(2) a record made in the course of obtaining or giving legal advice or in contemplation of legal proceedings."*

I think that's very close to what is involved in this document, but especially (4), skipping over (3):

*"(4) a record of or alluding to a statement made by a person who is not, or if he were living and of sound mind would not be competent and compellable to disclose in the legal proceedings a matter disclosed in the record."*

I think that this exclusion tries to give to the defence or anyone against whom such documents are tendered, the Crown as well, is the opportunity to test {1945|1946} with cross-examination the credibility of a document by, if they see fit to do so, calling the witness.

Here we are confronted with someone, I gather, who is either from Switzerland or someone from out of the country, author unknown, making value judgments about the essence of our case, making some rather derogatory remarks about the author of the book, "Did Six Million Really Die?" whose identity is unknown and who, presumably, is out of the country, because this comes from the International Committee in Geneva as it indicates, and he is, therefore, or she, I suppose, is not compellable in this country as a witness. They may be competent, but being identified, I suggest they would not be very compellable even if



they lived in the country unless they were identified, and they certainly wouldn't be compellable outside of the country.

So I think that that creates a problem for the introduction of this evidence as well, because it involves an author whose statements are not open to cross-examination, far beyond what it would be assumed to be, I suggest, an ordinary business record whose identity is unknown and whose origin is probably quite likely out of the country, and therefore not compellable in this country. {1946|1947}

For those reasons I suggest – and I don't wish to go on any more about it – I would ask Your Honour to rule the document inadmissible.

I was directed to consider whether there was any mention of this at the preliminary hearing, and I see from page 151 of the first volume, when the subject came up, Mr. Griffiths presented this document and said, "Notice was served, Your Honour."

Miss Marshall said, "Excuse me, I haven't seen that. Sorry, Your Honour, I was given a one-page document." Mr. Griffiths: "I handed it to you, actually." Miss Marshall: "No objection to it being introduced for the purposes of the preliminary."

So I don't think that it's something we conceded in any way, and I certainly would object to it because of its highly prejudicial content, if for no other reason.

So Your Honour I would like to just thank my friend for producing these very extensive authorities, and I don't know what other to do than simply to give them back to him, and if Your Honour wishes, then you might consider them, or whatever is appropriate.

Thank you, sir. {1947|1947a}

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour.

One of the reasons why I had these authorities in my office was – and I confess that I got them this morning, which is why I asked for a half an hour ...

THE COURT: I can understand that. I lived two decades in that type of life on the other side of the fence that you're on, but ...

MR. GRIFFITHS: ... is that I was anticipating a difficult argument on the admissibility of a movie that I have commented to Your Honour on, that I would be attempting to admit, and it would be under s.30 ultimately that I would be attempting to adduce the movie.

So that this issue, Your Honour, is one that is, I would suggest, worthwhile spending the time on because it's an issue that will arise again during the course of the trial.

MR. CHRISTIE: I could assist my friend by saying that I will be prepared to deal with that now, too, rather than waste any other occasion or time at another point, because I think what he means is this {1947a|1948} film, called, "Nazi Concentration Camps" – and I think he was going to prove that it was from the archives of the United States; I wouldn't dispute that – and so we could deal with it on that basis.

It's also part of the Nuremberg Trial record, so I could admit the fact that it would come from the archives of the United States, save my friend bringing someone from the archives of the United States, and then we can deal with that legal issue. I don't think I want to argue about whether it comes from the archives or not.

MR. GRIFFITHS: Thank you, Mr. Christie.

If I could start with what my friend has said about the document, Your Honour, I will indicate, perhaps subject to Your Honour, that I would expect an archivist, Mr. Murphy – he is a gentleman I have been speaking to on the telephone – to tell about how the movie is kept, and it is really a very similar argument that I will be making.

THE COURT: Tell me this. Insofar as the movie is concerned, am I correct in assuming, if I may do that, that the movie has been kept for some years, it having been made some years ago? {1948|1949}

MR. GRIFFITHS: Yes, sir.

THE COURT: It's been kept in the archives.

MR. GRIFFITHS: Yes, sir.

THE COURT: Do you intend to lead any evidence with respect to that movie, whether or not it was available generally speaking to members of the public?

MR. GRIFFITHS: Yes, sir.

THE COURT: Is there any documentation that is going to accompany the movie and the archivist?

MR. GRIFFITHS: Your Honour, my understanding is, if I can indicate, that the National Archives in Washington, D.C., are differently constituted from the Public Archives of Canada in that there is a distinction made in the United States between the National Archives and the Library of Congress, and those two functions are combined in Canada under one roof.

In the United States the National Archives hold documents which it is required to hold by Federal Statute in the United States, have some historical or other significance to the United States.

This movie that my friend has mentioned {1949|1950} and that I intend to attempt to have admitted is a movie of approximately one hour length called, "Nazi Concentration Camps" which was shown as an exhibit at Nuremberg, International Military Tribunal hearings.

The archivist would have records to say that the original print that was seen at Nuremberg was then brought to the archives and has remained in the archives ever since.

THE COURT: In its pristine form?

MR. GRIFFITHS: Yes, sir. From that original print additional negatives have been copied, and those copies are for sale. So that the film, copies of the film are generally available. They are available in Toronto. But the original print is in the archives, and the original print will not be coming to Canada.

The archivist, I expect him to be saying that the movie that we will have here in Court is a true copy of what is being kept in the archives.

THE COURT: I don't know, gentlemen, whether the appropriate section to consider concerning the admissibility of the movie is the one that has been mentioned. There may be an issue with respect to whether or not the movie is a public document. I don't speculate. {1950|1951}

All I am suggesting is that the Bible says, first things first. The first thing that comes first is the matter of this Red Cross publication.

MR. GRIFFITHS: Thank you, Your Honour.

THE COURT: I'd just as soon hear about that and reserve any document and further comment

concerning the movie to a separate application.

MR. GRIFFITHS: Thank you, Your Honour.

My friend has raised three preliminary objections to the admissibility of the document, in addition to notice, and I have nothing further to say on notice.

First he suggests that, he questions whether this is a document which is kept in the usual and ordinary course of business, made in the usual and ordinary course of business. The evidence of Mr. De Grace is that this is a monthly bulletin that is put out every month, on a regular basis, by the International Committee of the Red Cross, and I would suggest that the evidence indicates that it is something that is made in the usual and ordinary course of business, that in the usual and ordinary course {1951|1952} of Mr. De Grace's business those documents are all kept and stored.

So both in terms of the International Committee and the Canadian National Red Cross, it's a document that they have in their hands in the usual and ordinary course of business. The date on the document, Your Honour, was, I believe, 1977, and —

THE COURT: 1978.

MR. GRIFFITHS: '78. This charge was brought in 1983, December, the information was first before the Court, and it refers to the years, I believe, 1981 and 1983. So that I would suggest that s.30 (10) (a) (i) does not apply. There was no investigation or inquiry going on into this matter at the time that the bulletin was produced.

As to subsection (2), which was the other one that my friend said – s.30 (10) (a) (ii), I will clarify that – a record made in the course of obtaining or giving legal advice or in contemplation of legal proceedings, I would suggest that solicitors' letters is what is being referred to, correspondence, usually, of a self-serving nature back and forth with a solicitor – this is not a document that falls within that category. {1952|1953}

And subsection (iv), record of or alluding to a statement made by a

person who is not, or if he were living and of sound mind would not be competent and compellable to disclose in the legal proceeding a matter disclosed in the record – well, Mr. De Grace is certainly both competent and compellable in that he has made a record by storing all of these bulletins, and as such, he is competent and compellable here in Canada to testify as to a part of that record – namely, the bulletin from 1977 that's proposed.

I would suggest that the manner in which "competent and compellable" is used in that subsection is such as to exclude correspondence or documents as between husband and wife, but it is not, in my submission, referring to competent vis-a-vis somebody being in another territory. It is competent and compellable as specifically modified by the words that follow, to disclose in the legal proceeding a matter disclosed in the record. And simply, the International Committee and the Red Cross is competent to disclose in a legal proceeding, this legal proceeding, the matter disclosed.

Now, I indicated to Your Honour that I would refer you particularly to the case of *R. v. Grimba* {1953|1954} and *Wilder*, which was a decision

—  
THE COURT: Yes, I've – read it.

MR. GRIFFITHS: Now, Mr. Justice Callahan – and it is, I would suggest, helpful in this case in that it is a foreign document that is being introduced, being introduced by the record-holder or librarian, rather than the record maker – if the document is not simply an entry but contains an entry such as a nurse's chart; or punching in a time clock, but there are fingerprints in that report and the fingerprints were identified as belonging to a particular man, Mr. Justice Callahan ruled that both parts of that – both the fingerprints and the reference to the particular man that the fingerprint came from, would be admissible in evidence for the truth of their content to be weighed by the juror.

I would also refer Your Honour to a work called, "Documentary Evidence in Canada".

THE COURT: I have it.

MR. GRIFFITHS: By Mr. Ewert, and for the record, Your Honour, that is Carswell Legal Publications 1984, and I am particularly concerned with pages 82 and following which give an overview of s.30, and then, {1954|1955} commencing on page 94 –

THE COURT: Why don't you go back to page 93 and let me have your views on section 5, in respect to the matter, is opinion admissible? You see, as I see the issue –

MR. GRIFFITHS: I am obliged for Your Honour's direction.

THE COURT: As I see the issue, the issue is whether or not when you come right down to it, whether or not this is a similar situation to *Grimba* wherein fingerprints are obviously kept by the police department in the course of their daily activity and business.

We all know that, of course, they are. I think you will agree that the object of all of this legislation is to admit into Court evidence of the hearsay nature which is considered to be reliable.

Do you agree with that?

MR. GRIFFITHS: Yes, sir.

THE COURT: The best test of reliability is whether or not the subject matter of the evidence per se has been recorded as a matter of ordinary course in the usual course of business on a daily or at least a periodic basis. That gives the aura of reliability to evidence {1955|1956} which would otherwise have to be proven by going to a lot of trouble to call a lot of clerks to say, "Yes, I made that entry in that book of account", for example.

Is a rebuttal opinion in a Red Cross Bulletin rebutting and branding, "Did Six Million Really Die?" as propaganda something that is made as an entry in the ordinary course of business? The entry itself I am talking about, not the bulletin. Or, in the alternative, is it something that is not made in the ordinary course of business? That is what I would like to know.

MR. GRIFFITHS: I see the distinction, Your Honour.

Leaving aside the editorial comments around the information that's provided in the bulletin, the bulletin categorically states that it did not keep statistics, and its responsibilities during World War II and other

times is to care for refugees, not to count bodies, living or dead.

Now, that core of information, Your Honour, is information that comes from not opinion but the usual and ordinary course of business.

THE COURT: Yes. That's the substance of why the Crown wants it in. {1956|1957}

MR. GRIFFITHS: Yes, sir.

THE COURT: All right. Go ahead.

MR. GRIFFITHS: And if Your Honour is of the view that the other matters or opinions expressed in that article or bulletin – and there are many other articles in that bulletin as well – is that the prejudicial effect is outweighed by the probative value without saying whether or not it is relevant, then I would suggest it is open to the Court also to edit out those portions of the document that are inappropriate.

THE COURT: I gather this is the first page only that you are interested in.

MR. GRIFFITHS: Yes, Your Honour, but I am particularly interested in the further paragraph –

THE COURT: Let me see that, please. Would both counsel agree that the jury has been sitting in that room long enough and they can be sent home?

MR. GRIFFITHS: Yes, Your Honour.

MR. CHRISTIE: Yes, Your Honour.

— The jury is dismissed until 9:30 a.m., January 30, 1985.

MR. GRIFFITHS: And since a record is {1957|1958} admissible, if the other criteria are met under section 30, in whole or in part, then I would submit that it would be open to the Crown to have Mr. De Grace read the fourth paragraph of that bulletin without making – reference to the other matters contained in the bulletin.

THE COURT: I don't know the answer to this, of course; I am asking you; I am certainly not suggesting. Is Mr. De Grace a person who, in the ordinary course of his duties, is part of the Secretariat of the International Committee of the Red Cross?

MR. GRIFFITHS: He is not, sir. And he quite specifically, as I understand it, as he testified, is not empowered to speak on their behalf.

My understanding, because of the neutrality of the International Committee of the Red Cross, you never know what country may be involved in a conflict, they guard their neutrality carefully, and as a policy they do not appear in court or take sides in issues.

THE COURT: So I gather your position is that your focus, if I can use that term, is on one paragraph on the first page of the bulletin which, in itself, is issued, as you say, in the ordinary course of business {1958|1959} of the International Red Cross on a periodic basis.

MR. GRIFFITHS: Yes, sir. It is issued by them and kept in the ordinary course of Mr. De Grace's business.

THE COURT: You are of the view that subject to my approval and, obviously, from what I hear from Mr. Christie, that if this one paragraph went in, that would be satisfactory to the Crown?

MR. GRIFFITHS: Yes, sir.

THE COURT: On an edited basis.

MR. GRIFFITHS: Yes, sir.

THE COURT: What jurisdiction do I have as the presiding trial judge to edit a document such as this?

I am aware of my jurisdiction in the case of inculpatory/exculpatory statements made by accused persons to other persons in authority. What jurisdiction do I have in this regard to do that?

MR. GRIFFITHS: I would suggest, Your Honour, that there a number of places within s. 30 where the Court is given discretion to act, and if I may just have Your Honour's indulgence for a moment.

THE COURT: Yes. {1959|1960}

MR. GRIFFITHS: Subsection (6), Your Honour, "Receive any evidence in respect thereof, orally or by affidavit, including evidence as to the circumstances in which the information contained in the record was written, recorded, stored or reproduced, and draw any reasonable inference from the former content of the report".

THE COURT: Where does that say I can edit?

MR. GRIFFITHS: Well, I think, Your Honour, where it says, "Receive any evidence in respect thereof", that you can receive any part of the

evidence, anything, Your Honour, that I would suggest to you – the Crown is not seeking to introduce as evidence in this trial that entire bulletin which contains a great many issues, or speaks to many things but has no relevance to this trial whatsoever and therefore it would be excluded under s.30 (1) ...

THE COURT: Well, it's a very novel point. It is an interesting point.

MR. GRIFFITHS: If I indicate to you that the only part of this document that the Crown is seeking to introduce by way of documentary evidence is {1960|1961} the fourth paragraph, then I would suggest that that's the only part that Your Honour would have to consider. And I would amend, I guess, my earlier application and limit the production of the document to just the fourth paragraph.

I have a file, Your Honour, of correspondence, thirty pieces of correspondence, only one of which I wish to put into evidence. I don't see that the Crown is required to put all thirty pieces of correspondence before the jury, only the one —

THE COURT: I don't know that you'd get any argument from the defence on that point. You might, depending on the argument, but I can see your point in that.

All right. I am interrupting a lot. What else is there?

MR. GRIFFITHS: Well, I think those would be my comments, unless Your Honour – I am obliged for the interruptions, Your Honour, because you did direct me to those matters which are of concern. There are a number of other cases, but in fairness – that I can refer to – but in fairness I think most of them would be referable [sic] to business entries and/or files of correspondence.

THE COURT: You referred me to Ewart. {1961|1962} What were the page numbers again?

MR. GRIFFITHS: Well, Your Honour, it starts on page 82, an overview of s.30, and the progress of s.30, and I would refer you right through to the end of page 110, at which the author starts, "In consideration of the uniform evidence rules", but up to 110; he takes apart the section, subsection by subsection and phrase by phrase and analyzes it, and in the analysis of Mr. Ewart the section should be given broad interpretation and I am obviously generalizing. There is a great deal more than I have indicated.

Subject to my friend, I have those parts of Ewart in this brief, Your Honour, that I have referred you to. The Grimba case is not here. Your Honour has that. May I have the citation for that case?

THE COURT: Grimba, 38 C.C.C. (2d), 469.

MR. GRIFFITHS: And it is contained in the defence material from the case of R. and Burnett. I'm sorry to put such a heavy burden on you.

THE COURT: Not what you would call light reading for the evening.

MR. GRIFFITHS: No.

THE COURT: Thank you, Mr. Griffiths. {1962|1963} Yes, Mr. Christie.

MR. CHRISTIE: If I can just briefly reply to a couple of points my friend made, he covered a great deal of ground here, but one of the things he said is that Mr. De Grace is competent and compellable, and he has seemed to suggest that perhaps that would be sufficient.

Subsection (iv) of (10) (a) refers to a record of or alluding to a statement made by a person who is not, etcetera. I think the operative words are that it must be the person who must be the record who is either living and of sound mind and compellable, and the International Red Cross, of course, is not here.

MR. GRIFFITHS: And in fairness, won't be here.

MR. CHRISTIE: I can see a significant distinction between Venner and the case of fingerprint documentary evidence which would be recorded as ordinary course of business, but I think what this attempts to do, if I may, is to, for example, it is quite consistent with, if it was a newspaper business and their ordinary course of business is to publish a newspaper which apparently the Red Cross International seem to do, monthly, would that {1963|1964} make the contents of the newspaper a business record?

I suggest that is stretching the definition of "business record" further than the section contemplates.

The suggestion of editing alluded to s.(6) I think is a misinterpretation of the section, because if I understand it correctly it is simply a section

which enables the Crown to introduce, and I quote, "For the purpose of determining whether any provision of this section applies, oral evidence as to the circumstances in which the information contained in the record was written, recorded, stored or reproduced."

That simply can be done by affidavit or by oral evidence demonstrating, "Yes, this is a copy of a regular record". I don't think it was ever designed, subsection (6), to enable the Court to receive any evidence, meaning some and not all, and thereby to edit. I would be rather opposed to the editing of this thing at all, because it does take it out of context to say the ICRC wishes to disassociate itself – I am paraphrasing here – from statistics of the kind which are being falsely attributed to it.

The only relevance of such a statement {1964|1965} would have to be that somehow or other false statements are being attributed by someone, and presumably by the booklet. I can't say how any other relevance can be attributed to it.

THE COURT: I'm sorry to interrupt you, but I might save you some time. If the item is going to be edited, the false attribution part certainly would not be part of it.

MR. CHRISTIE: No. My difficulty is that I would have to – and I am prepared to dispute this statement of fact here – I would normally say, "Well, produce the person. I would like to cross-examine the person who says this." And I have here a document called, "Number of the Victims of Nationalist Socialist Persecution" which originates with the same ICRC, and I'd ask the witness – put this document and ask him if the National Tracing Service originates this.

If the method proposed by the Crown, can be followed, I would not be allowed to do that, because Mr. De Grace will say, "I don't know. I don't come from the International Tracing Service and I don't even come from the ICRC." That, I suggest, is the result of introducing this kind of hearsay where I cannot compel {1965|1966} someone to come forward and testify to the truth of their statement which normally, if it was an ordinary business record, being as it usually is, true and accurate, no one would ever want to do, but the right seems to be there. So that I could, if I thought, Well, it's not his fingerprint", for example, or, "The nurse's record is wrong" — I recall the nurses in Venor were available in the Court and nobody called them because the record must have been right, but here I am saying you have sort of a statement factually unchallengeable, because we don't have the right to compel the witness to verify.

It is effectively hearsay in that way, I should think. It should not be admitted in an edited or other form.

Thank you.

MR. GRIFFITHS: Your Honour, if I could just, one last thing, Mr. Christie has the right of last reply, but ...

THE COURT: Well, that's not a hard and fast rule. You can go last.

MR. GRIFFITHS: In terms of Your Honour's right to edit, if I can indicate that that would be a request of the Crown that I am only putting in that {1966|1967} part of the document. It is not something that I am asking the Court to impose; it is something that I am submitting is only a part of the document, and as such, it would come within the definition of "record" in s.30, which is said to include the whole or any part of any book, document, etcetera. A part of the document is also a record.

THE COURT: Madam Clerk, would you mark that with a lettered number for identification, please.

— EXHIBIT "O" (For Identification): International Committee of the Red Cross Bulletin dated 1 February, 1978.

THE COURT: Nine thirty tomorrow

— Whereupon the hearing is adjourned to January 30, 1985.

— {1967|1968}

## JANUARY 30, 1985

### REASONS FOR RULING

THE COURT: This motion concerns the Crown's application to introduce into evidence before the jury a paragraph or extract from a document known as the Red Cross Bulletin No. 25, dated 1st of February,

1978.

The document is tendered through the witness, Rene De Grace, who has testified that he is a member of the Secretariat in Canada for the International Red Cross Committee and Red Crescent Committee.

The unnamed author of the bulletin lives in Geneva, Switzerland. It is not further identified. The inference to be drawn from the evidence of Mr. De Grace, however, is that the author of the bulletin is an official with the Committee of the International Red Cross and Red Crescent.

Crown counsel has stated in clear terms to the Court that the author of the bulletin does not intend to be present by reason of the policy of the Red Cross not to become involved in litigation of any kind, for obvious reasons.

In this trial the accused, Ernst Zundel, faces charges in an indictment containing two counts alleging that he published false statements or false news, pursuant to s.177 of the Criminal Code. {1968|1969}

One of the two counts alleges publication of a statement in the form of a soft-cover book or booklet, or article, entitled, "Did Six Million Really Die?". That document is Exhibit No. 1. Contained within that exhibit there is a specific passage specifying the version of the author of that document.

A number of Jews were said to have perished at the hands of the Nazis during World War II. That reference in the exhibit concerning the number who perished purports to support itself by making reference to the figures said to have been provided by the International Red Cross.

The wording in the document speaks for itself. It is an exhibit before the Court. I do not intend, in these reasons, to elaborate any further in specifics in that regard.

Bulletin No. 25, dated the 1st of February, 1978, on the first page of several, reads as follows – and I intend to read the first page in full:

At the top of the bulletin there are a number of initials, and a full heading. The English version is, "The International Committee of the Red Cross". The same title phrase is used in a number of other {1969|1970} languages. The well-known, universally recognized trade mark of the Red Cross is stamped in the upper lefthand corner beside the words, in large letters, "Bulletin". Directly underneath are the words, underlined, "False Propaganda". On the left of the bulletin is stated, "ICRC Bulletin No. 25", under which is written a date, "1 February 1978". Directly below that is the word, "Contents", and below that appears to be a general index of the contents of the total bulletin.

The message, if I can use that term, on the front page, reads as follows:

*"A machination initiated years ago has gone so far that the ICRC is now entangled in its mesh. Its object is to whitewash the National Socialist system in wartime Germany of the accusation of genocide. It is nurtured essentially by the controversy about the actual number of victims, statistics wrongly attributed to the 'International Red Cross' and quotations – distorted or truncated – from the report of the ICRC on its activities {1970|1971} during the Second World War.*

*The conspiracy's munitions today are a couple of specious pamphlets entitled 'The Myth of the Six Million' and 'Did Six Million Really Die?'.*

*This propaganda is having some effect. More and more readers of these pamphlets write to the ICRC, most of them in the hope that they will receive confirmation of their opinion that after the war Germany was the victim of a smear campaign.*

*Consequently the ICRC considers it must make clear the fact that it has never published – or even compiled statistics of this kind which are being falsely attributed to it. The work of the ICRC is to help war victims, not to count them. In any case, how could its delegates have obtained data for such statistics? They were able to enter only a few concentration camps, and then only in {1971|1972} the final days of the war. Everything the ICRC tried to do for the inmates of those camps, and what it finally managed to do, is related in its report entitled 'The Work of the ICRC for Civilian Detainees in German Concentration Camps from 1939 to 1945' (available in English, French and German). The same propaganda scheme has recently been making use of other figures, namely the number of deaths recorded by the International Tracing Service on the basis of documents found when the ..."*

and then, in brackets, "Continued on page 2", and below that are the words:

*"This Bulletin is published by the Press and Information Division of the ICRC. The texts have no official character, and may be freely reproduced."*

Below that are the words:

*"Prepared and published by the Press {1972|1973} And Information Division of the ICRC, 17, avenue de la Paix, 1211 Geneva"*

and the telephone number and telex number.

The document in its entirety is now Exhibit "O" for identification in this trial.

I make it clear at this point that counsel for the Crown takes the position that the Crown seeks only to introduce into the record, if permitted to do so, the large paragraph being the third paragraph from the top.

Mr. Griffiths, counsel for the Crown, as I understand his position, states that what he proposes to introduce into evidence pertains to the International Red Cross never having compiled statistics of this kind and never having published statistics of this kind.

Crown counsel seeks the admission of that paragraph pursuant to s.30 (1) of the Canada Evidence Act. That subsection reads as follows:

*"Where oral evidence in respect of a matter would be admissible in a legal proceeding, a record made in {1973|1974} the usual and ordinary course of business that contains information in respect of that matter is admissible in evidence under this section in the legal proceeding upon production of the record."*

Mr. De Grace has sworn that *inter alia* the International Red Cross is a movement composed of several autonomous parts. That is the effect I took of his evidence.

Non-political, non-sectarian in nature, and having as its sole essential object the relief of human suffering, the International Red Cross Committee is a body that co-ordinates and administers, with the help of Mr. De Grace and others in the Canadian secretariat, various parts of that far-flung world organization.

In that regard, the Committee, in the co-ordinating and in the discharge of its duty to disseminate current information to its many parts, issues this monthly bulletin. It has done so over some years. That document is received by its members and adherents and is kept, according to the evidence of Mr. De Grace, ordinarily in the library of its offices {1974|1975} as they exist in this country.

A perusal of the document makes it clear that the bulletin, a monthly publication, makes comment upon and communicates information on a variety of differing subjects on a periodic basis.

This document, on consent of the then defence counsel, was admitted into evidence at the preliminary hearing of Mr Zundel. The document was admitted at the preliminary hearing, as have heard from Mr. Christie, with the consent of Mr. Zundel's then counsel "for the purpose" of the preliminary hearing.

Mr. Christie has primarily taken objection to the admissibility of this particular paragraph contained in the bulletin by reason of the fact that he has received either no notice of the Crown's intention to produce it or, in the alternative, he has received insufficient notice of Crown's intention to produce it.

I have seen the notice of intention to produce the documents in evidence, which I find were served on Mr. Zundel a long time ago. That notice of intention produced did not specify the identity of all of the documents in question. However it made, in my review, sufficient {1975|1976} reference to the documents the Crown intended to lead contained within the confines of the notice either at trial or at the preliminary hearing.

As I say, that document was served on the accused before the preliminary hearing. It sufficiently made identification of documents from the Red Cross that the Crown intended to produce. I find the notice was timely.

I have not heard from the defence any specific complaint of actual prejudice to the defence in any event other than a general complaint about the sufficiency of the notice itself.

His Honour Judge Frank Callahan (as he then was) in the case of R. v.

Grimba and Wilder, had occasion to consider this section in a criminal trial over which he presided in 1977. The citation is 38 C.C.C. (2d) 469. In that decision the learned trial Judge held that records of a fingerprint or fingerprints of one of the accused held by the Federal Bureau of Investigation in the United States, which he held to be a business record, were admissible. He held that the F.B.I., if I can use that term, was a business within the meaning of s.30 (12) of the Canada Evidence Act. That section reads {1976|1977} as follows:

*"Business' means any business, profession, trade, calling, manufacture or undertaking of any kind carried on in Canada or elsewhere whether for profit or otherwise, including any activity or operation carried on or performed in Canada or elsewhere by any government, by any department, branch, board, commission or agency of any government, by any court or other tribunal or by any other body or authority performing a function of government."*

I adopt the reasons of the learned Judge on this point and hold that the International Red Cross, Red Crescent Committee is a business being an undertaking and being non-profit within the meaning of s.30 (12) of the Canada Evidence Act.

The proposed evidence that the Red Cross has never published or even maintained final statistics of the kind in question, if held to be admissible, is certainly relevant to an issue this jury must decide {1977|1978} in this trial. It is capable of rebutting as false the statement of the figures contained in Exhibit 1 wherein the Red Cross is purportedly employed to buttress or support the publication the accused has admitted he made alleging, in effect, six million Jews did not die at the hands of the Nazis in World War II.

Without question, if the author of the bulletin, *per se*, were here to testify in person as a Crown witness, he would be permitted to say that the Red Cross does not publish figures of this kind and has never compiled figures of this kind.

These facts are, however, from the mouth of Mr. De Grace, hearsay and inadmissible unless they are admissible under s.30 of the Canada Evidence Act.

Mr. Christie has further taken objection to the admissibility in this manner of this proposed extract from the bulletin in question to support its contention.

He has submitted that s.30 (10) or its various subsections operate against admissibility.

I find there is no substance in law {1978|1979} to his contentions with respect to that particular submission. I find that with respect to Mr. Christie. Mr. Christie, however, has correctly touched the issue that I must decide.

In essence, as I understand his submission, defence takes the position that the written information contained in the subject paragraph of the bulletin is not kept in the ordinary course of business because it consists of a value judgment concerning Exhibit 1, which is one of the very important subject matters of this trial. It is an insertion in a bulletin issued by the Red Cross in Geneva on a one-occasion basis only. It is not something that is habitually recorded or placed in a document by reason of a duty incumbent upon the person who created the words contained in the confines of the bulletin itself.

I am reminded that a trial Judge in the R. v. Grimba and Wilder case was dealing with fingerprints, which police departments are likely to keep as a duty and which habitually they keep and to which they habitually refer virtually on a day-to-day, hour-to-hour basis, thereby assuring the accuracy of the contents of the fingerprint file that they must keep in order to {1979|1980} discharge the duties of police officers. These, in the submission of the defence, are far different than a one-insertion record such as the one with which I now deal.

His Honour Judge Callahan, at page 471 of the Grimba decision, in part, had the following to say:

*"I had the benefit of extensive articulate and learned argument which underlined for me the difficulty of this particular ruling having regard to the wording of the provisions of the Canada Evidence Act.*

*Section 30 was placed into the Canada Evidence Act in 1968. It would appear that the rational behind the section for admitting a form of hear-*

*say evidence is the inherent circumstantial guarantee of accuracy which one would find in a business context from records which are relied upon in the day-to-day affairs of individual businesses and which are subject to frequent testing and cross-checking. {1980|1981} Records thus systematically stored, produced and regularly relied upon should, it would appear under s.30, not be barred from this Court's consideration simply because they contain hearsay or double-hearsay. However, before they qualify under that section, the provisions of s.30 must be strictly complied with. (See R. v. Mudie (1974) 20 C.C.C. (2d) 262 at 266)."*

In a civil case, Mr. Justice Griffiths of the Supreme Court of Ontario, in the case of Satak Computers v. Boros, 15 O.R. (2d) 750 quoted Mr. Justice Moran in another case at page 757. I hasten to add that I am well aware that Mr. Justice Griffiths, in the Satak case, was dealing with s.36 of the Ontario Evidence Act and not s.30 of the Canada Evidence Act. I am also aware that he was dealing with an issue of admissibility, the same subject of which I deal, but nevertheless in a civil case.

I have had the opportunity of perusing s.36 of the Ontario Evidence Act. If anything, this Act {1981|1982} is more rigorous in its application concerning admissibility and against admissibility than s.30 of the Canada Evidence Act. There is one further requirement in the Provincial Act that is not required in the Canada Evidence Act.

The quotation from Mr. Justice Morand is as follows:

*"By this amendment it appears clear to me that the legislature intended to allow in evidence certain matters which could not be admissible without calling the witnesses to prove each particular item in the record, and I am bearing in mind that this section would cover such diverse things as, perhaps, pages and packages of stock brokers dealing with a client, pages of a credit company's business affairs, perhaps pages and pages of records of one of the big stores in the community where the records might have been made by as many as twenty or thirty different people, {1982|1983} and in the ordinary course perhaps we would have had to call all these people to make that record admissible."*

*So clearly, I think, this section must mean that what would normally be considered hearsay with the Court, that is, a record, may be admitted without calling the person who made the record."*

Mr. Justice Griffiths appears, from my reading of his decision, to have been of the view that the approach of the American authorities, and indeed, the approach that I respectfully view as his finding, has been to treat similar statutes as remedial.

He then went on to say on page 757:

*"Obviously, the 'true intent and meaning and spirit' should only be obtained from the language employed by the legislature. In my view, if the writings and records offered in evidence fall within the broad wording of s.36 and satisfy the criteria of all that {1983|1984} section, then they should be admitted even if they do not fall into the category of business records such as accounts, payroll records and other routine commercial records at which the legislation was primarily but obviously not exclusively aimed."*

It seems to me that the object of Parliament, and indeed the object of the decided case law, is to ensure that the evidence proposed to be called, without calling the author of the item in question, if admitted, and without being cleansed and tested by cross-examination must, in the discretion of the presiding judicial officer, be evidence that is at the very least reliable.

Section 30 of the Canada Evidence Act was intended by Parliament to facilitate the admission of such evidence, provided its reliability is assured by reason of all of the circumstances under which the record itself was created, and provided that it is a record that was made in the ordinary course of business.

Surely that principle, and for those {1984|1985} reasons, Parliament has required that a document of this kind, indeed, be created in the ordinary course of business.

The case of Grimba deals with fingerprints. Satak Computers dealt with minutes of meetings of corporate personnel. The case of R v. Anthes

Business Forms Limited and Eleven Other Corporations, 26 C.C.C. (2d) 349 admitted at trial correspondence, as I read the decision, not only of the employees who were at meetings and the like of the accused corporation, it also admitted correspondence and other documents of that nature by personnel and servants of another corporation. The objection to the admission of that evidence was taken, as I understand it, to the Ontario Court of Appeal, but was not given effect to. To decide this important issue, I must look at all of the circumstances and background under which this bulletin, and particularly the paragraph in question, was created.

It was created, obviously, and there is no reason to doubt it, in 1978. That predated this prosecution by a very substantial period of time. Clearly in 1978 no charges faced Mr. Zundel.

The paragraph in question was intended {1985|1986} by its author, obviously, to notify all elements of the Red Cross and the Red Crescent of a policy of some standing by the Central Committee itself. The dissemination of information concerning that policy arose as a result of what appears to have been inquiries concerning the very subject that this trial is investigating as far back as 1978.

The bulletin itself was kept in the Secretariat offices in Canada. There is nothing on the face of the document itself to suggest that there is any self-serving motive made in contemplation of litigation, civil or criminal or otherwise.

The paragraph itself is nothing more than a statement of the past and present policy of the Red Cross in a particular area of whether figures and statistics were ever compiled or disseminated.

In that sense, it cannot be said that the inherent contents of the document are either actually, or appear to be, in any sense unreliable.

I am quite aware of the fact that this insertion of this particular paragraph is not one that is repetitious in nature or part of a constant, continuing system of recording over and over again of its contents. {1986|1987}

The paragraph, in my respectful view, is really not any different than a statement of policy to be found in the minutes of the meeting of the directors of a corporation, in the minutes of the meeting of the servants of the corporation, or in correspondence of any members of any group or undertaking whose motives imply profit or non-profit.

The bulletin itself, I find, is a record that was kept in the ordinary course of the business of the International Committee of the Red Cross, Red Crescent.

I have read with some interest the contents of s.30 (6) of the Canada Evidence Act. That reads as follows:

*"For the purpose of determining whether any provision of this section applies, or for the purpose of determining the probative value, if any, to be given to information contained in any record received in evidence under this section, the court may, upon production of any record, examine the record, receive any {1987|1988} evidence in respect thereof given orally or by affidavit including evidence as to the circumstances in which the information contained in the record was written, recorded, stored or reproduced, and draw any reasonable inference from the form or content of the record."*

I regard that particular subsection as some authority. I exercise my judicial discretion in deciding whether or not Crown will be permitted to introduce the one part of the bulletin that it seeks to introduce.

Merely because the subject of the paragraph was not part of a series of repetitious entries in a system of recording, but rather is one statement of policy made on one occasion does not adversely, of itself, affect the admissibility.

The paragraph is part of the content of a record kept in the ordinary course of the conduct of the affairs of the business of the Red Cross International Committee.

In all of the circumstances I can see {1988|1989} no essential inherent difference between that paragraph and if it were contained in the correspondence of a meeting of a corporation or of a body or a group of people created in the ordinary course of the conduct of that business or undertaking.

For these reasons, the paragraph itself may be admitted.

——— {1989|1990}

MR. GRIFFITHS: Thank you, Your Honour.

THE COURT: Is there anything before the jury comes in?

MR. GRIFFITHS: Just one thing. There was one word in that paragraph and it was discussed yesterday and it says, "falsely attributed", and you said if it was admitted that you did not want the word "falsely" included.

THE COURT: Yes. Have you and Mr. Christie gotten together so that you can make it clear to him precisely what you propose to adduce to the jury? I don't want to bring the jury in, have you start, and then have Mr. Christie, who has not spoken to you, object. It's the logistics of getting juries in and out of courtrooms, things like that. It's that simple.

MR. GRIFFITHS: If I could have a moment.

THE COURT: Yes. Mr. Christie, is there anything you wish to say?

MR. CHRISTIE: Yes. I have not had an opportunity to discuss what edited portion of that paragraph will be put to the witness, but there was one {1990|1991} thing I wanted to raise, and I suppose it is a formality. I didn't want to pre-suppose what Your Honour would rule in respect to —

THE COURT: It was not an easy ruling, I can assure you of that.

MR. CHRISTIE: Yes, Your Honour, but I must, I think, and I do make a formal application pro forma at the point we are at to have the Crown produce the author of the report pursuant to s.7. I assume that Your Honour could deal with that. I must at least ask, and I am asking that that witness be produced for cross-examination, in view of the fact that the ruling as to the applicability of the section is only made at this point — and I quite agree it is a difficult thing to decide.

I am submitting that we are caught by surprise, because we have a document from the International Tracing Service marking the criterion of the Committee of the International Red Cross, Geneva, which does say the numbers of victims of Nationalist Socialist persecution, and which derives from the book, "Did Six Million Really Die?" from which it is taken.

I am simply saying, unless I can test {1991|1992} the person who made these remarks with cross-examination, I cannot actually put to Mr. De Grace, who says he doesn't know because he didn't write it — I can't put it to him, he will say, "I don't have any idea" —

THE COURT: I don't disagree with that last portion.

MR. CHRISTIE: So I am just asking now. I realize it is probably, shall we say, difficult.

THE COURT: Your request is on the record. For obvious reasons, it is dismissed. Included in those reasons is my view that nothing is prohibiting the defence, if it chooses to do so, from leading any evidence it wishes in rebuttal to the paragraph in question.

MR. CHRISTIE: Just one word is in issue.

MR. GRIFFITHS: I will need to speak to the witness as well, Your Honour.

THE COURT: We will adjourn for ten minutes.

— Short adjournment.

——— {1992|1993}

— Upon resuming.

MR. CHRISTIE: Your Honour, in respect to the paragraph of the ICRC Bulletin No. 25, I wanted to be very clear in my position that I cannot, in any way, ascribe some editorial function to myself to a paragraph that I maintain is now properly before the Court.

THE COURT: I do not want to be deemed to be consenting by participating in an amendment.

MR. CHRISTIE: Exactly. And I wanted to add, I know we are trying to deal with the word "falsely". I allude to the fact that much of the paragraph deals with statements about the activities of the ICRC, '39 to '45, at a time during which it is dubious whether the author in 1978 had personal knowledge at all.

So I simply took the position and I take that same position now that, really, I am not qualified to edit, nor am I acceding to the view that this somehow should be before the Court.

Thank you.

THE COURT: Perhaps, Mr. Christie, I {1993|1994} can be of some

assistance to you by putting the whole thing in the negative. It is my understanding of my jurisdiction that I may, under proper circumstances, edit. If, after I hear from Crown counsel, I decide to remove the word "falsely" as of my own motion, would you object to that? If you do, I'll leave it in.

MR. CHRISTIE: It may seem rather ridiculous, because it is an accusatorial part of the paragraph, but I think that, in view of the fact I intend to contradict this with other evidence and demonstrate by argument that this is, in fact, a kind of a political statement on the part of the ICRC for obvious reasons of popularity and the like, I don't wish to take a position on that point at all. I'm sorry.

THE COURT: All right. Thank you. What is the Crown's position?

MR. GRIFFITHS: I am asking Your Honour to permit the Crown to delete the word "falsely" from the paragraph.

THE COURT: Go ahead.

—— {1994|1995}

— The jury enters. 10:52 a.m.

### RENE DE GRACE, previously sworn

#### CONTINUED EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:

Q. Mr. De Grace, you were telling us yesterday about the relationship between the International Committee of the Red Cross and the League of Red Cross Societies which the latter organization in Canada belongs to.

A. Yes. The Canadian Red Cross National Society is a member of the League of Red Cross and Red Crescent societies, but it still is an independent organization, and the Canadian Red Cross Society is incorporated by an Act of Parliament and is auxiliary to the Government of Canada like all other national societies are auxiliary to their government.

Q. And you were telling us yesterday about a monthly bulletin that you received from the International Committee of Red Cross in Geneva.

A. Yes, I was.

Q. And you brought an issue of that bulletin with you to Court?

A. Yes, I do have an issue.

Q. And could you tell us once again the date of that issue?

A. The date is February 1st, 1978.

Q. All right. And there are a number of different matters that are contained in this bulletin {1995|1996} that don't have anything to do with this trial; is that right?

A. Yes, there are a number of matters, actually. The title of the article in this bulletin is entitled, "False Propaganda".

Q. Sorry, there are a number of different articles that deal with what?

A. Some of the contents are, "The ICRC in 1977: Facts and Figures", Vice-President of ICRC Executive Board on Leave" ...

Q. So many things in this bulletin?

A. Many things.

Q. All right. Would you read from the fourth paragraph please?

A. Yes, I will:

*"Consequently the ICRC considers it must make clear the fact that it has never published – or even compiled – statistics of this kind which are being ..... attributed to it. The work of the ICRC is to help war victims, not to count them. In any case, how could its delegates have obtained data for such statistics? They were able to enter only a few concentration camps, and then only in the final days of the war. Everything the ICRC tried to do for the inmates of those camps, and what it finally managed to do, is related in its {1996|1997} report entitled 'The Work of the ICRC for Civilian Detainees in German Concentration Camps from 1939 to 1945' (available in English, French and German)."*

Q. Thank you. Do you have any personal knowledge of the matters contained in that paragraph?

A. The only knowledge I have about the matters contained in this paragraph was as a result of receiving a press clipping.

Q. All right. So you have no personal knowledge. It is something you've read in the press.

A. No.

Q. Thank you. I have no further questions.

THE COURT: Yes. Mr. Christie.

#### CROSS-EXAMINATION BY MR. CHRISTIE:

Q. I now put to you the report of the International Committee of the Red Cross on its activities during the Second World War referred to in the second paragraph you just read between 1939 and 1947, Volume II., "The Central Agency For Prisoners of War", page 314, and I ask you if it doesn't indicate there that the Red Cross prepared cards for those who were lost or had lost friends, relatives and people of that kind, and it says, and I ask you to read this sir – can you have a look down here? It says: {1997|1998}

*"These are the statistics, up to the end of March 1946, of P 10,027 cards "..."*

which is a form card, right?

A. Right.

Q. *"... which reached Geneva duly filled in:*

*1944 ..... 76,300*

*1945 ..... 155,948*

*1946 ..... 14,996"*

– for a total of 247,244. Is that right?

A. That is what is printed there, yes.

Q. Yes. And it says:

*"These figures imply double the number of cases. The total number of cards printed, and in part actually issued was over three million."*

Right? Have I read that correctly?

A. Actually issued was over three million, yes. Correct.

Q. *"The Section stopped work on card indexing cases on April 1946."*

For the preparation of this report, is that right?

A. Right.

Q. All right. It also says:

*"In July 1947, the International Refugee Organization took over from UNRRA ..."*

which is a United Nations Organization, right? {1998|1999}

A. That is what is printed, yes.

Q. Well, this is a report, is it not? Do you recognize that as the Second Volume of the International Committee of the Red Cross on its activities during the Second World War?

A. I do.

Q. And it says from 1939 to 1947, because this Report is released in '48, May. Right?

A. Yes.

Q. All right. And it says it "took over from UNRRA all work in respect of DPs ..." – does that mean displaced persons?

A. Right.

Q. *"... and the part of the ICRC in tracing and reuniting dispersed families was at an end."* Right?

A. Right.

Q. Thank you. Do you know of the existence of the International Tracing Service associated with the Red Cross?

A. Yes, I do.

Q. You do. You emphatically deny the existence of the existence of [sic] the International Tracing Service associated with the Red Cross?

A. I'm sorry?

THE COURT: Do you understand the question?

THE WITNESS: I'm not sure.

THE COURT: All right. Ask it again.

Q. MR. CHRISTIE: Do you deny the existence of the International Tracing Service associated {1999|2000} with the Red Cross?

A. I did not.

Q. What?

A. You are telling me that I deny the existence —

Q. I am asking you if you deny the existence of the International Tracing Service associated with the Red Cross at Arolsen, West Germany.

A. May I explain what the International Tracing Service is?

Q. If you know. First of all I want to know if you acknowledge that it exists.



A. There is an International Tracing Service in Arolsen, Germany.

Q. Yes. Is it associated with the Red Cross?

A. The International Committee of the Red Cross is responsible for the administration of the International Tracing Service in Arolsen, Germany, and if I may expand on that, it's a service that was established in 1945, and, to my knowledge by the Allies, and was put under the administration of various organizations which I don't know about; and in 1955, based on an international agreement, the International Committee of the Red Cross was given the responsibility for the administration of that office.

THE COURT: In 1955?

THE WITNESS: In 1955, yes, Your Honour.

Q. MR. CHRISTIE: They took over the records of previous organizations that had those {2000|2001} records.

A. I cannot speak on behalf of the International Tracing Service or the International Committee of the Red Cross on matters of this kind, for I am not aware of what actually took place, but I know they are responsible for the administration of that office since 1955.

Q. Mm-hmmm. Well, I put it to you that the International Tracing Service accepts requests for information from people who have lost friends and relatives and records those statistics, sir.

A. I would prefer that all questions pertaining to the day-to-day operation of the International Tracing Service be put to them. I am very reluctant to speak on their behalf, and I am not competent to do so.

Q. I see. I'd like to put to you a report that is allegedly originating from the International Tracing Service. I'd like to ask you if you have seen it.

THE COURT: Just a moment. Well, you can ask him if he has seen it.

MR. CHRISTIE: I just did.

THE COURT: Have you seen it, witness?

THE WITNESS: No, I have not.

Q. MR. CHRISTIE: Thank you. Would you agree that your position is somewhat of a delicate one here today?

A. Yes, I would agree.

Q. Would you agree that you don't want to get the Red Cross involved in any controversy; correct?

A. Well, I would never want that, here {2001|2002} or anywhere else.

Q. I understand. And that's why you very carefully defined your role as separate, or your position as separate from the International Committee of the Red Cross, right?

A. Well, I wanted it to be very clear to this Court that I'm not entitled to speak on behalf of the International Committee of the Red Cross, or the International Tracing Service in Arolsen.

Q. Yes. And as such you are not entitled or qualified to say whether this paragraph that you have read is really true or false. Right?

A. Well, I have no reason to disbelieve the content of the International Red Cross publications.

Q. Are you not aware that those who are in the position who originated that are representing the Red Cross in the same way that you are, and that it is a rather delicate issue as to what they did during the Second World War; is that not right?

A. I'm afraid that I am not competent to answer that question.

Q. Are you aware that some books have been written that accuse the Red Cross of dereliction of their duty to these prisoners in the concentration camps?

A. I'm not aware of them, sir.

Q. You are not aware of the book called, "The Terrible Secret", by Walter Laqueur?

A. No, I am not aware of it.

Q. You are not aware of that.

A. I am not. All right. And when you read — {2002|2003} I think it was a prepared statement, wasn't it, at the very beginning, to identify your position?

A. Well, I wanted to be very clear on that, and it was following consultation with our own lawyers from the International Committee of the Red Cross, for I was not at ease at all.

THE COURT: You can take it as yes. I saw him read it.

Q. MR. CHRISTIE: That's why you were not at ease, because you

wanted to be very careful about defining your position.

A. Well, in that as I was called as a witness and I had received a subpoena, I had to be in Court, and I felt I was not competent — Q. And in fact, I guess it would be fair to say that you didn't want any of your remarks to be a reflection on the International Committee of the Red Cross.

A. Yes. That's correct.

MR. CHRISTIE: Thank you very much, sir.

THE COURT: Mr. Griffiths.

MR. GRIFFITHS: I have no re-examination, Your Honour.

THE COURT: Thank you. You can step down, Mr. De Grace.

— The witness retires.

MR. GRIFFITHS: Sergeant Luby, please.

—— {2003|2004}

#### **JOHN LUBY, sworn**

#### **EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:**

Q. I understand, sir, you are a sergeant in the Metropolitan Toronto Police Force?

A. Yes, I am.

Q. And you are one of the officers involved in the investigation of this charge?

A. Yes.

Q. And as such, did you have occasion to go to the Library to look at an encyclopaedia?

A. Yes, sir.

MR. CHRISTIE: As I said before, Your Honour, I have no objection to my friend simply putting in the Chambers Encyclopaedia that he is asking about, and we will argue what it means at a later time.

MR. GRIFFITHS: Thank you, Mr. Christie.

Q. So we all know what we are talking about, Exhibit "E", subject to further identification, is two photocopies — I'm sorry, photocopy of two pages from Chambers Encyclopaedia.

A. Yes.

Q. And did you make that photocopy?

A. Yes.

Q. Can you tell us what year is the edition of the Chambers Encyclopaedia?

A. It is from the New Revised Edition published in 1973, Volume VIII, letters "J" to "Mala", pages 99 and 100. {2004|2005}

Q. Thank you.

THE COURT: And the subject matter?

THE WITNESS: Jewish history.

MR. GRIFFITHS: I'd ask that that now become a numbered exhibit please, Your Honour.

THE COURT: Exhibit 30.

— EXHIBIT NO. 30: (Formerly Exhibit "E") Photocopy of pages 99 and 100, Volume VIII, Chambers Encyclopaedia.

Q. MR. GRIFFITHS: Now, Sergeant Luby, have you also attended at another library and collected a three-volume book called, "ICRC Report on Second World War 1939 — 1947"?

A. Yes, sir.

Q. And when were those books published — if you will just look inside there?

THE COURT: You've seen these, Mr. Christie?

MR. CHRISTIE: Not these, Your Honour. I have other — I know what they are.

THE COURT: You have the counterpart to what the officer has, do you?

MR. CHRISTIE: I believe I have the same three volumes in another edition.

THE COURT: Thank you.

MR. CHRISTIE: And if the Crown wishes to put the whole works in, I have no objection, and save time.

THE COURT: All right. The ICRC, Mr. — {2005|2006}

MR. GRIFFITHS: Sorry, Your Honour, it's how it is printed on the binding, but in fact ...



Q. If you will just look inside, is that the Report of the International —  
THE COURT: I think what it is I want to make sure is that the jury knows what it is.

Q. MR. GRIFFITHS: It's the Report of the International Committee of the Red Cross On Its Activities in the Second World War, Geneva, 1948?

A. Yes. Geneva, May 1948.

MR. GRIFFITHS: Your Honour, could I have Exhibit 1 distributed again to the jury, please?

THE COURT: Yes.

MR. CHRISTIE: Your Honour, if my friend intends to lead some evidence regarding the exhibit in a way of some editorial or selective comment, I would be objecting. I don't know if that's what my friend has in mind.

THE COURT: Is that what you have in mind?

MR. GRIFFITHS: I have in mind going through those areas that are quoted in here, and any editorial comment I will be making at the end of this case, but looking at those parts that are quoted, and the areas immediately around those parts to satisfy the jury, whether the quotes are in context or not.

MR. CHRISTIE: With respect, I think that's a matter of argument. The book will be exhibited. The volumes are all there. Nothing is going to change. I don't think we need a witness to swear that you read one page and then read another and give his opinion on {2006|2007} whether it's consistent.

I think the jury is to decide that, and it will save a great deal of time if we do that by way of argument rather than by way of some kind of evidence.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour. The volumes, as Your Honour can see and the jury can see, are three volumes here — a considerable mass of material.

I am content to introduce the entire volumes, but I wish to direct the jury's attention to particular sections of the book.

THE COURT: Of the volumes.

MR. GRIFFITHS: Yes, sir.

THE COURT: As against Exhibit 1.

MR. GRIFFITHS: Yes, sir.

THE COURT: That can be done with despatch without — the witness isn't going to be asked for opinion?

MR. GRIFFITHS: He is not going to be asked for opinion. He is going to be asked certain portions and will be reading along in our copies of the material here, Your Honour.

THE COURT: Before we go any further, does that clear things up, Mr. Christie, or are you still objecting? If you are, I will excuse the jury and we will talk about it.

MR. CHRISTIE: Well, I don't really want to send the jury out. I don't see the point of going through this reading process. The jury can do that {2007|2008} when they have the books in assessing and hearing the argument on the point. I think it will amount to taking it out of context, too, because I think that some of the points my friend proposes to make relate to a good deal of the context, and I think we will deal with this in argument quite thoroughly. The books are there.

My friend knows exactly what the booklet says about the books, and he can refer the to exact pages, because they are identified, and I don't see that taking it this way, reading a portion, proves anything. It doesn't improve on the context. In fact, it detracts from the context. It doesn't help the jury. They can read just as well as the witness can.

THE COURT: All right. Thank you.

(page 2009 follows) {2008|2009}

#### RULING

THE COURT: Defence counsel takes objection to this witness reading certain passages from three volumes of a report from the International Red Cross of its activities between 1939 and 1947.

The objection is that the practice of the witness being asked by Crown

counsel to refer to certain portions of the three volumes of the report as against the content of Exhibit 1 could remove it from context. If it does remove it from context, that affects the weight, if any, that the jury[.]

To merely order that the three volumes be filed without reference to the content, two things would occur. I would be, in effect, telling the Crown how to prosecute its case. That is not my function. In the same way, it is not my function to tell the defence how to conduct its case.

Secondly, if the various portions of the three volumes were not delineated in some reasonable manner, then the jury, when it retires to consider its verdict, would spend inordinate amounts of time hunting through three volumes to find the reference. That is something to be avoided. {2009|2010}

Therefore, provided the Crown proposes to direct the witness, hopefully in an expeditious manner, to certain portions of the three volumes which can be marked with pieces of paper for easy reference later as against Exhibit 1, then the jury would be in the position to decide whether what has occurred has had the effect of removing those passages from the context of the total volume.

Proceed.

MR. GRIFFITHS: Thank you, Your Honour.

—— {2010|2011}

Q. Page 26, there is a chapter, Chapter 9, "The Jews And The Concentration Camps: A Factual Appraisal By The Red Cross"

A. Which volume are you talking about, sir?

Q. I am talking about Exhibit 1.

It says:

*"There is one survey of the Jewish question in Europe during World War Two and the conditions of Germany's concentration camps which is almost unique in its honesty and objectivity, The three-volume 'Report of the International Committee of the Red Cross on its Activities during the Second World War', Geneva, 1948."*

Is that work there before you?

A. That's these three books.

Q. On the next column underneath the two photographs, in bold print, the exhibit goes on to say:

*"The Red Cross Report is of value in that it first clarifies the legitimate circumstances under which Jews were detained in concentration camps, i.e. as enemy aliens. In describing the two categories of civilian internees, The Report distinguishes the second type as 'Civilians deported on administrative grounds (in German, 'Schutzhäftlinge'), who were arrested for political or racial motives {2011|2012} because their presence was considered a danger to the State or the occupation forces' (Vol. III, p. 73)."*

Open up Volume III, please, and page 73.

A. Yes.

Q. And would you read from the beginning of a chapter, would you read beginning, "Civilians in enemy hands", which is the beginning of the chapter?

A. "Detained and Deported Civilians".

*"Civilians in enemy hands, as the account of measures taken for their protection has shown, fell into two main categories:*

*(1) — Civilian internees in the true sense of the term, that is, civilians living in belligerent territory at the outbreak of war and interned because of their enemy nationality;*

*(2) — Civilian internees described as 'detainees' or 'deported civilians', or 'civilians deported on administrative grounds' (in German, Schutzhäftlinge) who were arrested for political or racial motives, or because their presence was considered a danger to the State or the occupation forces."*

Q. All right. Read the next sentence, please.

A. *"They included nationals of Axis {2012|2013} satellites of annexed or occupied countries, as well as a great many persecuted Germans, who were mainly Jewish."*

Q. Okay. Turning, then, to Exhibit 1:

*"These persons, it continues, 'were placed on the same footing as persons arrested or imprisoned under common law for security reasons'*

(p. 74)."

Page 74, Volume III, presumably, is the reference. And I would refer you to, on that page, I believe this is what the reference would be.

A. On page 73 or 74, sir?

Q. 74 is the reference in the material. At the bottom of the page there is a paragraph starting with, "The German authorities".

A. Yes.

Q. Read from that.

A. "The German authorities however placed detained and deported civilians on the same footing as persons arrested and imprisoned under common law for security reasons. The majority were in fact not nationals of enemy countries, nor as a rule even aliens, but possessed or had possessed, before becoming stateless, either German nationality, or that of an annexed country. The measures applied to these people were, therefore, {2013|2014} from the German point of view and that of the satellite States, strictly a matter of internal policy, with which the ICRC might not interfere."

Q. All right. Returning, then, to Exhibit 1, it says:

"The Report admits that the Germans were at first reluctant to permit supervision by the Red Cross of people detained on grounds relating to security, but by the latter part of 1942, the ICRC obtained important concessions from Germany. They were permitted to distribute food parcels to major concentration camps in Germany from August 1942, and 'from February 1943 onwards this concession was extended to all other camps and prisons' (Vol. III, p. 78)."

I am going to ask you to commence reading on page 77 under the heading, "Germany".

A. "As early as January 1941, the ICRC applied to the German Red Cross for permission to send food to detained and deported civilians in the camp at Oranienburg, but this was refused. Earlier a similar request made on May 20, 1940, concerning the camps at Drancy, Compigne and in North Africa, had already been turned down by the German Foreign {2014|2015} office. In the summer of 1942, the ICRC was informed by this Ministry that parcels could not be sent to German citizens in concentration camps. A little later, however, in August, a fresh request was treated with more sympathy, and the delegate in Berlin was told that detained aliens, not only at Oranienburg but at Dachau also, could receive small food parcels from their relatives, on condition that the contents could be quickly consumed. Family parcels were thus at last authorized for detained and deported civilians of enemy nationality, and were forwarded through the ICRC.

After further representations in October 1942, in behalf of detained civilians in Germany and Alsace, family parcels of foodstuffs and clothing were allowed for persons detained in Haguenau Prison; an exception was made in the case of those or for imperilling the security of the State or of the authorities in occupation. From February 1943 onwards, this concession was extended to all other camps and prisons in Germany."

Q. "In Germany" was the last word? {2015|2016}

A. Yes.

Q. Keep going.

A. "The ICRC declined, however, to limit its action merely to that of an intermediary between the detainees and their relatives. It claimed the right to send, itself, consignments of foodstuffs, clothing and medications, and to supervise their distribution in the camps. The Committee moreover insisted on ascertaining the situation within these camps and the number of occupants, by nationality. Its efforts were not entirely fruitless. In March 1943, the German Foreign Office informed the ICRC delegation in Berlin that the Committee and the National Red Cross Societies would henceforth be allowed to forward individual parcels to detained and deported aliens whose names and addresses were known to them. This privilege was, however, withheld from those accused of offences against the German State or the German forces. There was no limit to the number of parcels, but the amount of foodstuffs sent to anyone detained could not exceed his personal needs; any surplus would be distributed amongst fellow detainees who received no parcels. The {2016|2017} ICRC delegates were not allowed

access to the concentration camps, and the German Red Cross and camp commandants were forbidden to communicate lists of occupants, or even camp strengths."

Q. Keep going just ...

A. "The concession granted by the German authorities was therefore very slight, and indeed more apparent than real, since on the one hand, only individual parcels were permitted, whilst on the other, the authorities made it impossible for the senders to obtain the necessary data for consignments of this kind. Nevertheless, the ICRC was not deterred, but at once set to work on their relief scheme, although they had at that time only some sixty names and addresses of civilian detainees in all the camps in Germany."

Q. Thank you. Now, under the heading, "Red Cross Recipients were Jews", on Exhibit 1 page 27:

"The Report states that 'As many as 9,000 parcels were packed daily. From the autumn of 1943 until May 1945, about 112,000 parcels with a total weight of 4,500 tons were sent off to the concentration camps' (Vol. III, p.80)."

And would you look at Volume III, page 80? {2017|2018}

A. I have it here, sir.

Q. And can you find that sentence at the bottom of the first complete paragraph there, last sentence of the first complete paragraph?

A. Yes.

"The goods were warehoused in bond at Geneva, where as many as 9,000 parcels were packed daily. From the autumn of 1943 until May 1945, about 112,000 parcels, with a total weight of 4,500 tons, were sent off to the concentration camps in Germany."

Q. And the words "in Germany" are in the book.

A. Yes.

Q. In addition, Exhibit 1 goes on:

"In addition to food, these contained clothing and pharmaceutical supplies. 'Parcels were sent to Dachau, Buchenwald, Sangerhausen, Sachsenhausen, Oranienburg, Flossenbürg, Landsberg-am-Lech, Flöha, Ravensbrück, Hamburg-Neuengamme, Mauthausen, Theresienstadt, Auschwitz, Bergen-Belsen, to camps near Vienna and in Central and Southern Germany. The principal recipients were Belgians, Dutch, French, Greeks, Italians, Norwegians, Poles and stateless Jews' (Vol III, p.83)."

Do you have Volume III, page 83?

A. Yes. {2018|2019}

Q. And is that that sentence there that I just read?

A. Yes.

Q. And would you read the next two sentences?

MR. CHRISTIE: Well, if he is going to read the sentence, he should read the sentence. My friend says, "Was it there?" Well, if my friend is asking for it to be put in context, surely the context is the sentence as it is quoted in Exhibit 1.

THE COURT: Is that all right with you?

MR. GRIFFITHS: Certainly, Your Honour.

THE WITNESS: "Parcels were sent to Dachau, Buchenwald, Sangerhausen, Sachsenhausen, Oranienburg, Flossenbürg; Landsberg-am-Lech, Flöha, Ravensbrück, Hamburg-Neuengamme, Mauthausen, Theresienstadt, Auschwitz, Bergen-Belsen, to camps near Vienna and in Central and Southern Germany. The principal recipients were Belgians, Dutch, French, Greeks, Italians, Norwegians, Poles and stateless Jews. This relief work could not unfortunately be extended to all concentration camps, because a great many remained unknown to the ICRC until the end of the war. Moreover, the ICRC was long prevented by the blockade from {2019|2020} procuring sufficient funds and goods. When it could do so at the very end of the war, transport had been seriously curtailed by the destruction of roads and railways."

Q. All right. In Exhibit 1 it goes on:

"In the course of the war, 'The Committee was in a position to transfer and distribute in the form of relief supplies over twenty million Swiss francs collected by Jewish welfare organisations throughout the world, in particular by the American Joint Distribution Committee of New York' (Vol. i, p.644)."

Would you look at Volume I, page 644? And there are a number of paragraphs there. If you look at the paragraph commencing, "Through its delegates" – do you see that?

A. Yes.

Q. And if you go down towards the bottom, or the middle of that, I think, "In its capacity as a neutral intermediary" ...

A. Yes.

*"In its capacity as a neutral intermediary, the Committee was in a position to transfer and distribute in the form of relief supplies over twenty million Swiss francs collected by Jewish welfare organizations throughout the world, in particular by the American Joint Distribution {2020|2021} Committee of New York. Without the help of the ICRC, this concerted effort made by a whole community would have doubtless been vain, as no Jewish organization was allowed to act in countries under German control. A detailed account of this important relief scheme will be found in Vol. III."*

Q. Thank you. Back to Exhibit 1, it goes on:

*"This latter organisation was permitted by the German Government to maintain offices in Berlin until the American entry into the war. The ICRC complained that obstruction of their vast relief operation for Jewish internees came not from the Germans but from the tight Allied blockade of Europe. Most of their purchases of relief food were made in Rumania, Hungary and Slovakia.*

*The ICRC had special praise for the liberal conditions which prevailed at Theresienstadt up to the time of their last visits there in April 1945. This camp, 'where there were about 40,000 Jews deported from various countries was a relatively privileged ghetto' (Vol. III, p.75)."*

The middle of the page at 74 there is {2021|2022} a paragraph "Bohemia and Moravia".

A. *"In the summer of 1942, the German Red Cross informed the ICRC that the occupying authorities in Prague had given permission for the despatch of medical supplies to Theresienstadt (Terezin), the largest camp for Jews in the country. A trial consignment of a few parcels was sent to the address given, Lagerkommando Theresienstadt, but no receipt was ever returned to Geneva. Theresienstadt, where there were about 40,000 Jews deported from various countries, was a relatively privileged ghetto, and the visit of a delegate of the ICRC in Berlin was permitted, in June 1944, as a special concession."*

THE COURT: We will adjourn for twenty minutes.

MR. GRIFFITHS: Thank you, Your Honour.

— The jury retires. 11:35 a.m.

— Short adjournment.

— Upon resuming.

— The jury enters. 12:05 p.m.

THE COURT: Go ahead, Mr. Griffiths. {2022|2023}

MR. GRIFFITHS: Thank you, Your Honour.

Q. We are still on page 27 of Exhibit 1, and we are in column one. We just finished reading an area dealing with Theresienstadt on the second paragraph below the heading, "Red Cross Recipients Were Jews". And the next sentence in Exhibit 1, or the next long quotation, is as follows:

*"According to the Report, 'The Committee's delegates were able to visit the camp at Theresienstadt (Terezin) which was used exclusively for Jews and was governed by special conditions. From information gathered by the Committee, this camp had been started as an experiment by certain leaders of the Reich ... These men wished to give the Jews the means of setting up a communal life in a town under their own administration and possessing almost complete autonomy ... two delegates were able to visit the camp on April 6th, 1945. They confirmed the favourable impression gained on the first visit' (Vol. i, p.642)."*

Would you turn to Volume I, page 642? And I am going to ask you to start reading the paragraph before that first quotation from the material. Start reading under the paragraph headed, "Germany – Even when the German Wehrmacht" ... {2023|2024}

A. *"Even when the German Wehrmacht was winning, the Committee's activities in behalf of the Jews met with almost insuperable difficulties. Towards the end of 1943, however, the German authorities allowed the*

*Committee to send relief parcels to detainees in concentration camps, many of them Jews, whose names and addresses might be known to it. The Committee was able to collect a few dozen names and by these slender means the system of individual and then collective relief for political detainees was started, an account of which is given elsewhere in this Report. Each receipt returned bore several names, and these were added to the list of addresses: thus the receipts often gave the first news of missing persons. By the end of the war, the Committee's card index for political detainees (Jewish and non-Jewish) contained over 105,000 names. During the last year of the War, the Committee's delegates were able to visit the camp of Theresienstadt (Terezin), which was exclusively used for Jews, and was governed by special conditions. From information gathered by the Committee, this camp had been {2024|2025} started as an experiment by certain leaders of the Reich, who were apparently less hostile to the Jews than those responsible for the racial policy of the German Government.*

*These men wished to give to Jews the means of setting up a communal life in a town under their own administration and possessing almost complete autonomy. On several occasions, the Committee's delegates were granted authority to visit Theresienstadt, but owing to difficulties raised by the local authorities, the first visit only took place in June 1944.*

*The Jewish elder in charge informed the delegate, in the presence of a representative of the German authorities, that thirty-five thousand Jews resided in the town and that living conditions were bearable. In view of the doubt expressed by the heads of various organizations as to the accuracy of this statement, the Committee requested the German Government to allow its delegates to make a second visit. After laborious negotiations, much delayed on the German side, two delegates were able to visit the camp on April 6, 1945. They confirmed the favourable impression gained on the first visit, {2025|2026} but ascertained that the camp strength now amounted only to 20,000 internees, including 1,100 Hungarians, 1,1050 Slovaks ..."*

Q. There is a misplaced comma?

A. Yes.

MR. CHRISTIE: Well, how are we able to interpret that from my friend's point of view?

THE COURT: What is that, Mr. Christie?

THE COURT: He is telling us that there is a misplaced comma where the numbers continue with each other, and I don't agree that we should be entitled to interpret what the document says. It may not be interpretable.

THE COURT: I don't disagree with that. Read it, officer, please.

Q. MR. GRIFFITHS: Read the number with the punctuation given for the number.

A. *"... 1,1050 Slovaks, 800 Dutch, 290 Danes, 8,000 Germans, 8,000 Czechs and 760 stateless persons. They were therefore anxious to know if Theresienstadt was being used as a transit camp and asked when the last departures for the East had taken place. The head of the Security Police of the Protectorate stated that the last transfers to Auschwitz had occurred six months previously, {2026|2027} and had comprised 10,000 Jews, to be employed on camp administration and enlargement. This high official assured the delegates that no Jews would be deported from Theresienstadt in future."*

Q. Perhaps the final paragraph should be read there as well.

A. *"Whereas other camps exclusively reserved for Jews were not open to inspections for humanitarian purposes until the end, the Committee's activities were at least effective in several concentration camps containing a minority proportion of Jews. During the final months, the Committee, in urgent circumstances, took on a task of the greatest importance by visiting and giving aid to these internees, providing food, preventing last-minute evacuations as well as summary executions, and even taking charge during the critical hours, sometimes days, which passed between the retreat of the German forces and the arrival of the Allies from the West or the East."*

Q. Thank you. Returning to Exhibit 1:

*"The ICRC also had praise for the regime of Ion Antonescu of Fascist*

{2027|2028} Rumania where the Committee was able to extend special relief to 183,000 Rumanian Jews until the time of the Soviet occupation. The aid then ceased, and the ICRC complained bitterly that it never succeeded 'in sending anything whatsoever to Russia' (Vol. II, p. 62)."

And I am going to then ask you, rather than going to Volume II, page 62, to look at Volume III, page 62. And there is a paragraph beginning in the middle there. Would you read that?

A. "Unfortunately, the Soviet authorities made no response to these proposals, and the ICRC never succeeded, despite repeated efforts, in accrediting a delegate to them, nor in sending anything whatsoever to Russia. Further, the complete absence of information on German and other servicemen captured by the Soviet army prevented these PW from receiving even the family parcels provided for in the 1907 Hague Convention, to which Russia as well as the States at war with her were signatory.

Similarly, these States, with the exception of Finland, did not reveal the places of detention of Russian "PW." {2028|2029}

Q. And on page 61 of Volume III, what is the chapter heading on which that paragraph you've read is contained?

A. It's, "(c) German, Finnish, Hungarian, Italian, Slovak and Rumanian PW in Russia."

Q. Exhibit 1 goes on:

"The same situation applied to many of the German camps after their 'liberation' by the Russians. The ICRC received a voluminous flow of mail from Auschwitz until the period of the Soviet occupation, when many of the internees were evacuated westward. But the efforts of the Red Cross to send relief to internees remaining at Auschwitz under Soviet control were futile. However, food parcels continued to be sent to former Auschwitz inmates transferred west to such camps as Buchenwald and Oranienburg."

Next column, page 27, under the heading of, "No Evidence Of Genocide":

"One of the most important aspects of the Red Cross Report is that it clarifies the true cause of those deaths that undoubtedly occurred in the camps towards the end of the war. Says the Report: 'In the chaotic condition of Germany after the invasion during the final {2029|2030} months of the war, the camps received no food supplies at all and starvation claimed an increasing number of victims. Itself alarmed by this situation, the German Government at last informed the ICRC on February 1st, 1945 ... In March 1945, discussions between the President of the ICRC and General of the S.S. Kaltenbrunner gave even more decisive results. Relief could henceforth be distributed by the ICRC, and one delegate was authorised to stay in each camp ...' (Vol. III, p. 83)."

Go to Volume III, please.

A. Yes, I have it, sir.

Q. Page 83.

A. Yes.

Q. There is a chapter there. Would you read it, or the sub-chapter? Would you read us the title of the sub-chapter and read that entire sub-chapter?

A. It's titled, "Fourth phase, January to June 1945. Admittance of the ICRC delegates to the Concentration Camps."

"In the chaotic condition of Germany after the [sic] invasion during the final months of the war, the camps received no food supplies at all and starvation claimed an increasing number of victims. {2030|2031} Itself alarmed by this situation, the German Government at last informed the ICRC on February 1945, in reply to a request of October 2, 1944, that individual and collective relief parcels could be despatched to, French and Belgian detainees. In March 1945, discussions between the President of the ICRC and General of the SS Kaltenbrunner gave even more decisive results. Relief could henceforth be distributed by the ICRC, and one delegate was authorized to stay in each camp, on condition that he undertook not to leave it before the end of the war. For the first time, therefore, the concentration camps were open to the Committee."

Q. Keep reading.

A. "In order to take advantage of this last-minute concession, road transport had to be improvised, for there were now no trains in service throughout Germany. The efforts made by the ICRC in this respect are recorded elsewhere. Suffice it to say that road convoys at once left for Germany, and that their loads of foodstuffs were issued either in the concentration camps, or to the {2031|2032} many escaped or evacuated detainees wandering on the roads in a state of indescribable distress. Between January 1 and April 15, 1945, 300,000 parcels weighing 200 tons in all were sent to concentration camps by road and rail.

On the return journey to Switzerland, the vehicles brought back women, children, the old and sick who were picked up on the roadside."

Q. Thank you. And it goes on:

"Clearly, the German authorities were at pains to relieve the dire situation as far as they were able. The Red Cross are quite explicit in stating that food supplies ceased at this time due to the Allied bombing of German transportation, and in the interests of interned Jews they had protested on March 15th, 1944 against 'the barbarous aerial warfare of the Allies' (Inter Arma Caritas, p. 78). By October 2nd, 1944, the ICRC warned the German Foreign Office of the impending collapse of the German transportation system, declaring that starvation conditions for people throughout Germany were becoming inevitable.

In dealing with this comprehensive, {2032|2033} three-volume Report, it is important to stress that the delegates of the International Red Cross found no evidence whatever at the camps in Axis-occupied Europe of a deliberate policy to exterminate the Jews."

Now, turn, please, to Volume I, page 641, and that is the beginning of a chapter. Would you read the chapter and sub-heading?

A. "Special Categories of Civilians".

"(A). Jews":

Under National Socialism, the Jews had become in truth outcasts, condemned by rigid racial legislation to suffer tyranny, persecution and systematic extermination. No kind of protection shielded them; being neither PW nor civilian internees, they formed a separate category, without the benefit of any Convention. The supervision which the ICRC was empowered to exercise in favour of prisoners and internees did not apply to them. In most cases, they were, in fact, nationals of the State which held them in its power and which, secure in its supreme authority, allowed no intervention in their behalf. These unfortunate citizens shared the same fate as political deportees, were deprived {2033|2034} of civil rights, were given less favoured treatment than enemy nationals, who at least had the benefit of a statute. They were penned into concentration camps and ghettos, recruited for forced labour, subjected to grave brutalities and sent to death camps, without anyone being allowed to intervene in those matters which Germany and her allies considered to be exclusively within the bounds of their home policy."

THE COURT: What's the reference, there, please?

MR. GRIFFITHS: Volume I, page 641, Your Honour.

Q. Volume I, page 642, the paragraph commencing at the top of the page, "The Committee" ...

A. Yes.

"The Committee had in fact, through the intermediary of the German Red Cross, asked for information concerning civilian deportees 'without distinction of race or religion', which was plainly refused in the following terms: 'The responsible authorities decline to give any information concerning non-Aryan deportees.' Thus, enquiries as a matter of principle concerning the Jews led to no result, and continual {2034|2035} protests would have been resented by the authorities concerned and might have been detrimental both to the Jews themselves and to the whole field of the Committee's activities. In consequence, the Committee, while avoiding useless protest, did its utmost to help the Jews by practical means, and its delegates abroad were instructed on these lines. This policy was proved by the results obtained."

Q. Thank you. Still on Volume I, page 645, towards the bottom of the page under the heading, "Slovakia", commence reading that, please.

A. "Many thousands of Jews had been forced to leave the country and

enlist in what was called 'labour service', but which in fact seems to have led the greater number to the extermination camps."

Q. Thank you. Volume I, page 647, under the heading, "Hungary", read that, please.

A. "As in Slovakia, the Jews were relatively spared, in so far as the local government retained a certain freedom of action. But when German pressure was reasserted, from March 1944 onwards, the position of the Jews became critical. The replacement in October 1944, of {2035}[2036] Horthy's Government by one in bondage to Germany, provoked a violent crisis; executions, robberies, deportations, forced labour, imprisonments – such was the lot of the Jewish population, which suffered cruelly and lost many killed, especially in the provinces."

Q. Thank you. Volume I, page 653, under the heading, "Rumania", second paragraph, "During the period" – do you see that?

A. "During the period in September 1940, when the 'Iron Guard', supported by the Gestapo and the German SS, had seized power, the Jews had been subjected to persecution and deportation to death camps. Later, under the dictatorship of Marshal Antonescu, they met with less severity."

Q. Thank you. Volume III, now, page 513. Read that, sir. I believe that is the beginning of the chapter. Would you read us the title of the chapter and subheading?

A. Chapter 3. "Special Cases", "Jewish Civilian Population".

Q. Would you read that, please?

A. "In its relief work for civilian populations, the ICRC paid special attention to the Jews. In Germany and the countries occupied by her, {2036}[2037] or under her domination, especially Hungary, Poland, Czechoslovakia, Rumania and Jugoslavia, no other section of the population endured such humiliation, privation and, suffering. Deprived of all treaty protection, persecuted in accordance with the National-Socialist doctrine and threatened with extermination, the Jews were, in the last resort, generally deported in the most inhuman manner, shut up in concentration camps, subjected to forced labour or put to death."

Q. Thank you. Page 514, still in Volume III, beginning with the top paragraph, "The question of relief ..."

THE COURT: Volume III, page ...

MR. GRIFFITHS: Page 514, Your Honour.

THE WITNESS: "The question of relief for the Jews amongst the civilian prisoners or deportees held in prisons, concentration camps and closed ghettos has already been dealt with. We must now speak of the aid given to the Jewish section of the free population. In Germany and her satellite countries, the lot of the civilians belonging to this group was by far the worst. {2037}[2038] Subjected as they were to a discriminatory regime, which aimed more or less openly at their extermination, they were unable to procure the necessities of life, even in the reduced quantities to which 'Aryans' were entitled."

Q. And the last sentence?

A. "Moreover, the Jewish communities had been seriously impoverished by the discrimination, confiscation and robbery practised on them for many years."

Q. Thank you. Returning to Exhibit 1:

"In all its 1,600 pages the Report does not even mention such a thing as a gas chamber. It admits that Jews, like many other wartime nationalities, suffered rigours and privations, but its complete silence on the subject of planned extermination is ample refutation of the Six Million legend. Like the Vatican representatives with whom they worked, the Red Cross found itself unable to indulge in the irresponsible charges of genocide which had become the order of the day."

So far as the genuine mortality rate is concerned, the Report points out that most of the Jewish {2038}[2039] doctors from the camps were being used to combat typhus on the eastern front, so that they were unavailable when the typhus epidemics of 1945 broke out in the camps (Vol. 1, p. 204 ff). Incidentally ..."

Read that, Volume I, page 240.

MR. CHRISTIE: You're not gonna read that.

MR. GRIFFITHS: Sure we'll read it.

Q. All right. Starting on the bottom of page 203 – excuse me just a

minute – top of page 203, "Although-the ICRC" ...

A. "Although the ICRC raised no protest against measures which the Powers considered necessary in the interest of PW, it constantly urged the repatriation of surplus medical personnel, and took steps in its promotion. The repatriation by groups, which were usually carried out at the same time as those of the seriously wounded, remained infrequent, slow and comparatively small in number."

Acting on the strength of the reports submitted by its delegates after visits to camps and of applications from the camp leaders or the men themselves, the Committee was able to achieve positive results in many individual cases. {2039}[2040]

In Germany, despite the agreements, a very large number of French medical personnel were held indefinitely in camps, without their services being used; Many were in fact improperly compelled to perform duties other than the care of the sick and wounded."

To justify these measures, the German authorities argued that the formation of a 'reserve' was necessary, in order to be ready for any events, such as the effects of air raids or a sudden influx of PW, or in case epidemics should break out in camps."

The ICRC observed that these measures were contrary to Art.12, and even to the special agreements concluded between belligerents. In spite of numerous steps and protests by the Committee, there were in Germany, in 1944, nearly 20,000 French surplus medical personnel. The Belgian and Dutch medical personnel were in a similar position."

The German authorities also opposed the repatriation of Polish and Yugoslav medical personnel, on the grounds that their countries of origin were occupied, and that the occupying authorities refused, for security reasons, to allow the return {2040}[2041] of released PW."

After the capitulation of Italy, a certain number of Italian medical personnel were interned by the Germans, either in Italy, in Germany or in the Balkans. Since Italian combatants were not considered as PW, this medical personnel was refused the benefit of the Conventions, and whilst the efforts made by the ICRC in its behalf were not always successful, they nevertheless led to the repatriation of part of them."

In Germany, members of the medical personnel who were of Jewish origin were invariably retained and placed in the 'reserve' units already mentioned, and a separate camp was even set up for this purpose. Moreover, many of them were obliged to perform other duties, in spite of frequent interventions by the Committee."

Doctors of enemy nationality and of Jewish origin were even sent to the Eastern Front to look after cases of exanthematic typhus amongst the troops."

The German authorities also attempted to refuse sick medical personnel the right of being examined by Mixed Medical Commissions for their re-{2041}[2042]patriation on grounds of health, on the pretext that medical personnel were not PW."

Q. Thank you. Turning to Exhibit 1

"Incidentally, it is frequently claimed that mass executions were carried out in gas chambers cunningly disguised as shower facilities. Again the Report makes nonsense of this allegation. 'Not only the washing places, but installations for baths, showers and laundry were inspected by the delegates. They had often to take action to have fixtures made less primitive, and to get them repaired or enlarged' (Vol. III, p. 594)."

Turn to page 594, Volume III, please.

A. I don't believe there is a page 594, Volume III.

Q. Try Volume I, page 594. Have you got that?

A. Yes, sir.

Q. All right. Start reading from where it says, "In the first place" ...

A. "In the first place, the delegates had to satisfy themselves that water, the chief factor in hygiene, was available in sufficient quantities. In dry districts, they recommended the internee not to waste it, and {2042}[2043] gave advice for planning its use in a rational manner. Thus, in Saudi Arabia, sweet water was completely lacking, and the German and Italian internees learned how to obtain it by the evaporation and condensation of sea water. At Fayed (Egypt), water was available only for two or three hours a day, at a rate of 50 litres for each person for all requirements of the camp, which meant that it was im-

possible to have showers.

Not only the washing places, but installations for baths, showers and laundry were inspected by the delegates. They had often to take action to have the fixtures made less primitive, and to get them repaired or enlarged. They supplied quantities of toilet articles (linen, soap, shaving soap, razors, blades, tooth brushes, tooth powder, etc.).

At Mansurah (Egypt) German, Italian, and Greek women internees were living in such deplorable hygienic conditions that, on his first visit in 1942, the delegate gave the camp commandant a sum of 20 Egyptian pounds to meet immediate needs (purchase of insect powder, disinfectants, linen, etc.). Many camps left much to be desired in respect of latrines: here, too, the delegates insisted upon the enlarging or improvement of the fittings, and investigated conditions of cleanliness and the use of disinfectants.

Elsewhere, the ventilation was inadequate, and the cubic air space insufficient, because of the cramped premises. In certain districts, the delegate had to start a campaign against malaria, by providing mosquito nets and quinine, and having the ground drained in order to get rid of the stagnant water produced by floods (for instance in India after the monsoon, and in Egypt after the rise of the Nile)."

Q. Thank you. Is there any reference in that to concentration camps in Germany?

A. No, not from what I've read. No.

Q. Let's turn back two pages and see what this is referring to. Is there a chapter heading, major chapter heading?

MR. CHRISTIE: Well, if we are going to have editorial opinions by the witness, he should be qualified as an expert, but I am prepared to concede that the major chapter heading is "Activities of the ICRC in Behalf of Civilian Internees", found on page 576, that thereafter there follow eight sub-paragraphs, and then the one on {2044|2045} hygiene, from which the extract has been read.

MR. GRIFFITHS: Thank you, Mr. Christie.

Q. We move to Exhibit 1 again.

It says, "Not All Were Interned":

"Volume III of the Red Cross Report, Chapter 3 (I. Jewish Civilian Population) deals with the aid given to the Jewish section of the free population and this chapter makes it quite plain that by no means all of the European Jews were placed in internment camps, but remained, subject to certain restrictions, as part of the free civilian population. This conflicts directly with the 'thoroughness' of the supposed 'extermination programme', and with the claim in the forged Hoess memoirs that Eichmann was obsessed with seizing 'every single Jew he could lay his hands on.' In Slovakia, for example, where Eichmann's assistant Dieter Wisliceny was in charge, the Report states that 'A large proportion of the Jewish minority had permission to stay in the country, and at certain periods Slovakia was looked upon as a comparative haven of refuge for Jews, especially [sic] for those coming from Poland. Those who {2045|2046} remained in Slovakia seem to have been in comparative safety until the end of August 1944, when a rising against the German forces took place. While it is true that the law of May 15th, 1942 had brought about the internment of several thousand Jews, these people were held in camps where the conditions of food and lodging were tolerable, and where the internees were allowed to do paid work on terms almost equal to those of the free labour market' (Vol. I, p.646)."

On page 645, at the bottom of the page, is a heading of "Slovakia", and although it's about a page and a half long, I think you should read the whole thing that is referred to.

A. "Many thousands of Jews had been forced to leave the country and enlist in what was called 'labour service' but which in fact seems to have led the greater number to the extermination camps. At the same time, a large proportion of the Jewish minority had permission to stay in the country, and at certain periods Slovakia was even looked upon as a comparative haven of refuge for Jews, especially for those coming from Poland. Those who remained in Slovakia seem to have been in comparative safety until the {2046|2047} end of August 1944, when a rising against the German forces took place. While it is true that the law of May 15, 1942, had brought about the internment of several thousand

Jews, these people were held in camps w[h]ere the conditions of food and lodging were tolerable, and where internees were allowed to do paid work on terms almost equal to those of the free labour market. In 1944, the Jewish community had managed to secure an almost complete suspension of forced immigration towards the territories under German control. At the time of the rising, the interned Jews escaped from the camps; some returned home, and others took to the hills. The measures of repression which followed fell on the Jewish population as a whole. The German military authorities summoned the Slovak Government to make wholesale arrests for the purpose of deporting the Jews to Germany. The order dated November 16, 1944, laid down [n] that all Jews should be mustered in the camp of Sered, and to that end, that Jews living in the capital should previously be assembled, on November 20, in the Town Hall of {2047|2048} Bratislava. On the same day, the delegate went to the Town Hall and noted that only about fifty Jews had obeyed the summons. The rest had gone into hiding, as the Slovak authorities had foreseen, either by fleeing to the country or concealing themselves in the town in the so-called 'bunkers'. In his concern over this situation, the President of the ICRC wrote to the Head of the Slovak Government asking him to put an end to the deportations. Monsignor Tiso received this letter on January 2, 1945, and answered at length on January 10. He recalled the fact that up to that time the Jews had been spared, adding however that in view of the rising, his Government had been forced to yield to the pressure which had been brought to bear upon them. He concluded by saying: 'To sum up, it remains wholly true that in the solution of the Jewish question, we have endeavoured to remain faithful [sic] to humane principles to the full extent of our powers.' Official aid to the fugitives in the 'bunkers' was out of the question; the delegation in Bratislava, however, with the help of the Slovak {2048|2049} Red Cross, and, in the provinces with that of the Catholic Church, succeeded in providing them with funds, which were handed to their spokesmen, and which allowed them to support life during the last months of the war. The Committee's representative was unable to secure permission to visit the camp of Sered. He was, however, allowed to enter the camp of Marienka, where Jews of alien nationality were interned."

Q. That's the whole section on Slovakia?

A. Yes.

Q. Now, I think we are back on page 28 in column one, starting with the first full paragraph of Exhibit 1:

"Not only did large numbers of the three million or so European Jews avoid internment altogether, but the im[m]igration of Jews continued throughout the war, generally by way of Hungary, Rumania and Turkey. Ironically, post-war Jewish emigration from German-occupied territories was also facilitated by the Reich, as in the case of the Polish Jews who had escaped to France before its occupation. 'The Jews from Poland who, whilst in France, had obtained entrance permits {2049|2050} to the United States were held to be American citizens by the German occupying authorities, who further agreed to recognise the validity of about three thousand passports issued to Jews by the consulates of South American countries' (Vol. 1, p. 645)."

Could you read that entire section dealing with France?

A. "In November 1940, the Committee obtained permission from the authorities for one of its members to visit camps in the South, where a certain number of Jews were amongst the civilian internees. The camp at Gurs, in particular, contained six thousand Jews from the Bavarian Palatinate. The visit gave a clear idea of the situation inside the camp and the urgent necessity for relief; appropriate steps were taken in the internees' behalf.

The Jews from Poland who, whilst in France, had obtained entrance permits to the United States were held to be American citizens by the German occupying authorities, who further agreed to recognize the validity of about three thousand passports issued to Jews by the {2050|2051} consulates of South American countries. The persons concerned were lodged in camps reserved for Americans at Vittel. In 1942, when Germany and the States in South America began negotiations for the exchange of internees, it was found that the majority of the



internees at Vittel held accommodation passports and consequently were in danger of being deported. The ICRC interceded in their behalf through the Berlin Delegation and succeeded in arranging for them to remain at Vittel, only a few being deported."

Q. Thank you. Exhibit 1, the last sentence from that paragraph:

"As future U.S. citizens, these Jews were held at the Vittel camp in southern France for American aliens.

The emigration of European Jews from Hungary in particular proceeded during the war unhindered by the German authorities. 'Until March 1944,' says the Red Cross Report, 'Jews who had the privilege of visas for Palestine were free to leave Hungary' (Vol. I, p.648)."

And I think this whole paragraph refers to Hungary, so perhaps read it all here, and then {2051|2052} go to the Red Cross Report:

"Even after the replacement of the Horthy Government in 1944 (following its attempted armistice with the Soviet Union) with a government more dependent on German authority, the emigration of Jews continued. The Committee secured the pledges of both Britain [sic] and the United States 'to give support by every means to the emigration of Jews from Hungary,' and from the U.S. Government the ICRC received a message stating that 'The Government of the United States ... now specifically repeats its assurance that arrangements will be made by it for the care of all Jews who in the present circumstances are allowed to leave' (Vol. I, p.649)."

All right. Commencing at page 647 of Volume I, under the section entitled, "Hungary", would you read that, please?

A. "As in Slovakia, the Jews were relatively spared, in so far as the local government retained a certain freedom of action."

MR. CHRISTIE: We've read this once already.

THE COURT: Proceed.

THE WITNESS: "But when German pressure was reasserted from March {2052|2053} 1944 onwards, the position of the Jews became critical. The replacement in October 1944, of Horthy's Government by one in bondage to Germany, provoked a violent crisis; executions, robberies, deportations, forced labour, imprisonments – such was the lot of the Jewish population, which suffered cruelly and lost many killed, especially in the provinces. It was at this point that the Committee, to alleviate these sufferings, took action with vigour and authority. At the same time the aid prompted by the King of Sweden, was given with considerable courage and success by the Swedish Legation in Budapest, helped by some members of the Swedish Red Cross. Until March 1944, Jews who had the privilege of visas for Palestine were free to leave Hungary. On March 18, 1944, Hitler summoned the Regent, Admiral Horthy, to his headquarters. He expressed his indignation that 'in Hungary very nearly a million Jews were able to live in freedom and without restrictions'. Even before the Regent had returned to Budapest, German troops had begun the occupation of Hungary in order to prevent her from abandoning her alliance with {2053|2054} Germany. This occupation forced upon the Head of the Hungarian State a new government that was far more dependent on German authority than the one preceding it. Emigration of the Jews was straightway suspended, and the persecutions began."

Q. Stop there. And if I may have your patience for a moment – there is a paragraph beginning at the bottom of page —

MR. CHRISTIE: I think my friend should read the rest, as he indicated he would, to put it in context.

MR. GRIFFITHS: Very well, Mr. Christie.

Q. Read on.

A. "This was a matter of the gravest concern to the ICRC. The President appealed to the Regent, Admiral Horthy: 'The matters brought to our knowledge seem to us', he wrote on July 5, 1944, 'so utterly contrary to the chivalrous traditions of the great Hungarian people that it is difficult for us to credit even a tithe of the information we are receiving. In the name of the ICRC, I venture to beg Your Highness to give instructions enabling us to reply to these rumours and accusations.' The Regent replied, on August 12: 'It is {2054|2055} unfortunately not within my power to prevent inhuman acts which no one condemns more severely than my people, whose thoughts and feelings are chivalrous. I

have instructed the Hungarian Government to take up the settlement of the Jewish question in Budapest. It is to be hoped that this statement will not give rise to serious complications ...'

In the spirit of this reply, the Hungarian authorities allowed the delegate in Budapest to affix shields on the camps and internment buildings for the Jews, conferring on them the protection of the Red Cross. If the use of these shields (hardly compatible, moreover, with the precise terms of the Geneva Convention) was not more extensive, this is due to the fact that the Jewish Senate of Budapest was of opinion that the measure would doubtless lose its effectiveness if generally applied.

The Hungarian Government, furthermore, showed themselves willing to favour a resumption of Jewish emigration. The Committee got in touch with the British and United States Governments as a matter of extreme urgency and, during August, obtained a joint state-{2055|2056}ment from these two Governments declaring their desire to give support by every means to the emigration of Jews from Hungary.

To this end, the Committee was requested to transmit the following message to Budapest from the United States Government: 'The United States Government has been advised by the ICRC of the Hungarian Government's willingness to permit certain categories of refugees to emigrate from Hungary ... The Government of the United States, taking into account the humanitarian considerations involved as regards the Jews in Hungary, now specifically repeats its assurance that arrangements will be made by it for the care of all Jews who in the present circumstances are allowed to leave Hungary and who reach the territory of the United Nations or neutral countries, and that it will find for such people temporary havens of refuge where they may live in safety. The Governments of neutral countries have been advised of these assurances and have been requested to permit the entry into their territory of Jews from Hungary who {2056|2057} may reach their frontiers.'

On October 8, the Hungarian authorities, in conformity with the undertaking given to the Committee, announced the final suspension of deportations and made known that the Kistarcea Camp for Jewish intellectuals, doctors and engineers, had been broken up and the internees released.

The hope raised by this statement was short-lived. A few days later the full tide of the great tribulations of the Hungarian Jews was to set in. In view of the setbacks of the German Army, Admiral Horthy had decided to sever his country's connection with Germany. On October 15, he asked the Allied Powers for an armistice for Hungary. This proclamation had an immense effect amongst the Jews, who were ardent in their demonstrations against the occupying Power. Although the German Army was in retreat both in Eastern and Western Europe, it had still a firm foothold in Hungary. The Regent failed in his plan and was arrested. Hungarian supporters of the G[e]rmans seized power and set about a repression, increasing in severity as the fighting zone came {2057|2058} nearer, placing Budapest in a state of siege. It is alleged that shots were fired from Jewish house on the German troops; however that may be, repression was centred on the Jews. It was immediately decided to remove them from Budapest and to confiscate their property. Sixty thousand Jews fit for work were to be sent to Germany, on foot, in parties of one thousand, by way of Vienna. Moreover, among the able-bodied, men between sixteen and sixty, and women between fourteen and forty were commandeered for forced labour in building fortifications in Hungary. The rest of the Jewish population, including the disabled and sick, was confined in four or five ghettos near Budapest. The only Jews to escape evacuation were those in possession of passports with visas for Palestine, Sweden, Switzerland, Portugal or Spain."

Q. Stop there. I have no further questions.

THE COURT: Two-thirty.

— The jury retires. 1:00 p.m.

— The witness retires.

— Luncheon adjournment.

—— {2058|2059}

— Upon resuming.

MR. GRIFFITHS: Just before the jury comes in, if I may, Your Honour, I have photocopies that I had made of those chapters in two cases, and in one case it's a couple of individual cases where I was reading from, or rather where Sergeant Luby was reading from in the last book, and I propose, subject to Your Honour – I neglected to make any of this matter an exhibit through Sergeant Luby, and I will do that when the jury comes back in, but I propose, subject to Your Honour, to make the volumes an exhibit – I think we are at 31 – 31A, and the photocopies 31B.

THE COURT: Has Mr. Christie seen them?

MR. CHRISTIE: No.

THE COURT: If Mr. Christie wants to look at them and comment on that – if you want to look them over, Mr. Christie, and let me know later, that will be satisfactory.

MR. CHRISTIE: These are, I would be taking it from my friend, photocopies from the volumes that he has referred to.

THE COURT: That is my understanding. {2059|2060}

MR. CHRISTIE: I am prepared to take his word for that. He is certainly an honourable and

credible member of the Court.<sup>[SEP]</sup> THE COURT: Certainly. We all know that. But I want to make sure that you are content with the context in the sense that if there is anything more that should be added –

MR. CHRISTIE: Well, they will have the whole volume, because I can always take the volume and argue it from the volume.<sup>[SEP]</sup> What I would like to say, though, about the whole thing is, I don't object to them going in, but I am making it clear, as my understanding of the matter, that they go in not as proof of the contents, but to prove that they are the reports, and to the extent that as they refer to the brochure of "Did Six Million Really Die?", that they test the accuracy of the brochure's citations from them, and not to prove facts extrinsic of any other evidence. I think we agree on that.

THE COURT: You will not get any argument from me on that. You agree with that?

MR. GRIFFITHS: It's simply, Your {2060|2061} Honour, whether the quotations that were used were representative from the book. I can't say whether the book is accurate any more than the pamphlet – just whether they are in context.

THE COURT: Yes. They can be the next exhibit, having heard from Mr. Christie.

Bring in the jury, please.

— The jury enters. 2:36 p.m.

— The witness returns to the stand.

THE COURT: Yes. Go ahead.

MR. GRIFFITHS: Your Honour, there is just one matter that I forgot with Sergeant Luby this morning.

Q. Sergeant Luby, you have the three volumes that you have been reading from here?

A. Yes.

MR. GRIFFITHS: Your Honour, I'd ask that those three volumes of the International Committee of the Red Cross Report on Second World War 1939 to 1949 be the next exhibit. I ask that they be 31A, and there are some photocopies that are taken from it.

Q. Would you have a look at those, Sergeant Luby, in those areas that I was reading from that you were reading from, and other than a photocopy of the pages, are there any other markings on those pages? {2061|2062}

A. Just the passages that I read from.

Q. There's a line down the side of those passages that you read from.

A. Yes.

Q. Down the margin of the page.

A. Yes.

Q. All right. And at the top of each stapled document there's some writing.

A. It indicates the volume number that the photocopies are from.

MR. GRIFFITHS: All right. The books will all be there, Your Honour, and the jury will have the benefit of the volumes. I am asking that those

photocopies be Exhibit 31B.

THE COURT: Yes.

— EXHIBIT NO. 31A: Volumes I, II and III of I.C.R.C. Report on Second World War 1939-1947.

— EXHIBIT NO. 31B: Photocopies of pages cited by Sergeant Luby from I.C.R.C. Report.

MR. GRIFFITHS: I now have no further questions of Sergeant Luby.

THE COURT: Thank you. Yes, Mr. Christie.

— {2062|2063}

#### CROSS-EXAMINATION BY MR. CHRISTIE:

Q. Witness, I heard you read from parts of this massive three-volume report. The part that concerns me was your reference to the question of hygienic conditions.

Did you read the whole of "B" Section under Activities of the ICRC in behalf of Civilian Internees", not on the stand but some other time?

A. No.

Q. You haven't. Well, I put it to you, witness, that if you had, you would see that the general principles of this are to give the general activities of the ICRC throughout the world. Would you agree?

A. I don't know, sir.

Q. Well, I am afraid I am going to have to put the book in front of you and ask you to follow along with me, and put it in context. I've got a different volume, but I am looking at page 594 of my volume, and do you see the same words that you were reading from the volume provided by the prosecution that is now, I think, 31A?

A. Yes.

Q. The words:

*"Not only the washing places, but installations for baths, showers and laundry were inspected by the delegates. They often had to take action to have the fixtures made less primitive, and to get them repaired or enlarged."*

That is what you read? {2063|2064}

A. Yes.

Q. Now, I suggest to you that if you go back to the beginning of this section, the section is, "(B)" "Activities of the ICRC in behalf of Civilian Internees" throughout the world, and specifically I am referring to the previous sections of this – subsections of this same topic dealing with Japan, China, New Zealand, Italy and many other places throughout the world.

Would you agree?

A. I don't know, sir. I haven't read those sections, so I don't know.

Q. Well, maybe you had better look and follow with me. I put it to you that what they have done here is described their procedures, that is, the ICRC procedures, throughout the world.

Would you agree?

A. Again, you are asking me to agree to something that I haven't read the entire thing.

Q. Well, then we will have to read it. It says, "Visits to Internee Camps": *"The conditions in which visits to internment camps were carried out have already been set forth in the chapters dealing with visits to PW camps."*

*During hostilities and the period following, delegates of the ICRC not only visited internment camps in Europe, but also carried out 177 visits to such camps in the Dutch East Indies, 14 in New Zealand, 109 {2064|2065} in Japan and occupied China, and, lastly, thirteen in Free China."*

Have I read that correctly, sir?

A. Yes, sir.

Q. Are you aware that that is the same process of distinction that they deal with in terms of living quarters; secondly, and then thirdly, food, and fourthly, correspondence, and then, fifthly, family camps, and sixthly, clothing – wait a minute – sixthly family camps, seventh, clothing, eighth, employment, ninth, hygiene, and it's from "Hygiene" that you read? Right?

A. Yes. All from the same main –

Q. They come under the main topic of what the ICRC did throughout



the world to investigate these general topics in civilian internment camps; is that right – on behalf of civilian internees?

A. That is what it says.

Q. Now, what I want to ask you to confirm is that if you look at the other topic headings, like “Living Quarters”, they state a general proposition that applies in their visits to living quarters throughout the world, and then they use specific examples.

I put it to you that they say, for example;

*“Conditions varied considerably, according to the country and place where the internees were detained, and the climate in which they were obliged to live.”*

Right under “Living Quarters”. And then {2065|2066} they say:

“At Vittel, in occupied France ...” – for instance – and they give a description of that.

A. Yes.

Q. And they say:

“... at Fayed, in Egypt ...” – and they give a description of that; right?

A. Yes.

Q. And then, “Terza-Guiza”, they are dealing there with Egypt, I see; and in Germany they refer to them, and in Canada – in fact, they had civilian internment camps in Canada according to this, and in England. So I put it to you that in each of these topic areas, sir, they give a general description of their activities throughout the world, and they follow it by specific examples.

Does that appear to be so?

A. That appears to be so, yes.

Q. So I suggest to you in regard to the subject of hygiene, where they make the general statement:

*“Not only the washing places, but installations for baths, showers and laundry were inspected by the delegates”*

they were not just referring to the nation of Egypt there, as in previous paragraphs, making a general statement followed by examples – right? – one of which was Egypt and another which, later on –

A. It refers to Egypt here.

Q. Yes, Egypt; and later on it refers, {2066|2067} to Rhodesia and Yemen and Japan – all under the general topic in relation to washing places; is that right?

A. It would appear so, yes.

Q. So that if anyone suggested that the remarks pertain only to Egypt when it refers to washing places, you would agree, would you not, that it also refers to washing places in Japan, Egypt, Yemen, Rhodesia and other places?

A. But that specific part that read there, I believe, refers to Egypt.

Q. Well, how do you believe that when it generalizes in other parts, and then –

A. It comes under the title of Egypt, under here, in Egypt.

Q. Where is there a title of “Egypt”?

A. It says, “At Fayed (Egypt)”, and it goes on to refer –

Q. Well, it’s a new paragraph where it says, “Not ...” –

A. But then it goes on, down here, on the same page.

Q. That’s right. That’s right, And in the same way, I put it to you, that when it refers to the general topic of clothing, it makes a general statement about clothing, in topic 7:

*“The States which had agreed to apply to civilian internees the PW Convention by analogy, were obliged, under Art. 12, to supply them with clothing, linen and footwear, and to provide regularly for their replacement- {2067|2068}ment and repair. Several of these States, however, were disinclined to carry out their undertakings, pleading that it was in fact impossible to clothe the internees. The delegates, who were anxious to improve the clothing situation which they noted during their visits, after approaching the responsible authorities without success, could only call upon the ICRC for assistance.”*

Right? That is the general statement applicable throughout the world, isn’t it?

A. It would appear so, yes.

Q. And they give five, or three, examples:

*“In Germany, the British and American internees received issues of*

*battle dress through the ICRC. In occupied France ...”*

and they give other examples. Right?

A. Yes.

Q. Now, I suggest to you that what they have done here is give a general statement of their activities, then giving examples from various places throughout the world, isn’t that true?

A. At the beginning of each sub-title there appears to be this type of generality, but this section that I read from –

Q. You are going to make a value judgment and tell me that this section – {2068|2069}

A. No.

Q. Go ahead and say what you were going to say.

A. I am saying there is the mention of the word “Egypt”, and it continues to talk about the word “Egypt” and further down it still talks about Egypt and the rise of the Nile, so I assume this is still talking about Egypt.

Q. You assume so, and –

A. And under here it says Japanese.

Q. But it is still under the topic of hygiene. And under laundry facilities I suggest to you, and the care of people from disease [sic] through cleanliness, I put it to you that the general topic of cleanliness and the installation of washing facilities is the start of a new paragraph.

Do you agree or disagree?

A. It is, yes.

Q. All right. I put it to you that in that paragraph and others it follows to describe the particular sanitary conditions throughout the world in various camps inspected by the ICRC. Do you agree?

A. Yes.

Q. All right. Thank you.

Now, I put it to you that in regard to the whole subject of whether the reports, the three volumes, refer to extermination and Jewish extermination camps and death camps, you’ve read numerous parts where they say those words, don’t they, in these reports?

A. I read what I read this morning.

Q. Yes. Well, you recall what you {2069|2070} read this morning, don’t you?

A. And it mentions extermination, yes.

Q. Extermination camps and death camps, right?

A. Yes.

Q. This report was written in 1948, wasn’t it?

A. That is what is on that book that I was reading from, yes.

Q. And do you know what the climate was about the subject of death camps?

A. I was only six years old, sir. I couldn’t tell you.

Q. I put it to you that anybody in 1948 that didn’t believe in death camps would have been very unpopular. Right?

A. I don’t know, sir.

Q. You don’t know. You just read what you’re told.

A. Yes, sir.

Q. All right. What I suggest to you is that you have read these and read through them – have you?

A. No, sir.

Q. I put it to you that if you have read these, you won’t find any evidence of death camps or extermination camps. Do you agree?

THE COURT: It is pretty hard for him to answer that.

THE WITNESS: I couldn’t answer that, {2070|2071} sir.

Q. MR. CHRISTIE: All right. I withdraw that.

In your reading did you find any evidence in these reports of the existence of death camps verified by the ICRC in their visits?

Q. Only what I read his morning from the excerpts where they mention death camps and extermination. Other than that, no, sir.

Q. All right. I put it to you the ICRC actually published earlier reports of visits to the camp of Auschwitz. Are you familiar with that?

A. No, sir.

Q. Would you agree that throughout the portions that you read from the book, “Did Six Million Really Die?” the words quoted, with the exception of one instance where the numbers were different, were actually found

where they were alleged to be in these reports?

A. I would say so, yes.

Q. Thank you very much, sir.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: I have nothing arising out of that.

THE COURT: Thank you. You can step down.

The witness retires [sic].

MR. GRIFFITHS: I wonder, Your Honour, if I might address you in the absence of the jury for just a moment.

—————  
(Volume X Follows) {2071|2072}

## VOLUME X

— The jury retires. 2:50 p.m.

MR. GRIFFITHS: Sorry, Your Honour. The reason I asked the jury out is because Mr. De Grace is still waiting at the request of my friend, and I didn't want to get into anything prejudicial.

THE COURT: Do you have further requirements of his presence?

MR. CHRISTIE: No, sir.

THE COURT: And does the Crown?

MR. GRIFFITHS: No, sir.

THE COURT: He is free to go.

MR. GRIFFITHS: Thank you, Your Honour.

Your Honour, as of this moment I have no other viva voce evidence to call. I think I indicated last week my rough schedule of events. A gentleman is coming from Washington, D.C., and will be in Toronto at eleven o'clock tomorrow morning to be available to testify tomorrow afternoon.

I am prepared, and Mr. Christie and I have been comparing notes on this off and on; to commence argument now on the issue of judicial notice, and hold off on discussing the movie, admissibility of any movie, until the gentleman is here.

————— {2072|2073}

THE COURT: What is the argument on judicial notice, just generally speaking, so I can get a drift of what it is?

MR. GRIFFITHS: All right, sir. I am going to ultimately be asking Your Honour to take judicial notice of two matters:

First, that millions of Jews were annihilated from 1933 to 1945 because of the deliberate policies of Nazi Germany.

THE COURT: Yes.

MR. GRIFFITHS: Secondly, Your Honour, I will be asking you to take judicial notice that the means of annihilation included mass shootings, starvation, privation and gassing.

Those are the two matters that I am going to ask you to take judicial notice of, Your Honour.

THE COURT: You are prepared to argue that now?

MR. GRIFFITHS: I am prepared to argue both the law and to present to you, Your Honour, material in support of that application, material in support of my position that these are notorious facts commonly known to all people. {2073|2074}

THE COURT: How long do you think that your side will take?

MR. GRIFFITHS: I think in terms of arguing the law, Your Honour, that I expect to be a half an hour. I have cases here and copies for Your Honour. As to referring Your Honour to sources and materials, I will be longer. I will be about an hour.

THE COURT: All right. Thank you.

Mr. Christie, are you prepared to argue it now? And if so, what are your views as to the time that this all may take?

Actually, I want to tell the jury something, and I want to hear from Crown.

MR. CHRISTIE: I said to my friend earlier that you can send the jury home because we are going to take the rest of the afternoon.

THE COURT: About that I have no worry. What about tomorrow morning?

MR. CHRISTIE: I don't intend to be more than an hour and a half on

the matter of judicial notice. I have said to my friend in respect to this man from Washington about the film he wants to show, I am prepared to admit as a fact that the film he purports {2074|2075} to bring with him is the authentic original from the archives of the United States, made just after the Second World War. That is not to say I agree it should be evidence, but I am not going to argue about the superficial formalities of its origin.

I will be arguing the substance of the matter of whether it's admissible, and I'd just as soon not allow the confusion of the formalities to cloud our consideration, but – so that I think helps to alleviate the necessity to prove that formality from Washington or anywhere else.

I have seen the film. I have a copy I think. I am sure I do. So that will speed that up, I think.

THE COURT: As far as you are concerned, they are two separate items:

One is judicial notice along the lines Mr. Griffiths has mentioned, and the other is the admissibility or otherwise of a film.

MR. CHRISTIE: Yes, sir.

THE COURT: All right.

MR. CHRISTIE: About the film, I would be prepared to argue that in half an hour, and as {2075|2076} far as judicial notice is concerned, although I've got a volume of cases here, I think I could be as brief as forty minutes.

THE COURT: Well, then, my instincts indicate that the jury should be excused till tomorrow afternoon at two thirty. Is that overly long?

MR. GRIFFITHS: No, it isn't overly long, Your Honour. If we are going to be discussing the film, and Mr. Christie did advise me that he was prepared to make the admissions that he's indicated now and for which I am much obliged, but I do take the position that formalities are important in determining the admissibility of evidence, and that there may be aspects to the storage and the distribution of this film that I can't advise Your Honour without the assistance of this gentleman.

So I am going to have him come, in any event.

THE COURT: What time is he coming?

MR. GRIFFITHS: He, I understand his flight gets in – he is leaving at eight o'clock in the morning and his flight gets in at eleven o'clock, but prior to his arrival, if we get that far, I have a copy of the film here, projector and screen will be here {2076|2077} tomorrow, and we can go that far for Your Honour to look at the movie to consider its presentation and content without him.

THE COURT: Depending on – sorry, did I cut you off here?

MR. GRIFFITHS: No, sir.

THE COURT: Depending on the ruling with respect to the judicial notice and with respect to the film, would that be the end of the Crown's case?

MR. GRIFFITHS: Yes, sir.

THE COURT: Bring in the jury, please.

— The jury enters. 3:00 p.m.

THE COURT: Members of the jury, in your absence I think I can say to you that there are certain problems that, from what I've heard, will occupy this Court in your absence for certainly the balance of this afternoon. They will, in all likelihood, take up most of tomorrow morning. You will recall that I mentioned to you longer ago than I consider to think about now that there would be time when you would be asked to leave the courtroom. This is one of those {2077|2078} times.

I still have not forgotten what the inside of a jury room looks like. You are free to go until tomorrow afternoon at two thirty. Thank you very much.

— The jury retires. 3:01 p.m.

THE COURT: Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Your Honour, the law in Canada with respect to judicial notice is referred to in Chapter 24 of McWilliams on Evidence (2d) which is at page 637, and it sets out the general law in this area, and I would suggest it sets it out correctly.

Many of the cases that I will be referring to, really, repeat the same propositions over and over again, and I will spare Your Honour reading the same phrases over and over again.

Page 638 of McWilliams, under the heading, "The General Rule", the general rule of when judicial notice can be taken is set out as follows, and it's a quotation from the case of *R. v. Bennett*, 4 C.C.C (2d) 55 at page 66, a decision of the Nova Scotia County Court: {2078|2079}

*"Courts will take judicial notice of what is considered by reasonable men of that time and place to be indisputable either by resort to common knowledge or to sources of indisputable accuracy easily accessible to men in the situation of members of that court."*

And in an article of Mr. Morgan called "Judicial Notice", from the Harvard Law Review – also Wigmore, Stephen's Digest, and an article by G.D. Nokes – is also cited as authority for that principle.

That, in a nutshell, Your Honour, is what occurs over and over again in the cases as the test that the courts should apply in considering whether or not to take judicial notice of any matter.

It is repeated again at page 639 in a variety of ways. Page 640 at McWilliams, in relation to expert evidence, it indicates that, "The fields of judicial notice and expert testimony are on the whole mutually exclusive. The doctrine of judicial notice does not have as its criterion the actual knowledge of the judge, but rather general knowledge. So that although its scope is continually enlarging, it lags behind the advance of {2079|2080} expert scientific knowledge. Thus a judge cannot take judicial notice of a fact based on expert evidence given in the case when such fact is not sufficiently general or notorious.

Under the next heading, "Reference to Sources", the author, McWilliams, indicates that the other authorities, Stephen, Phipson, and I looked in MacCormack as well, Your Honour, which says that, "A judge may insist that before taking notice of matters of common knowledge the party requesting that notice be taken should produce references."

It goes on to indicate that those references are produced by way of argument and not by formal proof or evidence through a witness box. It is simply produced for perusal with the judge's consideration.

The article refers also, on page 642, to the particular field of history as a subject matter of judicial notice, and it indicates as follows, under that heading:

*"Phipson says approved public and general histories may be referred to to prove ancient facts of a public or general, though not those of a private particular or local, nature." And there is a {2080|2081} citation given there in support of that proposition.*

In *Calder, et al v. The Attorney General of British Columbia*, (1973) 34 D.L.R. (3d), page 145 – and it is a Supreme Court of Canada decision which Mr. Justice Emmett Hall, in dissent, indicated at page 169 that:

*"The Court may take judicial notice of the facts of history whether past or contemporaneous ... and the Court is entitled to rely on its own historical knowledge and researches ... The assessment and interpretation of the historical documents and enactments tendered in evidence must be approached in the light of present-day research and knowledge disregarding ancient concepts formulated when understanding of the customs and cultures of our original people was rudimentary and incomplete and when they were thought to be wholly without cohesion, laws or culture, in effect a subhuman species." {2081|2082}*

I have here the case dealing with the rights of our native population; and it refers to original decisions from the eighteen hundreds where they were referred to as savages who were not entitled to this land, anyway, because they wouldn't know how to use it, and Mr. Justice Hall has taken a certainly more enlightened, modern and proper view of this situation, but has taken it by way of judicial notice, Your Honour. I have the *Calder* case here, Your Honour. That citation of Mr. Justice Hall is often quoted and is on page 169 of that Supreme Court of Canada case, and notwithstanding that Mr. Justice Hall is writing in dissent, that area in which he is dissenting doesn't appear to cover this area on judicial notice.

The general principles, Your Honour, of judicial notice are again discussed in the article referred to in McWilliams under the "General Rule" that I read earlier at page 638, the article of Mr. E.M. Morgan from the Harvard Law Review, and I have that here. I just want to make sure that I don't hand up my marked copy. And it's from the Harvard Law

Review, Volume 57, January of 1944, article entitled, "Judicial Notice", and it's a very, I would suggest, thoughtful article, {2082|2083} Your Honour, in, that Mr. Morgan considers a number of the different problems that can arise and attempts to analyze those problems and how they might be resolved in the judicial proceeding, and I would refer you, Your Honour, in particular, to page 286 of that article – sorry, page 285, beginning at the first full paragraph, where the author indicates:

*"The truth, then, is that there are at least some matters of fact in the realm of judicial notice which are not subject to contradiction by evidence, and that the decisions rejecting or disregarding the contrary evidence can be explained on no other theory."*

If I can pause there for a moment, Your Honour, part of what the article is concerned with – and I think ultimately will be a concern in this trial as well – is whether or not the Court having taken judicial notice, whether this is a *prima facie* matter that is subject to subsequent rebuttal, or whether that is a final finding of the Court that is not subject to rebuttal evidence; and this is what Mr. Morgan is discussing in this section:

*"It is also true that in some cases a trial judge has been reversed for rejecting evidence as {2083|2084} to matter which he ruled to be within the domain of judicial notice. There is not a single decision reversing, and it is believed not a single judicial expression disapproving the action of a trial judge in rejecting evidence of a matter held by the Appellate Court to be a proper subject of judicial notice. The reversals are easily explained as holding that the matter in question was not within the field of judicial notice. The decisions affirming the rulings rejecting the contrary evidence, as well as others reversing rulings receiving or giving effect to such evidence, cannot be harmonized with Mr. Wigmore's theory."*

And of course, that is Mr. Wigmore on Evidence, Your Honour, that he is referring to.

*"In his opinion there is no matter of fact that is not subject to dispute. All judicially noticed propositions of fact are only *prima facie* true. Mr. Thayer seems to concede that some judicially noticed matters are indisputable – 'cannot well be supposed to admit of a question' – but insists that others are only *prima facie* to be taken as true. If these others are not what they seem to be from his examples – overbroad statements or overbroad inter-{2084|2085}pretations of statements of the tenor of the matter to be judicially noticed – then Mr. Thayer in effect recognizes two classes of judicial notice, conclusive and *prima facie*. Are these learned authors really making the field of judicial notice a segment of the field of presumptions? Mr. Wigmore's explanation of the cases asserting the indisputability of matter judicially noticed read much like his explanation of so-called conclusive presumptions. Both his and Mr. Thayer's statements of the proper effect of taking judicial notice are startlingly like their statements of the effect of presumptions."*

*"It is fortunate that thus far the Courts have not enmeshed problems of judicial notice in the language of presumptions; to do so would open another legal Pandora's box. But if judicially noticed matter is subject to rebuttal by evidence, it cannot be long before members of the bar will be demanding rulings as to the exact effect of judicially noticing a matter. If the matter is subject to judicial notice, the court may, by universally declared authority, seek information from any and all sources which it deems reliable. {2085|2086} Must these sources be disclosed to counsel and the authors of the material relied on be produced for cross-examination? Is the court to be subject to cross-examination as to the extent of its search for relevant data and the validity of its deductions? How much evidence is required to make the contrary of the judicially noticed matter an open question for the trier of fact? How much will entirely nullify the *prima facie* effect of judicial notice? In a jury case may the judge reveal to the jury either the data which has caused him to deem the matter a proper subject of judicial notice or the fact that the matter is within the field of judicial notice? Must he reveal this? In either case, what instruction must he give as to this aspect of the case? Does the party disputing judicially noticed matter have only the burden of producing evidence, or the burden of persuasion also, or something less or something more? If rebuttable judicial notice is not just another*

name for a presumption, how does it differ from a presumption? If it is a presumption, is it a species of presumption which requires special treatment?

"The problem is more than one of terminology. If the field of judicial notice of facts contains only {2086|2087} the indisputable, then the path of counsel is clear. The party seeking judicial notice has the burden of convincing the judge that (a) the matter is so notorious as not to be the subject of dispute among reasonable men or (b) the matter is capable of immediate accurate demonstration by resort to readily accessible sources of indisputable accuracy. There is no artificial limit upon the sources of information which he may furnish the judge, and none upon those which the judge may consult of his own motion. The opponent likewise is not restricted by rules of evidence in offering, or inducing the judge to consult reliable depositories of relevant data. If the judge believes it doubtful whether the matter falls within the domain of judicial notice, or if the sources available are inadequate, he leaves the subject within the domain of evidence, and all the ordinary rules applicable to the process of resolving an ordinary issue of fact are enforced. If he is convinced that the matter is within the field of judicial notice and of the tenor of the matter to be noticed, he removes it from the field of dispute. If the field of judicial notice contains both the disputable and the indisputable, where is the line drawn? What guide can counsel or a trial judge {2087|2088} use? When do the rules of evidence come into operation, and when are the ordinary criteria for directing a nonsuit or a verdict or finding applicable? If all matters within the field are disputable, then all possible questions as to the exact function of judicial notice and its relation to presumptions will demand answers.

"It is submitted that not only theoretical [sic] symmetry but also practical considerations strongly support the thesis that matter in the field of judicial notice is not subject to attack by evidence. If there be a dispute as to whether a matter is a subject of dispute, the question to be answered is whether the matter lies within the field of evidence or within the field of judicial notice; and the material which may be presented or consulted in a search for the answer is in no respect limited by the rules of evidence."

Your Honour, I'm sorry to have read that long passage, but I commend that to you as a most useful, I would suggest, statement of principles, and the way in which the principles are to be applied.

I adopt Mr. Morgan's conclusion that if Your Honour finds that a matter does come within the field of judicial notice, that this ends the matter; it is not {2088|2089} a rebuttable presumption.

THE COURT: Let's assume, for the moment, that we are talking about another subject, for example, altogether.

MR. GRIFFITHS: Yes, sir.

THE COURT: Let me ask you this. I Would you agree that, as a general proposition of history, that it would be open to me, as a trial judge, to take judicial notice that in 1807 Wellington won the Battle of Waterloo against the French?

MR. GRIFFITHS: Yes, sir.

THE COURT: Would you be of the same view if the subject was not who won the Battle of Waterloo in Belgium, but rather how many regiments were on Wellington's side of cavalry that charged in that case?

MR. GRIFFITHS: I would say, Your Honour, that if we have reference to – as McWilliams says, as Morgan says, and the other authorities that if it is a fact considered by reasonable men of this time and place, in Toronto, to be indisputable either by resort to common knowledge or to sources of indisputable, easily accessible to men in this situation, and members of the court, then yes. {2089|2090}

THE COURT: Yes. As long as those sources are. accurate. Let's assume for the moment that we have a writer writing for the French, and one writing for the British. You don't mean to say that all those sources are deadly accurate as to who had most men on the field at that time.

MR. GRIFFITHS: No, sir. What the court would have resort to, if the application is made, is to look at sources of counsel or; from its own researches, determine whether that is something that is indisputably accurate. If the court finds that it is not —

THE COURT: Then it will become a matter of evidence.

MR. GRIFFITHS: Yes, sir.

THE COURT: Fair enough. Sorry to interrupt. Go ahead.

MR. GRIFFITHS: No, I am obliged to Your Honour.

Page 293, Your Honour, still in the Morgan Report, the first full paragraph starting there with the American Law Institute's Code of Evidence, just to paraphrase, Your Honour, rather than to read, I commend {2090|2091} that to you over to the end of the article on page 294.

There is, in the United States, the American Law Code of Evidence dealing with judicial notice, and the proper way that it can be dealt with, and I would suggest that the criterias set out in that Code of Evidence meet what is going on in court here now, that the criteria have been met by the Crown in bringing this application.

THE COURT: All right. That's number one, or (a), is it?

MR. GRIFFITHS: Your Honour, I will go through it, and before I am through, hopefully I will have met the criteria:

"(a) requiring that the party requesting judicial notice furnish the judge sufficient information and give each adverse party notice necessary to enable him to meet the request; (b) —"

MR. CHRISTIE: May I just ask what you are reading from?

MR. GRIFFITHS: I am reading from the Morgan Article, page 293, and it is the first full paragraph about two-thirds of the way down the page:

(b) by providing that the judge shall decline to take judicial notice of a matter unless it {2091|2092} clearly is indisputable; (c) by directing the judge, where the fact would in the absence of judicial notice be determined by the trier of fact, to direct the jury to find the matter as judicially noticed, or, in a non jury case, to include in the record of the trial a statement of the matter so noticed; (d) by making it mandatory that the judge inform the parties of the tenor of any matter to be judicially noticed by him and afford each of them reasonable opportunity to present to him information relevant to the propriety of taking such judicial notice or to the tenor of the matter to be noticed; and (e) by allowing both the trial judge in proceedings subsequent to trial and the reviewing [sic] court to take judicial notice, but requiring in such event that the parties be afforded reasonable opportunity to present information relevant to the propriety of taking such judicial notice and to the tenor of the matter to be noticed."

Which doesn't apply to us.

THE COURT: Assuming, for the moment, Mr. Griffiths, that you succeed, what do you propose that I do with my finding of having found judicial notice that millions of Jews were annihilated between 1933 to 1945, and because of the policies of Nazi Germany, and that the {2092|2093} means were as you've set them out? What do I do with that?

MR. GRIFFITHS: Well, I would say, Your Honour, that as I understand the authorities, that the jury is instructed by Your Honour that this is a finding, an instruction of law that the following facts are found, and they are binding on the jury as findings of fact.

THE COURT: With what issues, if any, is the jury then left?

MR. GRIFFITHS: Well, Your Honour, the article that clearly – that is what it is most concerned with. I don't think it is concerned with Exhibit 2 at all. It is concerned with Exhibit 1.

I have purposefully, Your Honour, made the definitions or the material that I am asking you – not the material, but the phrase, the historical event that I am asking you to take judicial notice of, quite broad, not to the particular of how many people were in Auschwitz, or how many people died at Belzec or whether Nuremberg was a properly conducted trial, but dealing with the broadest, most commonly known, I would suggest, generalization of history, and it would leave the particulars which are in dispute, and there are certainly {2093|2094} quite a number of those indicated in the pamphlet, and it would leave Mr. Zundel's belief in dispute, and whether or not this pamphlet, Exhibit 1 created a mischief to a public interest.

This doesn't, by any means, Your Honour, I would suggest, take all the issues away from the jury, but it leaves a great deal open to dispute and a full and complete defence available on a number of issues.

THE COURT: All right. Go ahead.

MR. GRIFFITHS: Thank you, Your Honour.

I next refer Your Honour to the case of the Prince Edward Island Supreme Court of *The King v. Savdant*, which is cited at 19 Maritime Province Reports, page 448, a decision of Chief Justice Campbell given in 1945, and I would refer you in particular, Your Honour, to the bottom – and this was a case where judicial notice, as the head note indicates, of facts of common knowledge is confined to notice of facts of general and notorious knowledge not necessarily co-extensive with the actual knowledge of the judge. It does not extend to the opinion of scientific or technical experts; and what they are {2094|2095} concerned with here is a process of alcohol fermentation in impaired driving cases.

At page 449, starting at the last paragraph, Mr. Justice Campbell says as follows:

"The actual knowledge of the Judge or jury is not the criterion of the limits of judicial notice in either direction. The limits are rather those of knowledge imputed by the law, and within those limits a Judge may refresh his memory or knowledge by reference to maps, dictionaries, text-books or evidence. It is therefore conceivable that if a witness informed a Judge of some such imputed fact (of which the Judge happened to be ignorant or forgetful) that fact could in a subsequent case be judicially noted, – not because of the evidence in the previous case, but because the fact is in reality one whose knowledge the law imputes to all Judges.

Knowledge so imputed tends to be general, rather than particular, and notorious, rather than obscure or technical. So that although the scope of judicial notice, is constantly enlarging, it lags very far behind the advance of expert scientific knowledge."

And that has a familiar ring to it from *McWilliams*. {2095|2096}

Going to the leading cases, Your Honour, in Ontario is the case of *R. v. Potts* of our Ontario Court of Appeal which dealt with a minor traffic violation which occurred in the Colonel By Drive in Ottawa, and the Crown, Your Honour, forgot to prove that the Colonel By Drive was under the auspices of the National Capital Commission, and was bringing an application that judicial notice be taken of that. And other cases of judicial notice that I have indicated, Your Honour, from *McWilliams* and from *Morgan* are indicated again by our own Court of Appeal, starting on page 201.

Actually, if I could, at the bottom of page 200, the same principle is set out again. Judicial notice is defined. Your Honour, this is a judgment of the entire court:

"Judicial notice, it has been said, is the acceptance by a court or judicial tribunal, without the requirement of proof, of the truth of a particular fact or state of affairs that is of such general or common knowledge in the community that proof of it can be dispensed with. The doctrine is thus said to be an exception to the general rule that a judge or jury may consider only evidence which has been tendered in court and may not act on personal {2096|2097} knowledge."

And on the first edition of *McWilliams* it is referred to there, Your Honour, and another case, I would move down again to where our court is speaking:

"Thus it has been held that, generally speaking, a court may properly take judicial notice of any fact or matter which is so generally known and accepted that it cannot reasonably be questioned, or any fact or matter which can readily be determined or verified by resort to sources whose accuracy cannot reasonably be questioned."

At page 203, Your Honour, around line "e", if I may, the court indicates: "There are, it seems to me, at least two distinct threads running through these cases. The first has to do with the standard to be applied in determining what is common knowledge, and the point which the cases make is that what constitutes common knowledge is to be judged by reference to what is common knowledge in the community where and when the issue is being tried. The second has to do with the proper function of an appellate court ...", which we needn't go into, Your Honour, at this point. {2097|2098}

The Court goes on to indicate the manner, again, indicating as was

said in *McWilliams*, the manner in which the court can inform itself as well as counsel, to provide information to the judge which are reputed to be indisputable sources.

Your Honour, I have lots of other Canadian cases here, another half a dozen, but as I indicated at the outset, they all basically indicate the same principle. The principle has been used in the past to determine, to take judicial notice of historical events when a certain battle takes place, or that conditions in Southern Saskatchewan in 1933 at the height of the Depression were the worst conditions – matters of general and local history where the matter is being tried.

Finally, Your Honour, as promised just a short month ago, I have the decision of Mr. Justice Thomas Johnson, the Honourable Thomas Johnson, a judge of the Superior Court of the State of California, County of Los Angeles, in a civil trial, *Mel Mermelstein, plaintiff, v. The Institute for Historical Review, Legion for the Survival of Freedom, etcetera, et al, defendants*. {2098|2099}

As I understand, Your Honour, this was a case where the defendants had offered a reward for anyone proving that there were gas chambers in Auschwitz.

Mr. Mermelstein came forward with an affidavit of his own experiences in Auschwitz and claimed that reward. The defendants indicated that that was not sufficient proof, and Mr. Mermelstein launched the lawsuit, I believe in the sum of fifty million dollars, requesting payment. The lawsuit, the civil suit, my understanding is, Your Honour, is still outstanding, but early on in that lawsuit an application was made by the plaintiff's lawyer for His Honour Judge Johnson to take judicial notice of – as Mr. Christie muttered, [sic] the very fact in issue.

On page 11, Your Honour, I believe is where it is. He is asking the judge to take judicial notice of the fact that Jews were gassed to death in Auschwitz, in Poland, in the summer of 1944; and after considering the material put before him by both counsel as to whether or not that was an indisputable fact, the Court ruled on page 36 – and what I've given you, Your Honour, the thirty-six pages, is not all ruling; it is a transcript of the proceedings before the judge where {2099|2100} the argument is being made, and there was discussion between counsel and the judge, and the ultimate ruling is very short, Your Honour. And on page 36, starting at line 17, the Court:

I am going to take plaintiff's motion for summary adjudication under submission other than the point with respect to Mr. Brandon's status as a director, but going back to the plaintiff's request for judicial notice, and I do not know that the ruling that I am going to make on that right now really determines conclusively any of the causes of action completely.

I think the plaintiff's request is entitled to be complied with to this extent [sic]. Under Evidence Code s.452(H) this Court does take judicial notice of the fact that Jews were gassed to death at Auschwitz Concentration Camp in Poland during the summer of 1944.

That is the extent of his judicial notice, Your Honour. He goes on to say, at line 6 on page 37:

It is not reasonably subject to dispute and it is capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. {2100|2101} It is simply a fact. It does not determine this lawsuit necessarily.

Now, before – I have quite a number of material, Your Honour, that I am prepared to launch into, of resource material that I would refer Your Honour to, but perhaps we should do that after recess.

THE COURT: Fifteen minutes..

— Short adjournment.

— Upon resuming.

MR. GRIFFITHS: Over the recess, Your Honour, one more case was brought to my attention that I would like to refer Your Honour to, and I do not – my apologies, I do not have copies of it.

THE COURT: I can find it. Give me the citation.

MR. GRIFFITHS: British Columbia Law Reports, Volume 55, page 78. It's the case of *R. v. Bartleman*. It's a decision of the British Columbia Court of Appeal, Mr. Justice Carruthers, Lambert and Essen on the bench, and the decision is rendered by Mr. Justice Lambert. It's a deci-

sion, Your Honour, dealing again with aboriginal Indian rights. {2101|2102}

A man was charged with hunting, contrary to the Wildlife Act, in a given area of British Columbia, and raises as a defence that he was exercising his right to hunt as a member of a particular tribe of Indians who had a right to hunt under a Treaty of 1852.

The applicability here, Your Honour, is that the Justice took judicial notice of historical facts, again relating to that particular Treaty, and to Indians in British Columbia, and he sets out in the judgment at page 82; quite a number of scholarly writings that he referred to, in addition to just the Treaty, to determine the historical facts and whether or not it was beyond dispute.

That's the same principle, Your Honour, that I would be seeking to introduce into this trial. The volume I have is from the York County Library.

THE COURT: I will see that it is returned.

MR. GRIFFITHS: And Your Honour, I am suggesting, or would suggest to you that the test is – there are really two separate tests of when judicial notice may be taken, and if either one of those tests are met, then Your Honour should take judicial notice. {2102|2103}

The first test is whether the facts that I asked you to take judicial notice of are indisputable by reasonable men by resort to common knowledge, and then whether – the second test would be whether it's a fact that it is easily ascertainable by resort to different sources.

With respect to the first arm of the test, Your Honour, I would respectfully suggest that the Holocaust, and perhaps for precision in terms, rather than referring to Holocaust, referring to it as the annihilation of European Jewry between 1933 and 1945 by reasons of deliberate policy of Nazi-Germany, is one of the most documented events in human history.

It is, as Your Honour has heard from Dr. Hilberg, it is the subject matter of vast numbers of documents that are in repositories, in archives in the United States, Germany, France, other countries. Those documents, Your Honour, and that documentation, have been studied for the last forty years by numerous historians, and the events surrounding that historical event, Your Honour, have been – the individuals involved in those historical events have been charged and tried, many of them, in various countries by various tribunals. {2103|2104}

So these matters have been repeatedly tried in courts of law, and my understanding, Your Honour, and I may be proven wrong, but this is the first time that these events have been denied in a court of law.

In the trials, Your Honour, began, again as Your Honour has heard some evidence of in this proceeding, with the trials of the International Military Tribunal at Nuremberg. The judgment of the International Military Tribunal was a judgment rendered on behalf of all the Allies of which Canada was one, and it was subsequently adopted by the United Nations of which Canada is a signatory.

I will be referring, Your Honour, to some specifics that are in that judgment, but initially I'd like to have an overview of other trials on these issues.

There have been, following the International Military Tribunal, a number of trials that were held by both the Americans in Germany, and by Russian and Polish courts of war criminals.

In the American Military Tribunal there were the following cases which are referred to as the Zyklon-B case, and I said this was American, and I will {2104|2105} refer to which tribunal it is as I go along, Your Honour I have the notation here – held before the British Military Court at Nuremberg, 1st to the 8th of March, 1946, which is cited in the Law Reports of Trials of War Criminals, a series selected and prepared by the United Nations Commission, the Chairman of which was Lord Wright of England, in Volume 1 of that series, page 93 to 103 where the gassing procedure at Auschwitz was described in detail by German eye witnesses, two of the three accused were trial, which held before a September to series that sentenced to death and hanged.

Your Honour, the so-called Belsen trial was the trial of Josef Kramer and 44 others held before a British Military Court at Luneberg, 17th September to the 17th of December, 1946, cited in the have indicated

at Volume II, Case No. 10, pages 1 to 54, thirty of the accused – and there were forty-five in that trial – were found guilty and sentences varying from a death penalty to imprisonment were imposed.

The trial of Hauptsturmführer Goeth, the commandant of a forced labour camp near Krakaw held before the Supreme National Tribunal of Poland, 27th of August to 5th of December, 1946, cited at Volume 7, Case {2105|2106} No. 37, pages 1 to 10, this trial, I understand, Your Honour, dealt at length with atrocities committed as part of a general pattern of German atrocities. The accused was found guilty and sentenced to death.

Next was the trial of Rudolf Hoess, commandant of Auschwitz Camp, held before the Supreme Military Tribunal of Poland, 11th to the 20th of March, 1947, Volume 7, case number 38, pages 11 to 26, the charges included responsibility for the death of millions of people, mainly Jews, and specifically that the killings took place by asphyxiation in gas chambers, shooting, hanging, lethal injections of phenol, as a result of medical experiments, and systematic starvation.

The evidence relating to the medical experiments on the inmates, mainly Jews, included castration, sterilization of women by pumping chemicals into the uterus, and by x-ray.

The accused was found guilty and sentenced to death.

There is the trial of Oswald Pohl and 17 others before the United States Military Tribunal No. 2 at Nuremberg, 8th of April, 1947 to 3rd of November, 1947. It's reported, Your Honour, in a fifteen-volume set of {2106|2107} a report commonly referred to as the Green Series. That is the colour of the binding. Volume 5, pages 195 to 1273. That trial dealt among other things with the systematic persecution of the Jews, culminating in a policy of wholesale extermination in all parts of German-occupied Europe.

Pohl and three others were sentenced to death and the remaining accused had varying terms of imprisonment.

Next, Your Honour, is the trial involving Dachau Concentration Camp, a man by the name of Weiss and 39 others, held before the General Military Government Court of the United States Zone in Dachau, Germany, 15th of November to the 13th of December, 1945, cited as Volume 11 of the Green Series, Case No. 60, pages 5 to 52.

The case dealt with killings, beatings, tortures and starvation of inmates in the camp. All forty accused were found guilty. Thirty-six of them were sentenced to death.

Your Honour, there is the trial of Orich Greifeldt and 13 others before the United States Military Tribunal, Nuremberg, 10th of October, 1947, to {2107|2108} the 10th of March, 1948, Volume 13, Case No. 73, pages 1 to 69.

The trial dealt with racial persecutions and the implementation of the policy of genocide. Thirteen of the accused were found guilty and were sentenced to various terms of imprisonment.

Next, Your Honour, is the trial of – I will give you his last name – Greiser, before the Supreme National Tribunal of Poland, 21st of June to the 7th of July, 1946, Volume 13, Case No. 74, pages 70 to 117.

The trial dealt, amongst other things, with the encouragement and organization of local pogrom, seizing of Jews for compulsory labour, and later killings by gas vans at the Chelmno Concentration Camp. The accused was found guilty and sentenced to death.

Next is the trial of Dr. Joseph Buhler before the Supreme National Tribunal of Poland, 17th of June to the end of July, 1948, Volume 14, Case No. 8, pages 23 to 48.

That case dealt, amongst other things, with the extermination of Jews. The accused was found guilty and sentenced to death. {2108|2109}

Immediately since, Your Honour, the years immediately preceding the War – I'm sorry, succeeding the War, there have been a number of other trials involving war crimes, and the most famous of which was the Auschwitz Trial, and that is the one that we have here reference to in this court, and held by the Federal Republic of West Germany, in Frankfurt, from the 23rd of December, 1963, to the 20th of August, 1965, and that's the accused Mulka and 21 other former S.S. personnel.

That trial, I understand, Your Honour, was an ordinary criminal trial

held before a German court, and nine members presiding – three judges and six jurors.

The accused were charged with complicity in mass murders by gasings and other means, and also murder of individual inmates.

In the course of 182 days of hearings, 288 witnesses gave evidence. The systematic mass killing in gas chambers was not disputed either by the accused or their counsel. They merely denied individual complicity or relied on the defence of superior orders.

Seventeen of the twenty-two accused {2109|2110} were found guilty of complicity in mass exterminations.

Those proceedings, Your Honour, are reported in Bernd Naumann, title "Auschwitz". English translation was published in 1966.

It is worthy of note, Your Honour, that in his closing address at the Auschwitz trial, I understand one of the prosecutors observed as follows:

If the survivors of the hell of Auschwitz could no longer bear witness, and certain circles are waiting for just that, than Auschwitz would become nothing but a legend in a short time. Were it not for this trial in which the truth was heard out of the mouths of the survivors, those who refused to learn would have continued their attempts to minimize. That this is no longer possible is next to the punishment of the guilty of the lasting achievement of this exemplary [sic] trial.

Your Honour, there is also the trial of Franz Stangl – this was a West German trial – who was the commandant of Sobibor from March 1942 to September of 1942, and also the commandant of Treblinka from September 1942 to August 1943, who was sentenced on the 22nd of December, 1970, by a German court at {2110|2111} Dusseldorf to lifetime imprisonment for co-responsibility in the murder of some nine hundred thousand men, women and children, namely Jews, inmates of Treblinka.

There are other trials, Your Honour, one of which is referred to in Exhibit [sic] 1 as the Eichmann trial in Israel, a trial that lasted fourteen weeks up to the 11th of December, 1961, when Eichmann was found guilty on all counts of his involvement in the final solution and sentenced to death by hanging.

Eichmann's counsel, Your Honour, Dr. Robert Serbatus [Servatus], who was hired by Eichmann, who I understand was one of the defence counsel from the Nuremberg trials, I am advised commented both before the trial court and the appeal court that Eichmann had received a fair trial. Nowhere, either in the trial court or the court of appeal, was there a denial by Eichmann or his counsel that the Jews were systematically annihilated – in accordance with the first area that I am asking you to take judicial notice of.

Eichmann, Your Honour, in his final appearance in court just answered the following:

Today, of my own free will, I would ask the Jewish people for pardon and would confess that {2111|2112} am bowed down with the shame at the thought of the inequities committed against the Jews and the injustices done to them, but in the light of the ground given in the judgment, this would in all probability be construed as hypocrisy.

There are other judicial proceedings, Your Honour, which have been going on in West Germany, and I will be passing up to Your Honour a brief document that's about a hundred pages long put out by a Mr. Delbert Ruckerl [Adalbert Rückerl] who was the Chief Prosecutor of German war crimes for the last twenty years. He has statistics of people that were prosecuted and where they have been prosecuted and what for and the result of the courts.

Again, to my understanding, it has never been in issue before the court that the Holocaust, as I have indicated, in the first area that I am asking you to take judicial notice of, happened.

Your Honour, I have the benefit, and I will give Your Honour the benefit, of material that was filed in the California Court in support of the application there for judicial notice.

THE COURT: You say the Mermelstein application has not yet been adjudicated upon? {2112|2113}

MR. GRIFFITHS: The ruling has been made with respect to judicial notice, Your Honour, but the final decision as to who wins the fifty mil-

lion dollars hasn't been decided.

THE COURT: What does this material, therefore, mean?

MR. GRIFFITHS: That material, Your Honour, is in a ruling that I gave you earlier and before the recess of – this material was before the judge at the time that he made that ruling.

In other words, in the United States, as here, counsel is permitted to present material to the judge in support of their request for judicial notice.

These are some of the materials, as I understand, that were presented to Judge Thomas in support of the application for judicial notice.

I can review that, Your Honour, in detail, but I can also outline to Your Honour that what it contains are references, some brief some long, to historical works. In particular, there is a lengthy reference to John Toland's biography of Adolf Hitler. There is also a lengthy reference to a book written by Mr. Hausner, the prosecutor of Adolf Eichmann, relating {2113|2114} that prosecution and some of the details of that trial.

There are also references, Your Honour, to photocopies of that affidavit of four or five historians indicating their background and their position in this matter.

There's also quotations from dictionaries [sic] and from the Encyclopaedia Britannica [sic] and from, I believe, reference to the proceedings at the Auschwitz trial that I have referred you to already. There are some quotations from that proceeding. And I would suggest to you, Your Honour, that those are all matters I won't take the Court's time by reading them, but I commend them to you.

THE COURT: Well, they speak for themselves.

MR. GRIFFITHS: Yes, sir. In addition, Your Honour, I would, in dealing with the issue of whether or not this material, or whether or not these are facts that are notorious, commonly known, to which anybody has reasonable access.

I refer again to the Encyclopaedia Britannica [sic] article that is quoted in the material as a common, reliable source of information, and I have also, Your Honour, some words photocopied out of Webster's Ninth {2114|2115}

New Collegiate Dictionary. I chose that particular dictionary rather than the Oxford Dictionary because I thought this was one that was more immediately accessible to people, and I asked my student, Your Honour – and can't say for the record what the date of the publication is – it is the Ninth Collegiate Dictionary.

THE COURT: And the reference from the extract is what?

MR. GRIFFITHS: Your Honour, I had my student look up several words, and I would refer you in particular to the last photocopied page to the word

"Holocaust", which is on the righthand column, and it is defined, leaving aside the Greek, as follows:

- (1) "A sacrifice consumed by fire;"
- (2) "A thorough destruction, especially by fire, as in nuclear holocaust;"
- (3) "Often capitalized, the genocidal slaughter of Jews during World War II." That is how it's referred to there, Your Honour.

There is, since the Mermelstein material was put before the California Court, Your Honour, several years ago, there is a new edition of the Encyclopaedia Britannica [sic], and this is the Fifteenth Edition, and {2115|2116} photocopied, Your Honour, references to the history of Germany.

Commencing at page 119 of Volume 8 where the "History of Germany" is found, the last paragraph:

*"The regimes were of particular hostility towards the Jews. In April of 1933 they were dismissed from government service and the universities and were debarred from entering the professions. The Nuremberg laws of September 19 forbade marriages between Jews and persons of German blood, and the Jews virtually lost all civil rights. Their persecution reached its climax in the pgrgom [sic] of November 9th to 10th, 1938, carried through by the S.S. The greater part of all Jewish property was confiscated, and the surviving Jews were restricted to ghettos until World War II when they were systematically exterminated. {2116|2117} Altogether in German-occup[i]ed Europe six million out of a total of eight hundred [sic] million Jews were killed or died in concen-*



tration camps."

And that is the reference I would refer you to there, Your Honour.

I have numerous histories, Your Honour. There are hundreds. And if I can refer you to some that are general and some that are more specific, William Carr, a writer in modern history with the University of Sheffield, published a book called, "The History of Germany 1981 – 1945", published in London 1969. He writes, page 38:

The most frightful chapter in the history of wartime Germany remains the extermination of the Jews. Words are quite inadequate to convey the enormity of the crime without parallel in the whole of modern history. Several hundred [sic?] Jews, men, women and children from all parts of occupied Europe, were murdered in the short space of three years to gratify the crude racist illusions of a handful of ignorant fanatics.

Your Honour, Marshall Delgar was an American historian and he wrote a book called, "Germany – {2117|2118} Modern History", published by the University of Michigan Press 1961, and I can quote from it, Your Honour, but it's the same content.

A J.P. Taylor of Cambridge University in his book – the title of the book is, "From Sarajevo to Potsdam", London 1965, deals with the systematic extermination of Jews. He says as follows:

It has been possible to imagine before the War that the Jews in Germany, a comparatively small number could be eliminated by expulsion or even voluntary emigration. Now the Germans had some millions of Jews in their power and they could not simply be turned out. They could only be exterminated. This policy was now adopted with every refinement of civilized skill. The Jews were segregated in nearly every European country. The able-bodied were worked to death. Women and children and the elderly were at first massacred. When this method proved too slow, they were consigned to gas chambers of the most scientific type. Every civilization has monuments. The monument of Western civilization is the monument at Auschwitz.

That is page 69. Dr. Hanna Vogt wrote a book called, "The Burden of Guilt – Short History of {2118|2119} Germany 1914 – 1945". John Tolland I've mentioned, Your Honour, "Adolf Hitler". Dr. Raul Hilberg you heard from. Historian Dawidowisz "War Against the Jews 1939-1945" published in 1975.

Your Honour, I could go on. Gerald Reitlinger is also mentioned in the pamphlet, "The Final Solution" – "Attempt to exterminate the Jews of Europe" is his sub-title, second edition, published in 1968.

Each of those writers recognized that Hitler's final solution envisaged the systematic annihilation of European Jewry.

My friend has brought histories into court by Poliakov, Bauer; they said the same thing, Your Honour; both from common sources readily available to anybody, such as dictionaries and encyclopaedias. Your Honour also heard the testimony of Dr. Hilberg. He is the author of articles on concentration camps and individual camps. The Encyclopaedia Americana and the Funk and Wagnall's Encyclopaedia – that would be in addition to the Encyclopaedia Britannica.

We have in evidence, Your Honour, the Chambers Encyclopaedia which indicates, Volume 8, page 99:

*"When in 1939 war broke out in Europe {2119|2120} anti-semites acted as 'fifth columns' to help to secure German predominance, and the conquest of every country was succeeded by the disenfranchisement of the Jews and the introduction of legislation based on the Nuremberg code. As time passed so the enforcement became more and more severe. The 'Jewish badge' and in eastern Europe even the ghetto were generally reintroduced. The policy was formulated of rendering western Europe free of the Jews and deportations took place on a vast scale to the Jewish reservations which had been set up in Poland. Ultimately there was begun a systematic campaign of annihilation, in a series of death camps of which that of Auschwitz, where 1,750,000 persons were killed, was the most notorious. On the continent of Europe apart from {2120|2121} Russia, whose western provinces also suffered terribly, only a handful of numerically unimportant communities in neutral countries escaped and of the 6,500,000 Jews who lived in the Nazi-dominated lands in 1939, barely 1,500,000 remained alive*

*when the war ended six years later. In these six years the Jewish people lost one-third of its total numbers; in Europe as a whole over one-half and in central Europe, three-quarters. In lands such as Greece, Yugoslavia, Czechoslovakia, Holland, Norway and Poland, which harboured the greatest Jewish agglomeration of all, less than 10% of the former Jewish population survived. Never in history had any section of mankind suffered so inhumanly."*

These are facts, Your Honour, and they are facts that are beyond dispute. Thank you. {2121|2122}

MR. CHRISTIE: Do you wish to hear from me?

THE COURT: I think the hour is a little late. If you wish to start, I could hear you for fifteen minutes.

MR. CHRISTIE: Perhaps maybe you should, Your Honour.

My friend concludes by saying these are facts, Your Honour, and these are facts beyond dispute, and he quotes a number of sources which have given support to his opinion, but he asks you basically to decide that the side of the case for which I contend should not really be heard on the basis of truth. He asks you to decide the case after hearing only one side of the case, and his assertion is that these are the facts, and the facts should be indisputable. He asks you, in effect, to find, by judicial notice, that it is all right to deny what he says courts have found.

I could bring before this Court, I am sure, evidence that throughout history, points of view that he would agree today are ridiculous were the commonly held views of the day, and if my friend is successful, they would still be the views of the day, because it would be {2122|2123} illegal to deny the judicial notice taken of them by some authoritative [sic] court, and there is no doubt that an authoritative court took judicial notice in the time of Galileo that the earth was the centre of the universe, and judicial notice could be taken of many other facts throughout history, too, that my friend would say are facts, and yet in time they become certainly first of all disputable, and later are found to be unfounded beliefs; but at any given time in history there are beliefs that everyone holds sacred, and often they are not true, and courts, I suggest, are ill-suited to making findings of historic fact on the basis of only one side of the case being heard.

If the tribunal of fact, in this trial the jury, decide that there is no justification for the opinions held by the author of the pamphlet, "Did Six Million Really Die?", I suggest they should do so after hearing both sides, but not before.

It would have been better timing if my friend brought this application before the trial began. Then there need be no trial except the peripheral issue of whether my client had a mistaken belief, which he might plead, like Galileo, that he honestly held, and then {2123|2124} we recant saying he was sorry, he was wrong, but trials of that kind are more suited to countries other than ours.

I point out that my friend refers to trials in Germany, or what's left of it, and I might point out, too, that in that country people are incarcerated and go to jail for denying the Holocaust, already. Many have. It becomes a crime against the law of that country to raise the argument that the booklet, "Did Six Million Really Die?" appears to raise here: and suggest to him that he considers whether that ought to be the law of our country, de facto and de jure before I hearing the case of "Did Six Million Really Die?"

Everyone has different views of history today on many subjects, and my friend contends that we should not be entitled to put before this jury the views that support the allegations in the booklet, "Did Six Million Really Die?"

I would say, in argument, that my friend may have his views, and I may have mine, but how does he impose his views, or how does this court have the ability to decide the question and impose the views of my learned friend's contention without hearing my evidence on a subject that is not as simple as whether {2124|2125} alcohol is the result of fermentation, or whether certain streets are in the City of Ottawa, or whether many of the regulations associated with the enactment of treaties or are in conflict with it are a historical basis?

Those are questions which are, in the opinion of some courts, and I am aware of them, that are far more limited than the proposition for which



he wishes Your Honour to find a fact, and I might point out a near-rebuttable fact, because when the judicial notice is taken, I think my friend has clearly pointed out it is an irrebuttable fact, and that has implications to the defence far greater than he was prepared to concede, because it implies that if we raise questions to prove that my client's views, or the particulars, are correct, it is certainly open to the jury in the charge, that no doubt will result from a finding of judicial [sic] notice, to say that those particulars cannot be taken as being true because it would contradict [the] basic thesis which is articulated in the judicial notice that he would have had Your Honour decide before they ever got to decide anything.

Surely the issue is who is right in this dispute. My friend says they are indisputable facts. I am aware I will have time tomorrow to bring, {2125|2126} before you lots of authority such as he's brought; they may not be regarded by him as credible; they may be regarded by him or by Mr. Vrba or somebody on his side of the case as being neo-Nazi, or they may be regarded by any of the epithets that have been thrown against the accused; but surely that is a matter for the jury to decide, and it cannot be taken that these are indisputable facts when, in this country and in France and in the United States and in West Germany there are many who dispute these facts.

So I say they are not indisputable facts. So far we haven't created a category of indisputable facts except the ones that are fairly obvious, like locations of streets and things that are empirically verifiable. By "empirically verifiable" I mean those that can be proven by reference to the five senses and, I suggest also, are evidence from proven cases of fact.

My friend, therefore, relies on his legal arguments from cases in West Germany, but I would point out that his allegation that no one ever denied the existence of the Holocaust is not quite apt or correct. I suggest when he concedes that everybody denied knowledge but no one denied the fact, well, if you {2126|2127} deny knowledge, how do you affirm the fact of the Holocaust?

I suppose these people in whom he has placed his assurance that the Holocaust is proven by saying they didn't know anything about it are not admitting that it occurred, as is defined by the prosecution.

I suggest that the cases in West Germany are not quite so simple as they would portray. In fact, already in this case, through cross-examination, I brought out evidence that tends to show – and especially in one instance, the Dachau trials, many justifiable beliefs about torture being a factor in those trials. Also, there's questions to be raised about Nuremberg. Now, we wouldn't be here raising them if we weren't involved in an academic debate which we feel should be our entitlement, but surely if we are faced with a prosecution in which those are the facts to be tried, and the jury is the tribunal of fact, we should be able to put before the tribunal of fact our information and evidence to prove our case, and not to have that pre-empted by a finding as broad as determining, really, {2127|2128} every issue of fact in the case. The rest becomes state of mind and intent.

It seems to me there is, with all due respect to my friend, there is a diabolical twist to his argument with which I am sure he isn't for a moment, likely to associate himself, but I suggest that it is this:

He would like to have this Court prevent the occasion of what he calls the first questioning of the Holocaust. He says it has never been questioned in this way before, in a court of law. I think he is probably right. I don't think that that necessarily means it should never occur. We are here not because we want to be, but because we are obliged by legal process to be, and I say "we" in the collective sense – my client.

I suggest that we, the accused's position, that of the defence, should be entitled to present the evidence to support the view, and not have that decision made without the right to present the evidence.

I am sure that it is well-known that in history, before, views that would today be common views were heretical views. {2128|2129}

I have eighty-seven cases of judicial notice that I have found through use of computer research that I haven't got duplicated copies of, and I don't intend to recite them all, but I'd like to file them in due course tomorrow, together with what other authorities I have, to show that

never before in Canadian history has a court been asked to take judicial notice of facts forty years ago involving another country and policies of another government, intentions of another government involving millions of people. Never in Canadian judicial history has such a proposition been advanced, and it is advanced to stifle the defence's opportunity to raise the issues of fact in those wide-sweeping generalizations.

I suggest that is the pressures upon my learned friend an indication of to prevent the defence from putting its case. It shouldn't be allowed. It should be all right to dispute these allegations that my friend makes from his reputable sources with whatever evidence the accused can muster; and to prevent that happening and to decide the case without the right of a full defence on the issues of fact in dispute would be to usurp the function of the jury and place in a {2129|2130} category of indisputable judicial fact the widest sweeping generalization of history that, I suggest, any judge has ever been asked to make, one condemning to, I suppose, a perpetual judgment of this court and, presumably any other that would follow it, the condemnation of a nation of people who, so far, have not yet been able to raise any scientific answer or refutation to the charges; but I suggest if we are to be the accused in this time and place, then we should be entitled to defend them in this article as the article defends them with what we can produce in the way of evidence and what I suggest we will produce in the way of evidence, scientific evidence that will cause certainly reasonable doubt about the assertions of my learned friend's distinguished authorities and will give the jury certainly something to think about at the end of the day.

My friend, by his submission, will have them think about nothing but the intent of the accused. He forgot one very famous case where someone dared to question the authorities', official view of history when he was referring to the numerous instances I in which accused persons of the West German government, or accused by the West German government, he forgot to {2130|2131} mention that others who have disagreed with the authorities' view of history would include such living persons as Solzhenitsyn, [Solzhenitsyn] who has served time in jail for disagreeing with his country's history – in fact, daring to write contrary opinions to history in his time and place, and I am suggesting that my friend is trying to make a similar kind of offence – in fact, to rule upon history without trying the fact at all, after hearing only his assertions and his witnesses.

I'd like to point out a fact that may not even be known to him, that in the trials in West Germany, although it's dangerous and illegal for West Germans to come to the defence of their position on this issue in a court, one source who attempted to do so came from France, an inmate of a concentration camp, Rassinier, who attempted to testify in the trials in Germany and was prevented from doing so by the authorities. That's a historical fact that, I think, I could verify without too much trouble, with no more difficulty than my friend could verify his statements of fact from the various sources he's quoted.

I would like, then, to reserve my further comments to tomorrow, Your Honour, and I will have {2131|2132} at that time, the intention or I will have, then, I think, photocopies of these decisions for my friend. I don't intend to go into them in any depth, but I intend to produce some examples of the fact that this is not an undisputable view of history. Thank you.

THE COURT: Thank you.

— Whereupon the hearing is adjourned to January 31, 1985.

—— {2132|2133}

#### JANUARY 31, 1985

— Upon the hearing resuming.

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: Your Honour, I'd like to begin this morning by calling evidence to prove a judgment in the Court of Appeal in France on the same issue.

My friend introduced a decision from the District Court of California, and I have one on point, I think, in France.

THE COURT: Well, have you shown it to Mr. Griffiths?

MR. CHRISTIE: I haven't.

THE COURT: Why would you do that? I don't know that you might be pleasantly surprised. He might not want to hear from your witness.

MR. CHRISTIE: The witness is Dr. Robert Faurisson, and the judgment is in the Court of Appeal in France. I don't have the ability to translate as efficiently as I should, but it's in French and I haven't been able to produce a complete translation of the {2133|2134} whole judgment. I only have a translation of excerpts.

I thought, perhaps, it would be permissible to file it, nonetheless, on the understanding that because we are officially bilingual, it would be acceptable.

THE COURT: Some are more bilingual than others.

MR. CHRISTIE: I am well aware in regard to that that I am one of the last to be justified in raising a bilingual case, or a French case in the French text, and I can't translate it.

THE COURT: Well, I am afraid that I am a creature of my own environment and I want an English translation. So when you have that, I will be glad to look at it.

Mr. Griffiths, do you want to hear a witness on a French case until you've read it and seen it?

MR. GRIFFITHS: I would prefer to read the judgment, Your Honour, but I don't want to put obstacles in the way of Mr. Christie, either: if he has the judgment, perhaps we can get it translated through services of our office and have it translated.

THE COURT: Is that agreeable? {2134|2135}

MR. CHRISTIE: Yes. I have no objection to that. I can provide the translation, but my client had asked that the translation be prepared, and only part of it is translated.

I am prepared to argue part of it and prove the translation of that part, but I haven't got the whole thing translated. I could file it, leave it to my friend to —

THE COURT: Perhaps you might show it to Mr. Griffiths, get it translated one way or another, and I will look it at.

MR. CHRISTIE: I have a photocopy of what is the original manuscript of the judgment. I have a certified copy of that same document which my friend can compare and satisfy himself it is a true copy.

MR. GRIFFITHS: Oh, I am satisfied, Mr. Christie.

THE COURT: Then perhaps you can go on with your submissions, Mr. Christie.

MR. CHRISTIE: Yes, Your Honour.

What I said yesterday about this whole subject, Your Honour, was that I had available a number of sources which dispute the allegations made by the Crown {2135|2136} yesterday.

First of all the Crown said that it's beyond dispute by reasonable men, so to speak, and there fore should be taken as judicially noticed. He referred to a couple of dictionaries and one, I think — my mistake if I said two, one dictionary. I would like to refer to Double Day Dictionary 1975 which defines "Holocaust" as "a sacrifice wholly consumed by fire; whole destruction;

and loss of life by fire, War, etcetera; burn".

Therefore, I suggest that definition doesn't quite enshrine the beliefs my friend articulated in that dictionary, at least.

Funk & Wagnall's Standard Desk Dictionary of 1975 defines "Holocaust", and it is also uncapitalized, as "wholesale destruction, loss of life, especially by fire; the sacrificial offering which is wholly consumed by fire; Greek holos, whole"; it also means [means] "burn".

So so far, at least, not all authorities have recognized the Holocaust as a [as a] uniquely Jewish experience or in relation to Jews necessarily; nor has it necessarily accepted the proposition as somehow enshrined in some authority in such a manner that one should say that it is {2136|2137} not disputed by reasonable men.

I also said that I had a number of sources. I don't intend to refer to them all in detail, but I have tried to capsule what each says. What I am suggesting is if we take the view this subject is not disputable by all reasonable men, then all these sources must be regarded as reasonable sources, and I suggest that a ruling such as my friend would make you make, that all these people who author these books would auto-

matically be subject to a judicial exposition or notice or ruling that as a fact they are false, thereafter never again could they publish without being guilty under s.177, because they would have to be taken as knowing that courts have held their views are false.

So not only is my client to be subjected to a ruling such as this, but it has implications on a lot of other authors. I would like to briefly summarize some of them.

There is a book called, "The Myth of the Six Million" by an anonymous author, but it is alleged, and I think it is quite widely acknowledged, that one author by the name of Hogan took an overview of the Third Reich policies vis-a-vis Jews as compared to the {2137|2138} Allied war stories, and he alleged that the war stories were not justified. Secondly, "The Six Million Reconsidered" by Grimstead [Grimstad] is another book which deals with what is referred to as anti-German propaganda v. analysis of the story as this author presents it. He disputes the story of the six million. He also disputes the gas chambers.

There is the book, "Exiles from History" by McAldon, which is a psychological analysis of certain tendencies and certain persons and religions. This, too, would be subjected that it was false because it concludes that the stories of gas chambers are not true.

Then there is a book which was alluded to, "Der Auschwitz Mythos" [Mythos], and this is in German, but say that this ruling applies to every book printed in all languages in this country. This book is still available in this country. It is by Dr. Wilhelm Stäglich, who was a judge, and in West Germany has been, because of the publication of this book, removed from the bench.

So are we to assume that this book, in the hands of anyone, published by anyone, distributed by anyone — because of course s.177 covers that — would also be guilty under the section? Because they would no {2138|2139} longer say, after a ruling like this, that my friend seeks, that it is disputable by reasonable men; therefore it would be deemed false, judicially so, for all time. Articles by Udo Wallendy [Walendy], who was available some time ago to testify here; he is no longer in the country. But this article, "The Methods of Reeducation", deals with the methods of propagandizing and the methods are analyzed in relation to the allegation of the six million, which it disputes. There is also the book entitled, "The Hoax of the Twentieth Century" by Arthur Butz which, of course, certain factions in our society would also like to see banned. I gather it is already circumscribed the Department of Finance as obscene or immoral. That's under appeal. Of course, this Court will be deeming its contents to be false, too, because it definitely disputes in minute detail and at great extent, with numerous footnotes and analysis from everything from the Gerstein statement to the subject of the chemical properties of Zyklon-B in relation to the stories put forward to support the extermination view. That book would also be circumscribed. Its author and publisher would be conducting dissemination of publication of false news if the {2139|2140} judicial finding can be made of that.

An interesting point can be made that even the book, "The Destruction of European Jews", which could be analyzed by others and thought about and the it contents published to show its contradictory nature, and to publish an analysis that shows that the chemical properties of the substances alleged to be used for the gassings do not fit with the book, even that could become caught within the ruling the Crown desires.

Another book which is in German but which is distributed and published in Canada — and of course, you are allowed to read books in other languages so far, and we are allowed to talk about them, think about them, but "Auschwitz in the I.G. Farben Process" [Auschwitz im IG-Farben-Prozeß], which deals with the trials of I.G. Farben, published by Wallendy [Walendy], and it deals with the transcripts of the trial — and my friend has reiterated his view that all the trials have resolved the issues completely — well, the trials are debatable: much of the trials' contents are not as clear as my friend has put before you — but this book is also deemed false by what my friend says.

"Truth for Germany Second World War" again disputes — and that is in English — disputes with {2140|2141} detailed analysis, over a period of

367 pages with numerous footnotes, transcripts of many parts of the Nuremberg trials, analysis of some material that was not otherwise published – this, too, would be deemed false because it would be contrary to judicial notice ruling of this Court which my friend seeks, and I suppose to avoid having to prove the truth of what he says.

Dr. Rudolf Adenauer [Aschenauer] who, to my understanding, is one of the lawyers – he is a publisher and lawyer from Germany – published a book on the defence cast at Nuremberg at Malmedy trials and the absence of appe[als]. He assessed that. This book also disputes the accuracy of the statements that my friend asked you to take judicial notice of.

Now, there were people of certainly non-German origin who dispute the allegation of, well, that the Crown seeks, that you should take judicial notice of, some of whom were incarcerated during the War under regulations propounded for those who were not in sympathy with the government of the day in the War, and that includes a member of Parliament in the United Kingdom of that time, Captain Ramsey, who wrote the book, "The Nameless War". All this would become suspect and {2141|2142} contrary to the ruling my friend seeks – I should say that the Crown seeks. Numerous books.

I could go through more that demonstrate the policies of government, the question of whether or not these views are true or false – all these books, and I have many, many more, would become subject to the pronouncement that they are not true because they question the validity of the proposition. And if the Courts have deemed a historical view to be the truth, then all views contrary to it become false by virtue of the fact that a Court has decided, just as my friend has asked you to find judicial notice, because a Court in California decided in an interlocutory proceeding in a civil matter which is not yet decided and could be subject to appeal; he has to take that as a justification for disallowing the right to put forward the defence case here in this country.

The volume of material is enormous with questions, and I don't intend to go through all of them, of pages of two-line summaries of the books that are on this table, and that is only half of what I could produce.

The world cannot be excluded from the {2142|2143} right to consider varying points of view, because the majority has spoken, even if the majority did speak. I suggest to you what my friend has produced is not the voice of any majority; it is the voice of authority.

The Encyclopaedia Britannica [sic] speaks, but if we were in the Soviet Union, the Soviet Encyclopaedia might speak, but that doesn't justify the suppression of views contrary to it, nor does it entitle any court to decide that contrary views are false.

May I point out that even the authorities the Crown seeks to rely on as proving the validity of their case, or have so far, in writing this book, "The Final Solution", six million is not referred to as a valid figure.

Now, the Crown has avoided a problem which is the essence to the whole case by saying, "We don't ask you to take judicial notice of six million, but only millions", so that we are over the figures in the book, "Did Six Million Really Die?" That same tactic was used, I suggest, in the Eichmann trial, because there they never talk about six million; they talk about millions.

When particulars are sought for proof, it seems the tendency in these types of trials is to {2143|2144} become abstract and avoid particulars and just say, "What do you want me to produce – six million bodies?" Or, "Don't you believe this? You have no right to disbelieve this."

I suggest we should not entrench in judicial notice rulings any formal views of history, I because history is controversy and history is subject to revision, always. Every day new views of history emerge, and at the beginning they are always minority views; in some cases eccentric views of history have become later accepted as justifiable majority opinions. And I am the first to argue that no view of history is ever entitled to be regarded as the sanctified eternal judicially noticed view, whether it be millions gassed in gas chambers, or who won the Battle of the Little Big Horn, or many other issues that historically have been debated and will continue to be debated, as they should be in a free and democratic society; but to impose judicial notice on these trials and to create an atmosphere in which the official view is sanctioned by

judges' rulings, however justified the Crown may view it in view of their authorities, is to establish an official view of history that will stifle all debate and freedom of {2144|2145} discussion such that the various views will no longer be free to be expressed. They will be suspect, driven underground, driven to the point of being forced to do other than to talk openly in society. It is far better for society that these debates occur, and I suggest not in courts but in academic circles and in public circles, open and free to be rebutted, and that courts should never take the view that many authorities may be martialled against any view or be entitled to impose that as the only truth held by the court and I might put out a rebuttal.

The words of John Stewart Mill come to mind by saying the world cannot be justified in silencing the opinion of one man than that one man can be in silencing the power of opinions of the whole world, for opinions are opinions, and they are not ever to be regarded as sacrosanct because ten people agree and one I disagree.

On the very issue of whether millions were systematically killed, and I emphasize that because that is a very important part of the Crown's endeavour to find systematic, we've had some evidence on this point, and it is not very clear, even from the reputable authority of Dr. Hilberg. I might point out that he has {2145|2146} not identified an order of Hitler for the extermination of the Jews.

Now, systematic extermination requires a plan, and in a society such as Nazi Germany, I doubt that anyone would dispute that authority is the ultimate source of power. There is no suggestion that in Nazi Germany people made their own decisions, and whatever your position, you could do what you liked. I mean, everyone is prepared to concede that it was a dictatorship. I am certainly prepared to concede that. Therefore, in the absence of an order and a plan and a budget, how can it be said that there is some reason to believe it was systematic in the sense that that would mean, in a dictatorship?

Dr. Hilberg referred to the Commissar order, but that doesn't cover gassings and it doesn't cover concentration camps. – That refers to the Einsatzgruppen who are alleged – and I might say disputed that allegation by, for example, the lawyer who defended Manstein, a man by the name of Paget who published a book and said that the Einsatzgruppen, when challenged, were not promoted in that case, but Dr. Hilberg did not produce a direct, identified order in any way at all, he alluded {2146|2147} to someone having said that one existed; and that, I suggest, is not to be taken as an authoritative view that historically is undeniable by reasonable men that such an order existed.

And I suggest the substantial author who has been published widely, David Irving, in the United Kingdom, who is not circumscribed nor are many of the authorities here – some are, some are not – he has denied the existence of an order of Hitler or anyone else for the extermination of Jews.

So that is being debated by, I suggest, many reasonable men and women. How can it be said that because my friend's views are promoted by Hoess in power or authority they are somehow sanctified with reasonableness, – and those who disagree with them are somehow unreasonable?

I think it would be interesting to point out that the first person to raise the question of whether there were gassings in the Polish concentration camps was none other than Georg Orwell in 1946 in his publication. He was tossing the idea back and forth, saying that we are approaching a time of news speak when an official version of history will be read and it will {2147|2148} be illegal to disagree about these matters.

That is exactly what my friend seeks to do, not only make it illegal to disagree – he has brought us to trial; the Crown has made us pay a heavy price already and we are anxious to at least have the right to defend these so-called eccentric views with what facts we may muster – he seeks now to further stop us from even questioning the truth of a proposition he says is the essence of his case by having Your Honour take judicial notice of it. He says, "Well, you can deny particulars, so you can still say you have a mistaken belief. You can still say you are honestly confused. You can still say you are a repentant liar", I sup-

pose, or something of that nature. He might leave us that in the case. "The case isn't over because you can still be regarded as an idiot – an innocent, honest idiot." That's about all that is left to us in the defence if the proposition is accepted.

Somehow or other, I suggest that is denying us the opportunity to present ourselves as something less, or something more than an idiot.

I would like to point out that the {2148|2149} Holocaust, as it's been defined throughout the period since 1945, an emotionally imprecise – I could produce twenty different versions of the Holocaust. I've heard from so-called survivors about steam chambers, people were gassed by monoxide gas, steam, people have been hung with confessions in concentration camps saying there were gas chambers where now authorities, even as learned as some who have been called here, say that there were no gas chambers.

So this has become a very difficult proposition to pin down with precision, and it's laden with problems, because certain things that we do have is the indisputable fact, in 1946 and '45 – if I was I given the opportunity to call evidence I could now prove – well, we don't maintain there were gas chambers in Germany now, and I, who started months, years ago now to analyze this whole question, thought that was a ridiculous proposition; there were gas chambers in Dachau, Belsen; I have seen the movies; I have read the stories myself. Indisputable. What reasonable man can dispute that?

I have now read authorities of respect and ability who say no, there were no gas chambers in what {2149|2150} they call the Altreich.

We have discussed this with Dr. Hilberg, and he says, "Well, maybe." Maybe. Well, there was no maybe in the last forty years in many of those cases, and there was even at Nuremberg produced documentary evidence of confessions, yes; commandants I and other officers confessed, yes; these things took place here and now, well, maybe, or maybe not. That's the basis of the belief.

And it is said by my friend that reasonable men should not debate. It is beyond dispute by reasonable men. I thought he had a powerful proposition and it concerned me greatly when he referred to the Calder case in the Supreme Court, because I thought, well, if the Supreme Court of Canada has ruled, as my friend quoted from Mr. Justice Hall, that the Court may take judicial notice of the facts of history whether past or contemporary in some profound way, then maybe the point, even there there may be debate, I might argue about whether we should, but then the power to do so exists.

Having checked into the Calder case which Mr. Justice Hall's decision, a dissenting opinion, does not rely upon the proposition that judicial notice {2150|2151} may be taken of the fact of history, that is obiter dicta on page 169, and he then, in the next paragraph, goes on to say: "*The assessment and interpretation of the historical documents and enactments tendered in evidence must be approached ...*"

– and I find this almost ironic –

*"... in the light of present-day research and knowledge disregarding ancient concepts formulated when understanding of the customs and culture of our original people was rudimentary and incomplete and when they were thought to be wholly without cohesion, laws or culture, in effect a subhuman species."*

That would be the interpretation we would be ill-inclined, or unjustified in saying to Your Honour that we are not entitled to take judicial notice of history, but I point out that he says, in the next sentence:

*"This concept of the original {2151|2152} inhabitants of America led Chief Justice Marshall in his otherwise enlightened judgment in Johnson and Graham's Lessee v. McIntosh (1823) which is the outstanding judicial pronouncement on the subject of Indian; rights, to say, 'But the tribes of Indians inhabiting this country were fierce savages whose occupation was war ...' We now know that that assessment was ill-founded."*

I thought it was a little point of ironic humour that I could raise here today that here is an obiter dicta remark of Mr. Justice Hall saying we have the right to take judicial notice of history, and he is correcting a judgment of a historical person in 1823, which demonstrates that obviously history changes its views from time to time. And ironically, to say

that courts should take judicial notice of historic opinions in the light of present-day research, I suggest, is to take the view that it is open to conduct that research and that we should not foreclose this research with a firmly-fixed judicial view of fact.

After all, fact should be for the jury, {2152|2153} and I suggest that at no time should a court take the view that it can pre-empt the position of the jury by a determination of fact when, first of all, there is dispute in society.

I don't think I should have to prove these books, but I say they are evidence of dispute, and it is not justified to decide who is a reasonable man and who is an unreasonable man without hearing from the other side of the dispute.

It is said my client's view is that of an unreasonable man. Well, let's hear what he says first before we judge. Let's not decide on the basis of one publication alone. If he can substantiate there were substantive or authoritative argument, let him do that. After all, isn't that what we are here for, to have both sides justified as they may be to have the jury decide? They may decide what is the authority of a reasonable man, if they are twelve reasonable people in a society of reasonable people.

I would suggest that it would be far preferable [sic] if the whole of society in a free and open debate decide what is reasonable. In fact, that is what usually happens with most opinions over time. We are {2153|2154} here, however, and the Crown wishes to even prevent us from having the opportunity to present as truthful, as fact, not as our mistaken belief but as fact, the views asserted in the article. They don't even want us to get that right to put across this view to twelve reasonable people.

Well, to do that, in my opinion, is to deny us the basic right of not only freedom of speech, but the right to be presumed innocent till proven guilty, the right to hear both sides, the fundamental basic equitable principles that our trials, throughout history, have always held to be reasonable and sacred.

Numerous references were made to the judicial decisions in West Germany and elsewhere, and in Israel. All I can say is, the views presented by the Crown as to the substance of those cases and the remarks attributed to people are not beyond debate by reasonable men.

I can go on to quote numerous sources of dispute upon the point, but I would like to point out that even the article, "Did Six Million Really Die?" was publicly debated in fairly lengthy publications in the United Kingdom, called, "Books and Bookmen". {2154|2155}

This article was written by Richard Harwood and published all over the world. In "Books and Bookmen" in November 1974 a review occurred of this particular article by Colin Wilson. He basically said – I suppose I could file it – I will eventually – I don't intend to put before you the whole of the defence case. I thought at one point I would have to, to prove that we should have the right, as reasonable men, to question these things. I don't think I would be well and wisely advised to try and do that.

I think that I want to put before you submissions that demonstrate that there is ample reason to believe that many men, women and other people, I suppose children included, have a right to debate and discuss these issues. This isn't a religion, and if it was, we believe in freedom of religion, too. These are not sacred beliefs, and it's not sacrilege to question these beliefs.

Many people might say, well, you are hurting those who died if you question these beliefs. Is there a question thus far that every belief we question from Christianity to Islam to all the beliefs there are, those who believe them will say; "You are hurting my {2155|2156} feelings"? And there is no doubt that may be true; but if we are to, in the desire to protect people's feelings, prevent the points of view that do so, I suppose the most powerful group in society will eliminate all other opinions. That is what will happen. And by accomplishing judicial notice of the desired opinion and enforcing that as a rule of law, there need be no freedom of speech; there is no point to it because if courts can decide what are legitimate opinions and impose those views, and s.177 can make it illegal to have false views, well, then, we have established

judicial historical opinion in a category that will create a crime of those who disbelieve.

THE COURT: You don't really take the position that s.177 is something that restricts people from views.

MR. CHRISTIE: I do.

THE COURT: Oh, well. Come, come.

MR. CHRISTIE: Well, I suggest that if judicial notice is taken of this, it can be taken of other historical opinions, and if judicial notice is taken of this, to have a view that has been interpreted by a court to be false, you certainly could be charged. You might prove you are an idiot and thereby get off; {2156|2157} you might prove that you had a mistaken but honest belief, but you could never maintain, contrary to the opinions of courts – because I point out again, as the Crown acknowledged, to hold judicial notice of these wide-ranging things is a rebuttable presumption; we cannot contradict them with evidence; that would be almost contempt of court – the Court rules that's a fact, you can say that you were mistaken and honestly believed, but what if the court has already ruled in the previous case that this is the truth?

THE COURT: Now you have changed your position, which you well should have done. You are now back to rebutting and arguing against this Court making what is, in effect, a judicial declaration, a finding of the existence of what has been referred to as the Holocaust.

That is a legitimate position in law for you to take; but for you to indicate that s.177 has the effect of restricting someone to have his or her own views is patent nonsense, and you know it. You should know it.

MR. CHRISTIE: I don't know that at all. {2157|2158}

THE COURT: Well, I do.

MR. CHRISTIE: I think I argued in the beginning that it is contrary to freedom of speech. Your Honour has ruled on it. I am not arguing with Your Honour's ruling. I am saying here is a practical situation:

If the Court holds what Crown has suggested, a judicial notice of these facts, and if someone wishes to disbelieve that and publishes that disbelief —

THE COURT: That is a legitimate submission. I accept that as a legitimate submission from an adversary to the Crown. I understand that point.

MR. CHRISTIE: Yes. Well, what I am saying is that that will create a limit to freedom of speech, a very severe one that could readily be submitted to other so-called facts of history.

THE COURT: You have made that point and I have it. I understand that point. As long as we don't go back to s.177, I am content.

MR. CHRISTIE: Yes. Well, I just think that the effects of s.177 are that if you publish false news or statements, you can be prosecuted. No {2158|2159} doubt about that. The effect of that —

THE COURT: If you do it wilfully [sic], and if in doing so you have the intention of creating mischief, then you can be charged, yes.

MR. CHRISTIE: Well, you can be charged whether that is proven or not. Whether you are convicted will depend on whether it is proven.

THE COURT: Agreed.

MR. CHRISTIE: But what I am saying is, it is a very short step from finding as a fact that this is the truth in history, and then saying that those who publish otherwise are publishing falsehoods, and then saying that they are wilfully [sic] publishing falsehoods. They believe it is true, but courts have held that it is false. Their honest belief cannot exist because every one is deemed to know the law. They are deemed to know what courts have said that it is false, therefore you had better not publish that view or question that judicial interpretation. And I think, then, s.177 becomes an instrument of intellectual oppression, and I think that we should avoid extending it beyond its present meaning in any way.

I know many who disagree with that, like {2159|2160} to see it extended, debate about it; but if you compound s.177 with a judicial notice of fact, I say you have a deadly combination for those who disagree, and I think also a very serious curtailment of debate on these matters.

If the case of the Crown is so powerful, and if they have such overwhelming proof and that it is as they say, an encyclopaedia, just a matter of numerous proofs, overwhelming evidence, he shouldn't have any

trouble with the jury, and the jury can decide. We will be either deemed to be mistaken in our belief, or we are falsifiers of history, or some other judgment, and the conviction will follow. I don't see why he needs the additional reinforcement of a judicial determination.

The last thing I wanted to point out was as late as the 19th of January, 1985, in one of the leading newspapers of — this is an example of how news of history are debatable and rather sensitive issues, and this is very much on the point, I suggest. In the Globe and Mail of this country, fairly obviously wide-read newspaper, an article appears which repeats that the Soviet News Agency Tass yesterday published charges that Zionists have been partners of German Nazism and shared the blame for millions of Jews during the Second World War {2160|2161}. The Tass interview with Soviet historian Lev Korniev said Zionists have helped Adolf Hitler during his rise to power and, by implication, were encouraging Israeli policies. Mr. Korniev said Jewish owned banks loaned Hitler ..... in 1929, while a Cologne based banking house also owned by Jews had discussed with the Nazis their final solution with Jews.

(page 2162 follows) {2161|2162}

Now, I am not asking any credibility be given to that opinion.

THE COURT: I am actually relieved that you said that.

MR. CHRISTIE: Well, everyone may find that very amusing, but the point is, a newspaper publishes that view without comment. Are we entitled to — perhaps people might just wish to believe that. There are specific references made. I suppose because it is a Soviet source, we are supposed to disbelieve it.

I don't care whether anyone believes it or not, but it is published, and it should be freely published. In fact, there may even be some truth to the statements that come from the Soviet sources. I am not here to judge what they are, nor am I here to condemn those who publish them. I am saying that the cherished beliefs of many people in this room may be wrong, but if we impose judicial notice on a historical point of view, the debate that enables truth to emerge will be stifled. And those who find today, to their convenience and to their satisfaction to stifle someone else's views might find, very shortly, with political changes occurring as rapidly as they do in this world, that that same power in {2162|2163} the hands of somebody else might produce the very society in which Nazi Germany suppressed their views, or the views of people like them.

That's the danger of establishing, in the hands of authority or in the hands of the judiciary or in the hands of anyone the ability to define history to the satisfaction of a powerful or majority opinion.

I should think the dangers of that have been demonstrated throughout history to a point where it would be realized that it is an affront to the principles of freedom of speech, and an affront to the principles of a fair trial.

It should be embarrassing for anybody to suggest that a judicial view of history be taken to the exclusion of other views, but I found no embarrassment here; in fact, I found the Crown presenting its view without the slightest hint that there was any reason to be embarrassed about it. I found no question of it from Your Honour. I found it received without too much concern.

If that is the view, so be it, but the country and the freedom of people in this country is in far graver jeopardy from applications such as this one than any minority opinions held by anybody in this country. {2163|2164} Thank you.

THE COURT: Thank you, Mr. Christie. Reply from the Crown?

MR. GRIFFITHS: Thank you, Your Honour.

I don't really find it necessary to reply to the personal comments made about me, Your Honour. I will just go on to the legal argument.

MR. CHRISTIE: I didn't mean any personal comments. I want to make that clear. I think my friend is putting forward the views he is putting forward as the officer of the Crown. I am critical of the views. I intend no criticism of my friend who, in my view, is a courteous — well, it is not my point to comment, but he is certainly doing his job as it is his job to present that view.

I must say I am entitled to present that view on the position he has

taken without any intent whatever to criticize him

MR. GRIFFITHS: Thank you, Mr. Christie. I am obliged for your comments. Your Honour, I would suggest that the judgment of the dissenting opinion of Mr. Justice Hall, {2164|2165} which has been cited with approval in other cases, commended to you yesterday as a correct proposition and a powerful authority coming as it does from an eminent jurist of our Supreme Court, that that comment of Mr. Justice Hall really speaks to and answers many of the concerns of Mr. Christie. In applying for judicial notice in this case, would certainly not have the temerity to ask Your Honour to decide once and for all an issue for all time, nor would I venture to suggest that such a judgment would, or such a ruling would stifle debate.

As Mr. Justice Hall has indicated, an application for judicial notice is considered in accordance with contemporary knowledge and contemporary findings, circumstances.

Mr. Justice Hall, himself, overturned an earlier finding in the light of new and better views of our native people – new to the, I should say, Your Honour, new to the non-native peoples, riot new to the native people. So it's not a final determination, Your Honour. It is a determination.

And in this case, having regard to the community that we're in, that community being Canada, {2165|2166} 1984, [1985] if twenty years from now, ten years from now, five years from now that community view is changed, next year that community view is changed, then obviously it would be open to the court to take judicial notice of the matter in a different way, or to find that the matter is no longer indisputable, and there are now matters that are open to dispute, and this should be subject to the full proofs of an inquiry by the Court.

That, I would suggest, is what Mr. Justice Hall was saying, and it speaks to the problem that my friend raises. Such a ruling, Your Honour, is not to prevent someone from holding an opinion. No law in Canada that prevents anyone from holding an opinion, and certainly not s.177.

John Stewart Mills, in the final quotation that my friend referred to, was talking about the holding of opinions, not the publishing of lies. That is what s.177 speaks to.

The books and materials that my friend has referred you to, some of them are the authors, if not the books, I have some familiarity with – I don't know who the anonymous author is – certainly as my friend fairly indicated to Your Honour, "Dr. Wilhelm Stäglich, {2166|2167} in his book, "Die Auschwitz Mythos [Mythos]", he was removed from the bench according to my friend. I don't know that. I know that the book has been banned in West Germany following five years of proceedings as incitement to racial hatred. The book which has been seized by our Customs in Canada – and that matter is before the Court as an indecent or immoral work – Mr. Udo Wallendy [Walendy], as far as I know, is not a historian.

There is a historian mentioned by my friend, I believe it was David Irving, who I understand has written quite a lengthy book about whether or not there was an order from Hitler, but it does not deny in the book that millions of Jews died as a result of Nazi policies, Your Honour.

There was Captain Ramsey I am not familiar with, who wrote – I didn't get the name of the book. There was Dr. Rudolf A[s]chenauer. I assume from my friend's comments that he was a defence lawyer in Nuremberg. I don't know what his persuasion was at that time or, indeed, at the present, but I would indicate, Your Honour, that those, certainly those sources were not within the common knowledge of people, which is one of {2167|2168} the requirements of the judicial notice section, and they are certainly not sources of indisputable accuracy, easily accessible to men, members of this court, myself or the jury.

The accuracy of all of those works, is clearly, from what I indicated, very hotly contested by reputable historians around the world. I would respectfully suggest, Your Honour, it isn't just a question of majority or minority view; it is a question of, in this instance, that the propositions that I have put to you – and there are two which are independent one from the other in my request for judicial notice, are beyond reasonable doubt at this point on our history, and that is why I make the applica-

tion, Your Honour.

I would not ask you to make a final ruling until my friend's case is before you. It may very well shed new light on the issue, or have an important bearing on it. I will, through our office, call on the translating services and see if I can have that available by two-thirty this afternoon.

THE COURT: Mr. Griffiths, this is a charge against Mr. Zundel pursuant to s.177 of the Criminal Code. It alleges that he published false news, {2168|2169} or a statement or something like that, wilfully [sic], with the intention of creating a mischief harmonious to racial relations in the community.

Would you please indicate to me how, at this stage of this trial, such a finding, or such a taking of judicial notice by this Court of the Holocaust as it has been defined here – and again without my having to elongate the question I put it to you – is going to assist in this jury in coming to a conclusion as to whether or not the Crown has proven beyond a reasonable doubt the four elements of this offence?

MR. GRIFFITHS: What I am asking you to take judicial notice of, Your Honour, would involve aspects of one of those four elements on one of the two charges, and the charge is wilfully [sic] publishing material that he knows is false.

THE COURT: Yes.

MR. GRIFFITHS: And so I see it as the Crown's obligation to prove that the material is false.

Exhibit 1 the pamphlet, "Did Six Million Really Die?", has a number of propositions, one of which is that six million Jews did not die, that in {2169|2170} fact something less than three hundred thousand Jews died in prisons and concentration camps between 1939 and 1945, that in the words of the pamphlet, the myth of six million people dying is an enormous fraud, a swindle on Germany.

THE COURT: It is a fraud and a swindle because it is not six, it was only two?

MR. GRIFFITHS: Or something less than one.

THE COURT: Less than one? That is why it is a fraud, because the numbers are different? Is that one of the —

MR. GRIFFITHS: I'm sorry. What the pamphlet says is that it is a fraud.

THE COURT: I know what the pamphlet says. That's right. You need to call a spade a spade. You could use a judicial declaration of the happening of the Holocaust in order to buttress a certain portion of the elements of proof that the Crown must prove.

MR. GRIFFITHS: Absolutely, sir. I am not making any bones about that. It is, as I understand the law, an alternative to calling viva voce evidence, or evidence through documents, and when that {2170|2171} alternative is proper is defined in the case law that I referred you to.

THE COURT: That answers the question. Thanks.

MR. GRIFFITHS: Thank you, sir. If there is anything else, I would be pleased to assist.

THE COURT: I have no further questions.

MR. GRIFFITHS: I have no further submissions, Your Honour.

THE COURT: Gentlemen, I intend to reserve until later today, because I want to read the material that has been proffered [sic] for my perusal. I have read some of it. I haven't read all of it.

MR. CHRISTIE: Can I just offer you what I had? I didn't file it. I had eighty-seven cases in Canada where judicial notice was taken. I asked my friend if he wanted them. And they are all cases I could obtain from 1984 back to 1970.

THE COURT: Perhaps you can deliver that to the Clerk and I will peruse it. Now, what I propose, subject to your approval, is this. Mr. Griffiths, if you are ready to {2171|2172} let me have your submissions, if any, with respect to the matter of the film, which I understand is the last item on the Crown's agenda so far as the Crown is concerned – if it is not convenient for you, I will adjourn and come back and hear it.

MR. GRIFFITHS: Thank you, Your Honour. I would request – and as always I am in your hands – that we deal with things one matter at a time.

THE COURT: All right.

MR. GRIFFITHS: And I don't want to inundate you with more material;

and just deal with one matter at a time. But I am in Your Honour's hands as always.

THE COURT: If there is nothing further, we will adjourn till two fifteen.  
— Luncheon adjournment.

— Upon resuming.

MR. CHRISTIE: Excuse me, Your Honour. I am in somewhat of a quandary in that now I have a translation of the transcript that I referred to in France, and {2172|2173} I wonder if I might – I suppose in a way it is improper to re-open the argument, and it is at a late stage, but it was of some significance.,

THE COURT: Certainly you can re-open the argument. I was never one to get overly technical on important matters.

MR. CHRISTIE: Well, then, if I may –

THE COURT: Crown has a right of reply, of course.

MR. CHRISTIE: Well, then, may I – I only have two copies of this. I'll give one to my friend and one to Your Honour, if I may.

This is the verdict of the Paris Court of Appeal after a trial in which – it sets out what took place and it involved a statement in Le Mans originally by Mr. Faurisson, and it was alleged by these nine organizations – I think the best way I could deal with that is to have Dr. Faurisson explain the situation.

THE COURT: No. I'd just as soon you didn't do that.

MR. CHRISTIE: Then I would like to refer to some excerpts. You have the full copy of the judgment there, Your Honour. I would just refer to excerpts {2173|2174} that there are in that judgment.

In essence what it said was:

Mr. Faurisson's research has dealt with the existence of gas chambers which, if one were to believe the many testimony, were supposedly used during the Second World War to systematically put to death Jews deported by the German authorities.

Limiting ourselves to the historical problem that Faurisson wants to raise, and that is beside the point, it is proper to state that the accusations of frivolity made against him are lacking in pertinence and are not sufficiently proven in fact.

Faurisson's logical approach consists in trying to demonstrate by using the line of argument –

THE COURT: What page are we on?

MR. CHRISTIE: I have to make sure that this coincides with – on the original it's page 9, apparently. Yes. Now, I have the original French text, and I believe it's in the English version in brackets but it's written on the original French, text in French, off to the side by, I guess after the fact, that he thinks of a scientific nature that the existence of the gas chamber as they have usually been described since 1945 {2174|2175} runs into absolute impossibility which would sufficient by itself to invalidate all the existing testimony, or at least to make them suspect.

This is the important part that I would like to allude to in the Court's judgment:

It is not the job of the Court to make pronouncements about the legitimacy of such a method or about the full significance of the arguments set forth by Faurisson, nor is it any more permissible for the Court considering the research to which he has devoted himself to state that Faurisson [Faurisson] frivolously or negligently or that he has deliberately chosen to ignore them.

And further on it says:

Furthermore, this being the case, no one can convict [sic] him of lying when he enumerates that he studied and that he supposedly did research for more than fourteen years.

And the part that I would like rely on, and that I suggest is of some significance:

Therefore the value of the conclusions defended by Faurisson rests with the appraisal of experts, historians and the public. {2175|2176}

There is a great deal more to this, and it's all there for my friend to deal with, but what I am suggesting is, the Courts in France took the view that the matter was certainly not one upon which they would take notice, and furthermore, one upon which they were not qualified to give

any condemnation in terms of historical analysis of the party.

Now, there is a little complexity to this because in France they sue people and, apparently, that results in criminal prosecutions, whereas in this country it is normally the function of the Crown, and consequently I am at a loss to put this in the context of civil or criminal proceedings. Maybe a French lawyer can do better: but you have a judgment that the Court in France, the Court of Appeal – and from this no appeal has been taken – has taken the view that the conclusions defended by Faurisson – and they are identical to the conclusions defended by the pamphlet – rest solely with the appraisals of experts, historians and the public; and I think that that is an indication of some assistance to a court in Canada, if we are to take foreign authorities as – here is one that seems to take the view that courts should not decide historic questions. {2176|2177}

THE COURT: Notwithstanding all that, I am reading at page 10, Mr. Faurisson is sentenced to pay, in accordance with Article 700 of the CCPC, the sum of 2,000 francs to each of the association accused on appeal, with the exception of the sons and daughters of the Jewish deportees of France. What does all that mean?

MR. CHRISTIE: Well, what it means –

THE COURT: He is condemned to pay something.

[MR. CHRISTIE:] Your Honour, I have here the portions that refer to that, and I only have a bit of transcript, but what I do know is that this comes out of the fact that – and I am reading here – but when reading the full context of the papers submitted to the Court one gains the impression that Mr. Faurisson takes abusively advantage of his critical work in order to try and justify under its cover, while largely exceeding his allegations of a more general nature, and this is where he made remarks about Zionism, which are no longer a scientific character and are nothing but polemics that he has left the field of scientific research and has taken a leap which is not authorized by anything contained in his previous {2177|2178} writings, namely, when resuming his line of thought in I the form of a slogan he proclaimed, "The alleged mask in the gas chambers and genocide is in one and the same lie"

So that is what he is condemned for. But in addition to denying the existence of the gas chamber, he avails himself of deportation by furnishing a personal, although altogether unfounded, extirpation [extirpation] of the special actions mentioned in fifteen occasions and with horror in the diary of Dr. Kramer [Kremer].

So he explains what his actions were.

Quoting again: [sic]

He undoubtedly protests in his recent plea against the falsification of his line of thought, giving the impression that it is his opinion "that there were no Jewish victims" of Nazi Germany. His wording does, however, leave the reader in a more or less insinuating fashion that "gas chambers" and "genocide" are one and the same thing. There were certainly Jewish victims, but that the massacre of Jews is an exaggeration, nay even a war rumour, for it appears that when reading Faurisson, the deportees of Auschwitz died above all from typhoid, and that moreover the term "genocide" would be {2178|2179} strictly speaking incorrect; and that the figure of six million Jewish victims is evidently an approximate figure and that, by the way, a written order on the part of Hitler laying down his decision to "exterminate the Jews" has never been found.

Mr. Faurisson, who is angry about what he refers to as the religion of the Holocaust, has never found a word to express his regrets for the victims by reminding his much racial persecution and mass deportations which caused the death of millions of people, Jewish or gentiles. So that in spite of the partial character of his work, his revisionism, which is the cause of the exterminationists' ..... could play an overall rehabilitation of the Nazi war criminals.

The positions thus adopted by Faurisson are just as offensive for the survival of racial persecutions as the victims, since the general public is induced and must appreciate the suffering, if not even to cast doubt on them.

They are furthermore of a nature, as has been justly pointed out by the tribunal, as to provoke passionate reactions of passivity against those



who thereby, find themselves implicitly accused of lie and {2179|2180} imposture.

So if I might sum that up, in my submission it is the tribunal who felt that he was not unscientific, but they did not like the quality of his opinion. It is there for Your Honour in English, black and white, and I can say it is a rather tortuous intricate rationalization, but what I do say is that they do not find it proper to come to a conclusion of history and say that he was wrong in his historical research, or to conclude that the court could decide that issue. And I think in France the truth doesn't seem to be an absolute defence in these matters, but —

THE COURT: Well, we are all groping in the dark on that.

MR. CHRISTIE: I appreciate that. I'm sorry, that's the truth. I am no expert in French law, but it struck me as rather complicated in some of its reasoning, but it struck me also as clear that they were not prepared to make conclusions of history, and that's why I thought it relevant.

That's all I have to say on it.

THE COURT: Thank you. Mr. Griffiths.

MR. GRIFFITHS: I have nothing to add, Your Honour.

—— {2180|2181}

### REASONS FOR RULING

THE COURT: Counsel for the Crown, in the absence of the jury, toward the end of the Crown's case, has moved the Court to take judicial notice of two things. The first is that millions of Jews were annihilated in Europe during the years 1933 and 1945 because of a premeditated policy of the hierarchy of Nazi Germany. Secondly, the means of annihilation included mass shootings of Jews, their deliberate starvation, privation, and death by gassing.

It is submitted that there are two requirements the Crown must prove. The Crown having led the evidence that it has up to this time, it now remains upon the Crown to show that what is referred to as the Holocaust is so well-known, so notorious, so public and so open, over many years to public examination, scrutiny, and the writing of history that through the eyes, in effect, of all reasonable men the fact of the Holocaust should be judicially noticed.

In his submission Mr. Griffiths has submitted a number of essays and words on the subject cases judicially noticed, cited cases and decided cases both in our Courts and elsewhere. One of those cases is R. v. Bennett, 4 C.C.C. (2d). His Honour Judge O'Hearn of Nova Scotia had the following to say on the subject:

*"Courts will take judicial notice of {2181|2182} what is considered by reasonable men of that time and place to be indisputable, either by resort to common knowledge or to sources of indisputable accuracy easily accessible to men in the situation of members of that court."*

The 9th New College Dictionary of Merriam-Webster publication, page 576, defines Holocaust in the following terms, and I purposely leave out the Greek and the Latin: "Thorough destruction, especially [sic] by fire; the genocidal slaughter of European Jews by the Nazis during World War II".

I have perused the article contained in the Encyclopaedia Britannica published by William Benton, 1943 – 1973, and by Helen Hemmingway Benton, published 1973 – 1974. The relevant portion is contained on page 119 of the article in Volume 8 under, "Germany, History of". In the lower right hand corner of Article No. 119 the following is quoted:

*"The Nurnberg Laws of September 1935 forbade marriages between Jews and persons of German blood, and the Jews virtually lost all civil rights. Their persecution reached its climax in the pogrom of {2182|2183} November 9-10, 1938, carried through by the SS. The greater part of all Jewish property was confiscated, and the surviving Jews were restricted to ghettos until World War II, when they were systematically exterminated. Altogether, in German-occupied Europe, 6,000,000 out of a total of about 8,300,000 Jews were killed or died in concentration camps."*

There was mention of other material to which I will not refer that has been submitted not only by the Crown, but by the defence. I have received the transcript of the proceedings in the civil case of Mel Melmelstein plaintiff, vs. The Institute for Historical Review, et al, defend-

ants, taken in the Superior Court of the State of California. It is Case No. 365C642. The date was August 1981. In accordance with the American Code of Evidence then applicable in that jurisdiction, a judge of that Court in very short terms, in response to what I infer was a I similar application to this, took judicial notice of the Holocaust insofar as it referred to the country of Poland. As I recall the transcript of the judgment, it referred {2183|2184} to a certain concentration camp or death camp in Poland.

I have read with interest the extract of the Honourable Mr. Justice Hall (as he then was) a Justice in the Supreme Court of Canada, in the case of Calder v. The Attorney General of British Columbia, 34 D.L.R. (3d) 145. In his words:

*"The assessment and interpretation of the historical documents and enactments tendered in evidence must be approached [sic] in the light of present-day research and knowledge disregarding ancient concepts formulated when understanding of the customs and culture of our original people was rudimentary and incomplete and when they were thought to be wholly without cohesion, laws or culture, in effect a sub-human species."*

Mr. Griffiths submits that the Holocaust, or the annihilation of Jews, is one of the most documented events in human history. Those documents are contained in archives, universities, places and centres of learning, Courts of law, and they are contained in much judicial precedents, including the trial held at Nuremberg where it {2184|2185} would appear that just and proper punishment was handed out in what I regard as a proper judicial, fair and democratic manner, after lengthy trials. Then he submits and recites all or many of the trials of individual persons tried for war crimes relatively soon after the conclusion of hostilities in World War II from June of 1945 and thereafter. Included are the American trials of certain persons, the Belsen trial, the trial of one Rudolph Hoess whose name has been brought up in this trial, and others.

Crown counsel then reviewed the works of various authors, all of whom have directly touched upon the Holocaust in great and massive detail.

In essence, Mr. Griffiths takes the position that in the light of all this massive documentation, including the historical transcriptions of the Holocaust as given in evidence at various Western oriented judicial tribunals, that the occasion of the Holocaust and the fact that it occurred is so well-known that it is just and proper that this Court take judicial notice thereof.

Counsel for the accused, not unnaturally, takes much opposition to this motion. I am reminded that the opinions that are given by the authors of the various books, articles and the like, as submitted by the Crown, {2185|2186} are opinions and nothing more than opinions.

Secondly, it is submitted by counsel for the accused that the Crown is asking this Court to decide one of the very issues that the jury will ultimately be asked to decide. I am reminded by Mr. Christie that historical figures of the past whose opinions at one time were greeted with derision and were not believed are now believed. As I recall his example, it was one Galileo, who lived and gave certain scientific and other theories several hundred years ago.

The defence submits that it is improper for the Crown to impose his views through this Court upon the jury until both sides of the case had been heard. Further, this Court, of itself, cannot be taken as holding the indisputable facts of the occasion of the Holocaust when other learned authors take the opposite position to that taken by the authorities cited by the Crown. The defence wants to present the evidence and let the jury decide the issues.

It is further urged upon me that never before, in Canadian judicial history, has a Court been asked to take judicial notice of an event of history that is the subject of the contest between Crown and defence. Mr. {2186|2187} Christie submits that Funk and Wagnall's Dictionary does define Holocaust as a sacrificial ceremony by fire, but it says nothing of Jews. Further, that my granting of this motion would preclude freedom of publication on the part of other authors where similar opinions were held to the author of Exhibit No. 1 and that would be unfortunate, unintended and a quite improper result.



With that submission I totally and strongly disagree. I do not agree, for one minute, that if I take judicial notice of the existence of the Holocaust the result would be that writers of the future are prohibited from freely expressing their views should they take a contrary position. I do not agree that all existing books on the subject taking a position similar to the one contained in Exhibit No. 1 would become suspect.

Mr. Christie submits that it is not clear, even now, whether there were plans to annihilate Jews. If that is so, *inter alia* there should be produced tangible evidence of an identified order emanating from Hitler which existed at the time to confirm the order for such extermination. Finally, to make this finding would deprive the defence of its ability to defend itself.

The pressures of this trial prohibit a {2187|2188} thorough and considered ruling with respect to this matter. I have only had time for minimal research on my own. The *Oxford English Dictionary*, Volume 5, at page 344, includes in its definition of the word "Holocaust" as follows: "A great slaughter or massacre, a complete destruction of a large number of persons". The original says nothing about the destruction of Jews by the Nazis; however, the supplement to the *Oxford English Dictionary* dated 1976, Oxford Clarendon Press, at page 122 of the supplement, has the following to say, in part: "Holocaust" "Frequently applied to the mass murder of Jews by the Nazis in the War of 1939 to 1945".

It would appear to me, on what I have read and heard, that there exists wide and highly regarded opinion that the Holocaust did occur. The issue now revolves on whether or not, in the light of the circumstances of this particular trial, it is judicially prudent on my part to grant the Crown's motion. In order to decide that issue one must surely consult the subject matter of the trial itself.

I have what appears to be Exhibit No. 1. The introductory paragraph in Exhibit 1 reads as follows:

*"In the following chapters the author has, he believes, brought together irrefutable evidence that the allegation {2188|2189} that 6 million Jews died during the Second World War, as a direct result of official German policy of extermination, is utterly unfounded. This conclusion, admittedly an unpopular one, resulted from an inquiry which was begun with no pre-conceived [sic] opinions, beyond a general notion that the statistical possibility of such huge casualties was perhaps open to doubt, as well as an awareness that political capital was being made from the implications of this alleged atrocity. A great deal of careful research into this question, however, has now convinced me beyond any doubt that the allegation is not merely an exaggeration but an invention of post-war propaganda."*

One should then, I think, consult the very last paragraph in this tract. I read from page 30 under the heading, "Imaginary Slaughter":

*"The question most pertinent to the extermination legend is, of course: how {2189|2190} many of the 3 million European Jews under German control survived after 1945?"*

I then go down to the following words:

*"Nothing could be a more devastating proof of the brazen fantasy of the Six Million. Most of these claimants are Jews, so there can be no doubt that the majority of the 3 million Jews who experienced the Nazi occupation of Europe are, in fact, very much alive. It is a resounding confirmation of the fact that Jewish casualties during the Second World War can only be estimated at a figure in thousands. Surely this is enough grief for the Jewish people? Who has the right to compound it with vast imaginary slaughter, [sic] marking with eternal shame a great European nation, as well as wringing fraudulent monetary compensation from them?"*

I intend to instruct the jury when my turn comes that it is incumbent upon the Crown to prove {2190|2191} beyond a reasonable doubt four elements:

- (1) that the accused published this tract;
- (2) that the tract is false;
- (3) that the accused published it wilfully, knowing it was false; and
- (4) that he knew it was likely to cause the evil that s.177 of the Criminal Code is designed to curb or eliminate.

It seems to me that from my perusal of the author Wigmore on Evi-

dence, and as a result of other cases I have read, to grant this motion, however tempted I may be to grant it, would have the effect, in the eyes of the public, as well as perhaps in the eyes of the jury and the accused, of not providing the defence and the accused with full answer and defence. It would have the effect of substantially eliminating a portion of the duty incumbent on the Crown insofar as the guilt of this accused is concerned.

It is with no little regret that, for these reasons, I decline to give effect to the motion which I now dismiss.

——— {2191|2192}

MR. GRIFFITHS: Thank you, Your Honour.

THE COURT: Yes, Mr. Griffiths.

MR. GRIFFITHS: Your Honour, I know the jury is once again waiting in their little room.

THE COURT: No, they are not. I have taken care of that.

MR. GRIFFITHS: As I believe I indicated yesterday, the gentleman from Washington was flying up this morning. Last I heard at eleven o'clock, he was in Buffalo getting snowed on from a great height.

I have what I expect the gentleman will say is a true copy of the movie here in the courtroom, and I am going to suggest that rather than adjourn early or not proceeding with the argument, that I be permitted to commence to show Your Honour the movie in the absence of the jury so that you will be able to consider whether or not it is a business document properly within s.30.

I heard Your Honour mention, and my ears perked up, earlier in the week you made mention of a public document which I would satisfy under s.25 of the Canada Evidence Act, and Your Honour would have an opportunity as well, from the face of the proposed exhibit to see whether it would be that criterion, and the {2192|2193} archivist could speak further to that matter.

The other section, frankly, Your Honour, the most tenuous on which I would submit that this movie should be admissible, is under s.23 of the Canada Evidence Act, which deals with records of prior proceedings, copies of which, under seal, may be – I'm sorry, the wording ultimately is important.

THE COURT: Your position is that, subject to what I hear and subject to what I hear from Mr. Christie, that what you propose to put on the screen may become admissible under s.30 of the Canada Evidence Act.

MR. GRIFFITHS: Yes, sir.

THE COURT: And under s.25, and you are now down to the least strong arrow in the quiver, which is s.23.

MR. GRIFFITHS: That's right, Your Honour.

THE COURT: I have not seen s.23 recently. I will look.

MR. GRIFFITHS: Section 23 is evidence of judicial proceedings, and it provides that and I am reading from the section: {2193|2194}

*"Evidence of any proceeding or record whatever of (a) before any Court in Great Britain or the Supreme or Federal Court of Canada or any Court in the Province of Canada or any Court in any British Colony or possession or any Court of record of the United States of America or of any state in the United States of America, or any other foreign country or before any Justice of the Peace or Coroner, any Province of Canada may be given in any action or proceeding by an exemplification or certified copy thereof purporting to be under the seal of such court, or under the hand or seal of such justice or Coroner as the case may be without any proof of the authenticity of such seal or the signature of such Justice or Coroner or the proof thereof."*

My understanding is, Your Honour, there are several ways of demonstrating this to you, ultimately. {2194|2195}

It was an exhibit at Nuremberg, International Military Tribunal. It is the narration from this film, is transcribed and contained within volume 30 of the trial of the major war criminals International Military Tribunals, and as Your Honour may know, the first twenty-two volumes of that series contains the transcript of the proceedings, and the next twenty volumes contain not all, but most of – some of the evidence, documentary evidence that was introduced.

I have it in a book that has a seal on it, Your Honour, and I believe that

there is reference to the Military Tribunal as well.

THE COURT: Who wrote the book? A private author, I gather.

MR. GRIFFITHS: No, sir. This is the official record published at Nuremberg, Germany 1948.

THE COURT: All right. Proceed. Sorry to interrupt.

MR. GRIFFITHS: And it says on the fly of the volume I have, English edition, "Documents and other material in evidence". And then it gives the document numbers. {2195|2196}

MR. CHRISTIE: I think my friend could find greater consolation from the words that are on the other side of these words, "These documents are published in accordance by the Secretariat of the Tribunal under the jurisdiction of the Allied control for Germany."

MR. GRIFFITHS: Mr. Christie, you are one step ahead. So that, Your Honour, as Your Honour has fairly put it —

THE COURT: What is the page?

MR. GRIFFITHS: I believe it is page 459 is where it starts, and it is document No. 2430-PS. That's the exhibit number.

The difficulty with that, Your Honour, I think that the Courts have widely held that a seal can be almost anything. There is no real formalities to what is a seal, but the real difficulty, Your Honour, is that the authorities — and I referred to a Mr. Ewart's book on documentary evidence and I had the opportunity to speak to Mr. Wilmur about this, and the authorities seem to indicate that that section provides more for the admission into evidence of a record of conviction, or a {2196|2197} record of the finding of the court rather than admitting into evidence exhibits or parts of a record, and I can see some rational for that.

THE COURT: So can I. I think we all can.

MR. GRIFFITHS: Okay. Having said I that, I will move to my next argument.

Section 30, Your Honour, of the Canada Evidence Act is, I would suggest, applicable here, and it is merely relying on the same body of a case law as I did in submitting the bulletin of the International Committee of the Red Cross to you.

Section 30 (1) indicates:

"Where oral evidence in respect of a matter would be admissible in a legal proceeding ..."

— and I submit again that that means where it's relevant, and Your Honour will have an opportunity to seeing the movie to determine whether it is relevant to these proceedings —

*"... a record made in the usual and ordinary course of business that contains information in respect of that {2197|2198} matter is admissible in evidence under this section in the legal proceeding upon production of the record."*

In the volume from the International Military Tribunal that I have produced, there are a number of affidavits which also were filmed and show at the beginning of the movie.

The affidavits purport to be by people who made the movie and who edited the movie, and indicate that the movie was made basically within a fifteen-day period, beginning of April, end of May, 1945, on the orders of the Allied Command as Allied Forces in the various concentration camps.

The affidavits also say that there were some eighty thousand feet of film taken. This film represents some six thousand feet, and that six thousand feet is representative of the eighty.

The archivist, Your Honour, I understand, would say that he received this film, as generic film taken by Allied Forces going into concentration camps, and I must say, Your Honour, I have talked to him on the telephone, but that was one of {2198|2199} the things I wanted to enquire further, whether what we were talking about was the whole eighty thousand feet or some edition of that.

This film and other generic film taken by the Allies immediately in the dying days of the War are held in the National Archives at Washington, D.C., pursuant to Federal Statute requiring them to hold it, and there is —

THE COURT: Are held whereabouts?

MR. GRIFFITHS: In the National Archives in Washington, D.C. And the original films are all there.

From those original films the archives have made negatives and those negatives have been sold and distributed and are available to the public and, indeed, are, I understand, fairly readily available in Toronto, which is where I received this copy.

THE COURT: Which is what?

MR. GRIFFITHS: Which is where I have the copy that I have in court now. My submission on s.30, Your Honour, is that the archivist is required to keep a record of all these films, in addition to other matters, that {2199|2200} this particular film forms a part of the record that he is keeping, and as such should be admissible into evidence in much the same way as fingerprint evidence is admissible, or any other business document.

The film itself, Your Honour, or the contents of the film, what the film shows, I concede, is hearsay, in that I will not have the Navy Lieutenant who took the film present in court, nor, after forty years, do I expect anybody else will; but as we have seen in the Anthes, if I can paraphrase it, in that decision, and in the Grimba decision and in the Sayec decision, hearsay, double hearsay are admissible under this section, and that, in itself, should not be a bar to the admissibility of the film.

Finally, Your Honour — and I still have my two case books here if Your Honour wishes to refer to those case books again, under s.25 I think I would really have to wait until the archivist is here, and perhaps give us some indication of his knowledge as to how widely this film is distributed, and that is something that I do not know and I am hoping he can give us some evidence to that effect.

THE COURT: What time do you {2200|2201} expect him?

MR. GRIFFITHS: Your Honour, Sergeant Williams, who is conspicuous by his absence today, left a message at a quarter to one that he was on his way out to the airport to pick him up. So I am hoping he will be in this afternoon, but I am not sure. The film that I have, Your Honour, I have seen and it lasts about an hour.

THE COURT: Anything further?

MR. GRIFFITHS: No, sir.

THE COURT: Mr. Christie, I will hear from you now, if you wish. You might want to wait till you hear from the archivist so that you will have it all before you and make your submissions.

What is your pleasure?

MR. CHRISTIE: Well, sir, I think since we are here, that I should respond immediately to what's been said, and when the archivist comes, if something new arises I might have to respond again, but I don't think it is necessarily what would occur.

First of all, I'd like to explain my substantive reasons for objecting to the film. I have {2201|2202} seen it.

The substantive reason is that in it we have a voice-over process whereby an officer of the armed forces of the United States, I presume, gives his explanation of what is taking place in the film.

The film is extremely gruesome, extremely shocking and deplorable in all human terms in that it offends anyone's sensitivities to life.

It is not possible to ascertain whether the things said about the situations depicted are true or false. Often German personnel — I was thinking of the Hadamar incident that is referred to in this film; I can refer to it by the transcript that is available —

THE COURT: It is not possible to what?

MR. CHRISTIE: It is not possible to ascertain about whether the situations depicted are true or false. In fact, they appear to be somewhat coloured.

For example, bodies are hauled out of the ground. They are exhumed. And statements are made about the bodies on this film by the narrator and he says these people were killed in this manner, or these {2202|2203} people were — and I don't think he says in most cases gassed, but I think he says they were killed by injections, or statements of that kind are made. And then many, many bodies are dragged out of graves, and obviously most of us would be offended by the sight. I mean, it's impossible to know whether we are looking at the victims of atrocities or just people who died. So I say it creates certainly an impression which I don't know may be true, maybe false, but there is no way to test it.

THE COURT: Do I gather that one of your positions is that the code of values was out-weighted by the horror of what the viewer sees?

MR. CHRISTIE: Yes, sir. And it is compounded by the explanation that is provided by the narrator who, in great detail, for example, describes what people are saying in the German language, although you don't hear the German people speaking. You hear his, not translation, but his description of what they are saying. It very well may be true or it could be false, but we are never able to know. And that's the problem with the substance of the film.

THE COURT: Doesn't it go to weight {2203|2204} rather than admissibility?

MR. CHRISTIE: Well, it's obviously hearsay. It's highly prejudicial. It is not even an attempt to be a translation of things. It is an interpretation. I suppose you could say that goes to weight, and I think if that's the case, my response would be to fall back on what, in effect, Your Honour said that the probative value is so far outweighed by the prejudicial effect of these remarks that it constitutes nothing in relation to the substance of the charge.

I would like to reiterate that very little, if any, of the film deals with the allegations analyzed by the book or pamphlet or whatever it is.

The reference in the book to Hadamar does not exist, or to Penig or to Leipzig do not exist, not even mentioned in the book.

THE COURT: You mean in the exhibit.

MR. CHRISTIE: Yes. And Arnstadt Hanover, Mauthausen – Mauthausen is mentioned in the book, “Did Six Million Really Die?” I hope I can paraphrase and explain my position this way, that the book, “Did Six Million Really Die?” does not deny suffering, death, cruelty, privation, evil actions on the part of {2204|2205} the Nazis in the way they treated prisoners. The basic essence, although one can say that it has obviously a semantic bias and inclined to that view, the basic premise is that gas chambers did not exist. That is the basic allegation.

If you come to the heart of it, it comes towards the end of it, but it is a denial that gas chambers, which are the justification for, in that book's view, the story of six million, are dubious, to say the least, and that book says more. It says they don't exist.

THE COURT: I thought the opening I paragraph says that the allegation that six million Jews died during the Second World War as a direct result of official German policy of extermination is utterly unfounded. Isn't that the issue?

MR. CHRISTIE: Yes. But the official German policy of – German policy expounded in Nuremberg is that gassing was the official German policy. That is the essence of the case in my opinion. The official German policy in concentration camps, or the results of privation of War is not the issue.

There is no denying concentration camps in that book; there is no denying the intention camps {2205|2206} to concentrate people in those camps, and to treat them with cruelty and hardship; and my friend – this is where we disagree, I think. My friend says it's enough to prove millions died by privations. The gas chambers are not the issue. But the gas chambers are the means for the specific crime of genocide. That book says there are no gas chambers; it is a myth, that book says, and that is where the policy alleged to be attributed to the German government is false in that book's view, because it says that it could not be accomplished without gas chambers, and there were no gas chambers. And that's why he quotes Christopherson and all those who have questioned that story. And it may come as a surprise, but there may be some scientific evidence to support that position. That remains to be seen.

But what I am saying is that the book does not deal with the camps in the film at all. Buchenwald is not said to be, in the book, it is not said to be a nice place to live, or Belsen, or any of these places referred to in the film.

The film attacks things the book does not defend. The book does not say that thousands of people didn't die in the last stages of the war. In fact, {2206|2207} the film says they did and shows how they did, and where their bodies are, and then it piles the bodies up in a place and then it bulldozes the bodies around and pushes them into a pit, and I

don't think that is relevant to what the book has to say.

But what I am suggesting is, if it was relevant to the subject matter of the charges, its probative value might justify its prejudicial effect, but it's really off the mark because the book, “Did Six Million Really Die?” is not going to attempt to say, nor does it say in any way, that people did not die in Buchenwald, they did not die in Mauthausen, they did not die in Arnstadt, Hadamar or Ohrdruf, Leipzig or Penig, all of which is alleged in the film.

THE COURT: Mauthausen is in the film.

MR. CHRISTIE: Yes, it is. So that one camp that is in the film out of eleven – I think Belsen is the last, I think two out of eleven, maybe three, would be referred to in the book, but I would like to just point out, to reiterate what I said, that the book admits, on page 27, towards the end, that Jews, like many other wartime nationals, suffered rigors and privations, and I think that's what the book's position is, that those {2207|2208} rigors and privations can only constitute six million casualties when we believe that the gas chambers exist.

And that's where the defence concentrates its attention. That is the issue for the defence. Now, it may not be the issue for the Crown, and I guess, ultimately, it is the jury who will decide what is right and what the issue is, but that is the defence issue on this book.

It is the understanding of the defence and the accused that the book, “Did Six Million Really Die?” is essentially attacking the gas chamber aspect. Nobody denies the privations and the suffering and the justification of that suffering for Jews in other aspects of the War and other circumstances.

So the essence of the film attacks a problem that the book does not address, so I say it's off the mark. That was my substantive reason for objecting to the film, that it portrays a picture of horror that is unjustified if its purpose is to attack the credibility of the book.

We could bring film, too, of the horrors of War, and it would be irrelevant to bring that unless it's relevant to the charge. We could {2208|2209} bring film of thousands of victims of all sorts of atrocities. We could bring films of the forest where they are hauling fourteen thousand or so Polish officers out of the holes in the ground, but is it relevant; does that prove anything to the charge?

Katyn is mentioned in the book as being a Russian atrocity, but I don't think that advances the case any. The issue is whether the gas chamber story is true or false, in my view, and that is what we should concentrate on.

Now, there's allegations in the film which actually help the defence, and I suppose in that sense they would be of some value to the defence, because it alleges gas chambers and places that I think we can now demonstrate are no longer held to exist.

I think in Dachau it is true, and many historians now view that as an unfounded allegation.

To deal with the technical and legal reasons why I suggest this is inadmissible and get away from the substantive portions for a moment, I point out that my friend seems to be caught on the horns of a dilemma, because if he relies on s.30 and if the Nuremberg International Military Tribunal is a legal proceeding, {2209|2210} it is not the legal proceeding of a country; it is not set up in the jurisdiction of any country or by the jurisdiction of any country, but it would be the transcript or recording of evidence taken in the course of another legal proceeding. It would be in the same —

THE COURT: Is this section 30 or section 25 that you are talking about?

MR. CHRISTIE: I am talking about s.30.

THE COURT: What subsection?

MR. CHRISTIE: Subsection 10 (c). It says:

*“Nothing in this section ...”*

— that is s.30 —

*“... is admissible in evidence in any proceedings*

*(c) any transcript or evidence taken in the course of another legal proceeding.”*

Unless my friend is prepared to concede that Nuremberg Military Tribunal was not a military proceeding —

MR. GRIFFITHS: I am not. {2210|2211}

MR. CHRISTIE: But that is what it appears, that the narrative portion of this film was an exhibit, and was viewed and accepted as evidence, I suppose. I don't know if the officers testified, or how do you cross-examine a film? I don't know. But it was exhibited as evidence, it appears. And it's not evidence taken in "any other foreign country or of any other foreign country". It is taken in another foreign country, but it is not of another foreign country. It is of a new creature not contemplated by s.23. The creature is the International Military Tribunal set up by the London Conference of Allies.

So I suggest that, really, we can't admit evidence of this nature when it is, in fact, circumscribed by s.30 (10) (c). And if it wasn't absolutely precluded by that, which I suggest it is, it would still be – well, that, I suggest, answers it.

It is also made in the course of an inquiry or investigation and in contemplation of legal proceedings, all of which is referred to in (10) (a), and it says:

*"Nothing in this section renders admissible in evidence in any legal {2211|2212} proceeding any of those things".*

That's under s.30. So I suggest s.30 cannot apply.

Section 23 cannot apply because it's not the transcript of any other foreign country. It's not a record as is contemplated by the section.

I think my friend correctly said that the section contemplates the introduction of a record of conviction, which this is not. It's a piece of evidence, but it's not a record of conviction.

Section 25, then, seems to be the only way that one could avoid the problem created by the sections I've mentioned, and it, in essence, says where a book or other document is of so public a nature as to be admissible in evidence on its mere production from its proper custody – those words strike me as rather ambiguous because I would suggest that it doesn't – that section has not been interpreted to mean that hearsay is somehow admissible. It would be my submission that that section contemplates the introduction of a document or book which could prove its own existence, but not the truth of its content by its introduction. {2212|2213}

For example the Bible, or a book that is similarly well-known, the proof of which is simply to prove that it exists and it says this.

But we are going a step beyond when we introduce a film to prove a fact which is alleged by the film, to prove the truth of its contents.

THE COURT: Aren't you getting into the issue of weight against admissibility again?

MR. CHRISTIE: Yes, I am. It would be my submission that s.25 is actually designed to produce means of proving or introducing a copy in place of an original that would otherwise be admissible.

It seems that section is a rather ambiguous section. It doesn't seem to encompass, in my respectful submission, the introduction of hearsay at all.

If my submission is correct, the item introduced by s.25, or that which would be permitted by it is simply the proof of an item's existence rather than the proof of its contents, and therefore hearsay would not be admissible under that section as it might be under s.30, and as the authorities under s.30 referred to by my friend indicate. {2213|2214}

So s.25, in my submission, does not justify the introduction of the item, either. Since the film does not direct itself to a matter in issue, and since the Crown has not explained, really, how it does, it would be my respectful submission that you should give greater weight to the consideration of whether its prejudicial effect exceeds its probative value.

I did not hear the Crown say at any stage that this is why the film is being introduced, this is what it proves. Having seen the film, it certainly proves the existence of bodies, many, many bodies. It proves the effects of typhus, which is actually identified in the film at one stage as the cause of many of the deaths, but in that sense I suggest it's not relevant to the subject matter of the book, "Did Six Million Really Die?", because repeatedly the book, "Did Six Million Really Die?" affirms that typhus was a massive killer in the camps, and that it was the reason for most of the deaths, and the explanation for the belief in the gas chambers, in fact, because cremation, on occasion, has been confused with

gassing, and the explanation for the belief in the six million – cremation {2214|2215} as a result of death, and it's also a precaution against contagion, especially in circumstances where typhus is the cause of death.

So this film proves the existence of typhus, but I don't see how that, with respect, relates to the issue of gas chambers or not.

The whole essence of the case from the defence of this book is that the existence of homicidal gas chambers is denied, and the intention of the defence is to prove that there is ample reason for believing that, much as it may be both unpopular and ridiculous at times; it may not be so ridiculous after it's heard, if it's heard. Maybe that's why people don't, or some people object to it being heard. don't know.

THE COURT: Is there any reference to gas chambers on the film?

MR. CHRISTIE: There is. There is. A ridiculous one.

THE COURT: Well, that may be your view. Just answer the question.

MR. CHRISTIE: It says, "Here the gas chamber", and "Here the dummy shower heads", in {2215|2216} Belsen.

THE COURT: You've just indicated, as I thought you had, that it's the intention of the defence to, in this trial, to convince the jury that gas chambers did not exist.

MR. CHRISTIE: Yes.

THE COURT: Well, now, talking about admissibility, if it is admissible, wouldn't the reference of gas chambers on the film be a piece of relevant evidence for the jury to consider?

MR. CHRISTIE: Yes, it would. It is one piece, to my point of view, that is relevant, but there is so much more that is irrelevant and shocking.

THE COURT: And prejudicial.

MR. CHRISTIE: Yes.

THE COURT: That outweighs the —

MR. CHRISTIE: Yes.

THE COURT: I have that point.

MR. CHRISTIE: There must be an hour of the most horrible pictures I have ever seen, but there is one reference there to, "This is the gas chamber", and then, "Those are the dummy shower heads". I think the implication is that that is the way the gas came in {2216|2217} shower heads – which in light of what scientific evidence can be available, would demonstrate a belief which is illogical. In fact, from the defence's point of view, we can prove that there were signs put out by the authorities of Dachau that say, "Gas chambers never used", and yet there are all these bodies, and the statement made, "This is the gas chamber", and "This is the dummy shower head". So this is one piece of relevant evidence. I don't think the Crown mentioned that. I hope that we have mentioned that. And I think, to my mind, that's the only relevant evidence, but it is so minute, compared with the real horror that the film presents, that —

THE COURT: That will all depend on the issue that the jury considers. Your version of what the issues are, obviously, are quite different than Mr. Griffiths.

MR. CHRISTIE: Yes.

THE COURT: So that one would think that you will forcibly put your version of the issues that the jury should consider, and that Mr. Griffiths would do likewise.

MR. CHRISTIE: No doubt that's true, {2217|2218} Your Honour.

THE COURT: How is that relevant to whether the film is admissible, other than what you've said, what I understand?

MR. CHRISTIE: Because it portrays a picture of horror in the concentration camps and gives an explanation which we are not able to rebut with evidence of either cross-examination of a person, or evidence in any way.

THE COURT: If it went in, it would go in under one of the sections of the Canada Evidence Act. Aren't you repeating to me another way, that in essence the horror outweighs the probative value?

MR. CHRISTIE: Yes. I'm sorry if I repeated myself.

THE COURT: Well, you are going at it from all directions, which counsel do; but I understand your point.

MR. CHRISTIE: Yes. I don't think I should repeat myself again, but I thought I was answering a question. I wasn't sure.

THE COURT: All right.

MR. CHRISTIE: But as far as I {2218|2219} can, I have explained my concerns about s.23 and s.30, and I don't know that I should say any more until the expert, or rather archivist, is here and that matter is to be explored further.

THE COURT: Is the archivist here? You'd like to talk to him?

MR. GRIFFITHS: I'd like to, Your Honour.

THE COURT: Fifteen minutes..

— Short adjournment.

— Upon resuming.

MR. GRIFFITHS: Just before the recess, and without referring to law, and Mr. Christie is quite right and I apologize to the Court, I should have referred directly to the exhibit and what it was that I wished to adduce through this movie, why I am suggesting it is relevant.

Pages 24 and 25, Your Honour, of Exhibit No. 1, under the chapter heading, "The Nature & Condition of War-Time Concentration Camps", and there is a sub-heading, "Humane Conditions", the pamphlet says as follows: {2219|2220}

*"That several thousand camp inmates did die in the chaotic final months of the war brings us to the question of their wartime conditions. These have been deliberately falsified in innumerable books of an extremely lurid and unpleasant kind. The Red Cross Report, examined below, demonstrates conclusively that throughout the war the camps were well administered. The working inmates received a daily ration even throughout 1943 and 1944 of not less than 2,750 calories, which was more than double the average civilian ration in occupied Germany in the years after 1945. The internees were under regular medical care, and those who became seriously ill were transferred to hospital. All internees, unlike those in Soviet camps, could receive parcels of food, clothing and pharmaceutical supplies from the {2220|2221} Special Relief Division of the Red Cross."*

These are films, Your Honour, taken in the dying days of War, but I think the films are representative, and it would indicate that it was many thousands, not several thousands, who died.

Part of the film shows inside some of the barracks and places where people are living and give an idea of what conditions are like and which people were living.

On page 25, Your Honour, of the pamphlet, lovely photographs of "Healthy and cheerful inmates released from Dachau", I don't know where that photograph comes from, Your Honour, but I think you see some of the inmates, they were less than cheerful and healthy in this movie.

Under the paragraph heading, "Fake Photographs", still on page 25, first paragraph:

*"Not only were situations such as those at Belsen unscrupulously exploited for propaganda purposes, but this propaganda has also made use of entirely fake atrocity photographs {2221|2222} and films. The extreme conditions at Belsen applied to very few camps indeed; the great majority escaped the worst difficulties and all their inmates survived in good health."*

Again, Your Honour, this film, I would suggest, puts the lie to that.

There are other references as well to the starvation of the people in the community, as well as the people in the camp. The film shows pictures of S.S. officers, civilians who are fat and cheerful in the film when compared to the inmates of these camps, Your Honour.

THE COURT: Anything further?

MR. GRIFFITHS: Not until I call Mr. Murphy, Your Honour.

MR. CHRISTIE: I have a reply to those remarks, if you wish, at a later time.

THE COURT: I may.

MR. GRIFFITHS: Thank you, Your Honour. Mr. Murphy, please.

— {2222|2223}

MR. CHRISTIE: In view of the fact that my friend has identified the portions of the text in Exhibit 1 to which he alleges the relevance of the document, if I might reply to that, or would you prefer that I do so at a later time?

THE COURT: A later time. We are getting a little out of order here.

Go ahead.

MR. GRIFFITHS: Thank you.

Mr. Murphy, please.

**WILLIAM MURPHY, sworn on Voir Dire**

EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:

Q. Mr. Murphy, I understand, sir, that you are employed by the National Archives, Washington, D.C.

A. Yes. That's correct.

Q. And what is your job at the archives?

A. I am the Chief of the Motion Picture Sound and Video Branch, and we have custody of audio-visual records maintained by the National Archives.

Q. And you were explaining to me the {2223|2224} difference between the Canadian Public Archives and the National Archives in the United States. What is it that you are charged, as an archivist, with keeping?

A. Well, we are primarily in charge with the preservation of the permanently valuable records of the United States Government. We don't branch out into the entertainment areas such as a lot of other archives. So we are primarily concerned with records, although we do have news reels as well which are not considered record materials.

Q. And is there some legislative mandate for you to keep those records?

A. Yes. Well, we are required by several pieces of legislation, to begin with, the National Archives Act of 1934 which established the National Archives and laid out its mission to preserve the permanently valuable records of the United States Government, and also, by subsequent legislations in authority that relate to the preservation of Federal records.

Q. All right. And can you tell us if any of the film that you have in the archives deals with World War II?

A. As a matter of fact, probably over forty, perhaps fifty per cent of our motion picture records relate to World War II, and most of those are from military origin – that is, from the former War Department, Navy Department and other agencies.

Q. All right. Is there any film that you have in the archives that relates specifically to concentration camps? {2224|2225}

A. Yes. We have, in terms of motion pictures, we have the unedited 35-millimeter black and white film shot by the Signal Corps of Cameramen as they liberated the camps towards the end of World War II. We also have the edited films that were submitted to the Nuremberg proceedings, and we have probably four, five reels of colour film made by the Army-Airforce that show conditions in the camps at the time of liberation.

Q. And are these films available to be seen by the public?

A. Yes, they are. They are available to any person sixteen years of age or older, and American citizens as well as people from other countries have access to these films, and indeed, they have been viewed over and over again by countless numbers of researchers over the years.

Q. Is there any copyright [sic] that the American Government claims on these films?

A. The United States Government, by law, is not allowed to copyright [sic] its films, and so the films are available without restriction. There are no copyrights for films of government origin.

Q. Do you have any facilities at the archives for copying films?

A. Yes, we do.

Q. Or video tapes?

A. Yes. We have our own internal laboratory. We also, from time to time, use government approved laboratories, who do some of our preservation work.

Q. And do the Archives get involved {2225|2226} in the sale of copies of any of the materials that they have?

A. Yes, they do, in two respects. One is through our National Audio Visual Centre Program which has a distribution function, and they sell complete copies of edited films only. Most of the films that they sell are modern-day films, but they handle some classic documentary as well because of the continuing interest in these documentaries; and one of

the films is "Nazi Concentration Camps", which happens to be significant to man.

In my particular office we have the preservation copies, and the record copies. We provide a service that supplements that of the Audio Visual Centre. We sell not necessarily an entire reel, but we make copies of portions of the films for use in documentary productions. A lot of our research or assistance with the public are aiding film makers and television who are making films about historical events, and they can come to the National Archives and obtain copies of the records in our custody for a fee.

Q. And can you tell us what [ ] it would cost for a copy of a film of "Nazi Concentration Camps"?

A. Well, the complete film is available through our National Audio Visual Centre, and forgive me, I am not sure of the exact price, but it must be under \$200, as a sixty-millimetre print, and probably cheaper as a video cassette.

Q. It is sold as a video cassette as well?

A. Yes. {2226|2227}

Q. And have you had an opportunity to view some of the – I use the expression Soviet generic film in the eighty thousand, thirty-five millimeter feet of "Nazi Concentration Camps" from which the edited version was made?

A. Yes, I have.

Q. Can you tell us whether the edited version, whether or not it is representative of the larger amount of generic film?

A. I think it is quite representative of the generic film, and probably doesn't even contain the most graphic material which may be found in the unedited subjects.

Q. You received the original print of "Nazi Concentration Camps" — did you receive that print?

A. Well, we did not — when you use the term "original", in film archives we take it to mean original negative. We did not receive original negative. The National Archives received a print from Justice Jackson in 1946, and in 1956 we received another print from the Adjutant General's Office of the Army.

Q. And do, you still have those in your records?

A. Yes, we still have those in our records.

Q. And do you have records of when those materials arrived and how they arrived?

A. Yes, I have. We have records covering the accessioning of those films. Each of the transactions involving accessioning of records into the {2227|2228} Archives is fully documented so each transaction dossier which gives you a statement of the materials and the date it was turned over to the National Archives' custody — in effect, it's the legal transfer of the property from one agency to another — and the accession dossier is very important as a record, a permanent record of when the material was acquired, and that covers all of the records in the National Archives, not just films, but any kind of record.

Q. Excuse me just a moment, Mr. Murphy.

MR. GRIFFITHS: Your Honour, I am aware that the hour is late, and as I indicated, the film is an hour long, and I have no other questions for Mr. Murphy until after the film is shown.

I understand he has looked at the preservation copies in the Archives and would be able to say whether what we have here is a true copy of that.

Again somewhat out of order —

THE COURT: Do you say that your examination-in-chief is not completed?

MR. GRIFFITHS: It's not completed subject to the showing of the film to Your Honour, and I don't know whether we will get to that this afternoon or not. I am in Your Honour's hands.

THE COURT: I gather from that, then, that you don't have any more questions, just the film to be seen.

MR. GRIFFITHS: Just the film and the question at the end of the film whether that is a true copy. {2228|2229}

THE COURT: Mr. Christie?

MR. CHRISTIE: I assume that I am not really necessary at this point

except to Your Honour as a matter of convenience.

THE COURT: I should say that my plans are, first of all, if you wish to cross-examine Mr. Murphy now, you may. I will be rising before five, but not much before, if that is of any assistance.

Tomorrow morning, at nine thirty I have a judgment which I will deliver until, I would think, a little time after ten, but not very much. We will then proceed with this case.

You can cross-examine now or after the film has been seen by me, as you wish. What is your pleasure?

MR. CHRISTIE: Well, it would seem we are not going to get all the way through the film today, and I have a few questions I think it might be best if I asked them now.

THE COURT: Then I think, gentlemen, if Mr. Christie wishes to ask his questions now, he may do so, and I will see the film tomorrow morning after I deliver the judgment in the other case. It has nothing to do with this case — another case entirely.

#### CROSS-EXAMINATION BY MR. CHRISTIE: (Voir Dire)

Q. A couple of questions, Mr. Murphy. How many hours of this film have you watched? {2229|2230}

A. Of this film?

Q. Yeah.

A. I've watched it completely.

Q. I should have more accurately defined it, as my friend seemed to, as the generic film.

A. Well, over the years I probably have seen half of it.

Q. How many hours of it have you watched?

A. I don't know how it breaks down in terms of hours. Probably around, let's say, thirty, thirty-five hours.

Q. Thirty-five hours. Well, then, you've seen it several times, haven't you?

A. Are we talking about the generic film?

Q. I understood it is eighty feet of generic film. If this is six thousand —

A. No. That is a sixteen-millimetre copy. It should only be two thousand and so feet. You see, they are referring to thirty-five millimeter footage. That is greater than sixteen-millimeter equivalent.

Q. So is this the sixteen-millimeter equivalent of the six thousand feet?

A. Right.

Q. But it is the six thousand feet that you see in an hour.

A. Approximately.

Q. Then you are saying that you saw eighty thousand feet in thirty-five hours?

A. I assume that if you can see a {2230|2231} six thousand foot, thirty-five —

A. I made a mistake. Let me correct myself. I think I've seen less, let's say about nine or ten hours' worth of it.

Q. Yeah. Because the total of eighty thousand feet you can see in thirteen hours. Right?

A. Mm-hmmm.

Q. How do you know that's the footage from which was taken the six thousand feet?

A. Because it covers the exact same subject matter. It describes each camp.

Q. Was this sworn to by anybody?

A. Well, we have detailed descriptions of the generic footage that were prepared by the Army. They are of a set of five by eight catalogue prepared by the Army Pictorial Center, and the subject matter relates very closely to that portrayed in the film.

Q. Do you have any film of Auschwitz, Treblinka, Sobibor or Belzec?

A. I don't think those are the camps that are covered in the generic footage.

Q. So you don't have any film of those camps?

A. No. Well, there are some, but —

Q. Really?

A. I'm not sure. There may be a reel or two; but those camps, I don't believe those camps are referred to in this particular film you are going

to see tomorrow.

Q. No. These films were made after {2231|2232} the occupation by the Allies in 1945; is that right?

A. No. They were made just prior to the occupation, or during the final entry of Allied troops into these areas. You could say they were made simultaneously with the occupation. I don't know when – I don't know if there is a precise date marking the occupation. It seems to me it was a series of events.

Q. Anyway, they were made in 1945.

A. Mm-hmmm.

Q. Is the other eighty thousand feet, is that narrated as well?

A. No. It's silent, unedited film.

Q. So it's obvious that the narration was provided after the film was made; is that right?

A. Right.

Q. Are you able to say that the person who narrated the films was there when it was made?

A. I can't say that.

Q. So the narration may very well be the result of somebody else giving their observations; he wasn't even there when it was made.

A. Perhaps, but there are several affidavits accepted by the Military Tribunal [sic] which attest to the veracity of the film.

Q. I noticed that. But what confused me about it is that they were read by somebody, and that seems not to be the person that swore the affidavit. Right?

A. Mm-hmmm.

Q. You are not saying the person who swore the affidavit read the affidavit, are you? {2232|2233}

THE COURT: He read it before he or she signed it?

MR. CHRISTIE: No.

Q. What happens on the film is this, isn't it, Mr. Murphy – that somebody reads this affidavit and swears that, "I, so and so Kellogg, from Hollywood, California, make oath and say", and that's not Mr. Kellogg at all, is it? It is a narrator, because he reads the others, too.

A. Well, I think, perhaps, you know, you have to think of the necessities [sic] of film-making.

Q. I am not blaming anybody, but that is the truth, isn't it? It is the narrator who reads all these affidavits. Right?

A. Yes. That's correct. [sic]

Q. It's also someone who isn't identified at all as the narrator.

A. No. As I recall only the filmmakers are identified.

Q. Yes. All right. Thank you, sir.

THE COURT: Any re-examination?

MR. GRIFFITHS: Just one, Your Honour.

#### RE-EXAMINATION BY MR. GRIFFITHS:

Q. You brought up copies – do you know where those affidavits are?

A. Well, I have copies with me, yes. {2233|2234}

MR. GRIFFITHS: That's all, Your Honour, until tomorrow. [sic]

THE COURT: I have a question, if may.

The dossiers effecting the transfer of the films from military sources to your sources, Mr. Murphy, are those dossiers available to anyone who wants to ask to look at them?

THE WITNESS: Oh, yes. There are no restrictions on them, and copies can be obtained quite easily.

THE COURT: So that do I understand the situation to be that your employer is a government owned agency of the United States of America which has the responsibility of holding and maintaining valuable documents and the like, including films, for the perusal of the general public? Is that correct – and the use of the general public?

THE WITNESS: Yes. Yes, that's correct.

THE COURT: I presume for a fee.

THE WITNESS: Not – well, there are no fees involved if it was just perusal. The fees come in if you want to obtain a copy.

THE COURT: If you want to buy.

THE WITNESS: Yes. You have to pay for a service.

THE COURT: And it's a responsibility of your employer to disseminate and to permit the public at large —

THE WITNESS: Yes. We believe that {2234|2235} this is an inherent right of the American public to have access to their government records.

THE COURT: Fine. Has that been the case – how long have you been there?

THE WITNESS: I've been there about sixteen years.

THE COURT: Over the last sixteen years has that situation that you've described continued to exist?

THE WITNESS: Yes. And even more so with the passage of the Freedom of Information Act which I am sure many of you are aware of.

THE COURT: Yes. We have our own counterpart here. Any questions arising out of mine?

MR. CHRISTIE: No, sir.

MR. GRIFFITHS: No, sir.

THE COURT: Thank you. You can step down, Mr. Murphy.

— The witness stands down.

MR. GRIFFITHS: Just one other matter. My law student had a flash over recess that she recollected from law school that public documents are contained not only in the Canada Evidence Act, but also —

THE COURT: Common law.

MR. GRIFFITHS: Common law. And I intend to do some reading on that and make comments on that in the morning, and I want to say that to you, and also to Mr. Christie sitting here. {2235|2236}

THE COURT: My instincts tell me that ten thirty is an appropriate time for your appearance.

— Whereupon the hearing is adjourned to February 1, 1985, at ten thirty.

#### **FEBRUARY 1, 1985**

— Upon the hearing resuming.

MR. GRIFFITHS: I ask that Mr. Murphy sit at the counsel table so that he can view it and, at the end, advise us if it is the same movie.

It is a black and white film. I don't think it will be necessary to lower the lights. If it is, there is a switch whereby some but not all of the lights can be extinguished.

Subject to Your Honour.

THE COURT: Are you all ready? Go ahead.

— The court views the movie, "Nazi Concentration Camps".

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour. I wonder if a short recess would be in order.

— Short adjournment. {2236|2237}

— Upon resuming.

#### **WILLIAM T. MURPHY, previously sworn (Voir Dire)**

#### **FURTHER EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:**

Q. Mr. Murphy, you have had the opportunity to review the film in the courtroom. Can you tell us what relationship it bears, if any, to the film "Nazi Concentration Camps" in the Archives?

A. This was made from a print of a negative I have in my office, so it was made from the National Archives.

Q. Did you bring documents relating to this film, or photocopies of documents?

A. Yes, I did.

Q. What have you brought with you?

A. I have brought with me the related exhibits that go with the film that were submitted to the IMT at Nuremberg, and they are five of Exhibit A, a certified copy of a statement by Robert Jackson, Exhibit B, an original affidavit by Lieutenant Colonel George Stevens, Exhibit C is Ray Kellogg, Exhibit D, affidavit by Eric Tabeau, and finally Exhibit E, which is a copy of the complete transcript of the narration of the film.

Q. And you brought photocopies of those exhibits?

A. Photocopies, yes.

Q. From the Archives?



A. Yes. {2237|2238}

MR. GRIFFITHS: I'd ask that the documents so described, Your Honour, be the next lettered exhibit.

THE COURT: Exhibit "T".

— EXHIBIT "p" ["T"] (For Identification) Photocopies of Exhibits from National Archives, Washington.

MR. GRIFFITHS: Thank you, Mr. Murphy. I have no further questions, but Mr. Christie may.

MR. CHRISTIE: I have a couple of questions, Mr. Murphy.

FURTHER CROSS-EXAMINATION BY MR. CHRISTIE: (Voir Dire)

Q. Do you know if in the National Archives there have been retained any captured German films of their explanation or description of these camps?

A. There's virtually no film of German origin about the concentration camps.

Q. Are you saying that there never was any, or that there is none in your possession?

A. I have no personal knowledge regarding whether or not there ever was any, but we do not have any in the National Archives.

Q. Are you aware in the National {2238|2239} Archives if any reports or studies were done of the effects of epidemics or treatment of inmates or reports of daily life activities in the camps from German sources?

A. That is not in my particular area of responsibility. I can only surmise that there are those kinds of documents, but I have had no first-hand experience with them.

Q. Do you have records in the National Archives of the Allied bombing raids on Germany and whether any of those relate to the camps?

A. I have no first-hand experience with that kind of documentation. I work primarily in the audio visual area.

Q. It is my understanding, though, that in the area of audio visual records there are films of bombing raids of Germany at the end of the War.

A. Yes, there are.

Q. Have you looked at those to see if they relate to the camps?

A. I have not been able to find any that relate to the camps, but there is a lot of bombing footage that describes the Allied bombing raids over Germany at the end of the War.

Q. I take it that as far as the people whose documents you purport to tender, those of Robert Jackson, George Stevens, Ray Kellogg and one other person, you don't know from any personal knowledge whether those persons exist or where they are. Robert Jackson is dead and George Stevens and Ray Kellogg, I suppose, you don't know who they are or where they are? {2239|2240}

A. Ray Stevens was the famous Hollywood director. I believe he is deceased.

A. Yes. But like other Hollywood directors during World II, they were given commissions in the Army and other services, and they made films for the U.S. Government.

Q. I don't suppose you are aware who wrote the narrative to the film.

A. No, I'm not aware of that.

Q. And you have no personal knowledge of the accuracy of the statements contained in the narrative.

A. I have no personal knowledge, no.

Q. None. Thank you, sir.

THE COURT: Mr. Griffiths.

MR. GRIFFITHS: No. Nothing arising out of that.

Thank you, Mr. Murphy.

— The witness stands down.

MR. GRIFFITHS: I have no other evidence to call, Your Honour, on the application.

THE COURT: Thank you. Do you wish to call any evidence on the voir dire, Mr. Christie?

MR. CHRISTIE: Excuse me a minute, Your Honour, if I may have a second.

Thank you very much, Your Honour. I have no evidence to call in re-

spect to the matter.

THE COURT: All right. Go ahead, Mr. Griffiths.

— {2240|2241}

MR. GRIFFITHS: Your Honour, I mentioned at the very end yesterday afternoon that there would be one additional area of law that I would be arguing for the admissibility of this movie, and that is a common law, which according to s.36 of the Canada Evidence Act continues in full force and effect, and is to be considered in addition to and not replaced by the Canada Evidence Act.

There is an area of the common law, Your Honour, which provides for the admissibility of public documents, and that is a common law exception to the hearsay rule. The leading cases in Canada that have been able to find on the matter are two, and they are both in the same volume of Criminal Cases, Volume 107. The first is *Finestone v. The Queen* at page 97 of that volume, a decision of the Supreme Court of Canada, and it is a per curiam decision, and the second is *R. v. Kaipainen*, a decision of the Ontario Court of Appeal reported at page 377 of Volume 107 of the C.C.C., and it is, again, a judgment delivered by a five-men bench. Judgment is delivered by Mr. Justice Aylesworth and there are no dissenting opinions. {2241|2242}

First, Your Honour, *Finestone v. The Queen* deals with the admissibility of a bill of lading, a document said to have been made in the United States at the Port of New York City, and argument was made that it should be admitted as a business document — I'm sorry, as a public document. The report says, page 94, in the middle of the page, that —

THE COURT: Yes, I have it.

MR. GRIFFITHS: Thank you, sir.

*"The argument made to us somewhat confused the admissibility of an entry made strictly in the course of business and one made pursuant to a public duty. The rule in relation to the latter does not seem ever to have been doubted. As early as 1785 in R. v. Aickles, 1 Leach 390 at p. 392, 168 E.R. 297, it is said: 'The law reposes such a confidence in public officers that it presumes they will discharge their several trusts with accuracy {2242|2243} and fidelity; and therefore whatever acts they do in discharge of their public duty may be given in evidence and shall be taken to be true, under such a degree of caution as the nature and circumstances of each case may appear to require.'"*

That is on page 95, Your Honour.

The Court, in considering the ground for the exception indicates, the first full paragraph on that page:

*"The grounds for this exception to the hearsay rule are the inconvenience of the ordinary modes of proof and the trustworthiness of the entry arising from the duty, and that they apply much more forcefully in the complex governmental functions of today is beyond controversy. They have equal force in the case of an entry made pursuant to a duty under a foreign as well as a domestic law."*

The matter, Your Honour, was further {2243|2244} considered and indicated in the case of *R. v. Kaipainen* at page 377 of Volume 107 C.C.C., and that was a murder case in which the defence sought to have admitted some medical records of the accused from Finland which would tend to support the defence evidence that the accused be given the benefit of a defence of insanity, because they were the only copies available.

There was considerable argument at trial level as to how these reports could be made admissible, and the trial judge admitted them in part. The Court of Appeal indicated that they were not, in fact, admissible at all under the rubric [sic] of public document and went on to say —

THE COURT: Under the principle of what?

MR. GRIFFITHS: Of the common law admissibility of or the hearsay exception of public documents. I will just find a good starting place here, Your Honour.

THE COURT: Yes, I have it now. We are now looking at the appeal.

MR. GRIFFITHS: That's correct, Your Honour. Page 382, the first full paragraph: {2244|2245}

*"The question what are public documents has been considered in at least four decisions of the utmost importance ..."*

and the four decisions are then cited, Your Honour. I won't read them



all out.

"The dictum of Lord Blackburn in *Sturla's* case, explaining his interpretation of the judgment in *Irish Society v. Bishop of Derry*, and the dictum of Lord Goddard, C.J. in *Lilley's* case, delivered in his considered review of both the *Sturla* and *Irish Society* judgments, have received the express approval of the Judicial Committee of the Privy Council in *Ioannou v. Demetriou*, wherein Lord Tucker, in delivering the judgment of their Lordships, laid down the tests which must be met if documents of the nature which fall to be dealt with in this case are to be established as public {2245|2246} documents and if the statements therein are to be accepted as evidence. Dealing with a document of a similar nature termed 'Report and reference of Salim Effendi', Lord Tucker at page 94 said: 'Applying Lord Blackburn's test to the document in question, their Lordships consider that it was not shown by the plaintiffs in the action, either intrinsically from the contents of the document itself or from other evidence, (1) that a judicial or semi-judicial inquiry was ever held by Salim (2) that the inquiry in fact held by Salim was held with the object that his report thereon should be made public; or (3) that the report was in fact at all times open to public inspection or that an inference to this effect should be drawn from the fact that {2246|2247} it was produced in evidence without objection by the Land Registry Authority.'"

That seems to be the test that Lord Blackburn is laying down, Your Honour, and it is approved by the Ontario Court of Appeal in the following paragraph on page 383 where they approved implicitly where they state:

"Merely to state these requirements as to the admission in evidence of a document alleged to be a public document is to demonstrate, on the record before the Court, the complete absence on the motion before the learned trial Judge of any attempt whatsoever to meet anyone of them."

And in indicating that I am suggesting they are implicitly accepting that set of criteria.

The matter, Your Honour, is further considered by the learned authors of the text, "Documentary Evidence in Canada", published by Carswell Legal Publications. It is at page — {2247|2248}

THE COURT: Who is the author?

MR. GRIFFITHS: The author, Your Honour, is Mr. J. Douglas Ewart, in association with Mr. Michael Lomer and Jeff Casey. It is published in 1984, Your Honour.

Chapter 5 of that [ ]work deals with public documents, admissibility at common law. That particular article in the book is written by Mr. Ewart. In his introduction, Your Honour, to that chapter he says at page 149:

"Cross refers to this exception to the hearsay rule as one of the two most important of all of the many inroads which have been made on that basic evidentiary principle.

There is no denying the breadth of this exception, which encompasses such diverse documents as legislative records, military records, government department documents of all kinds, marriage, birth and death records, surveys and maps, vital statistics and certain corporate {2248|2249} records. However, notwithstanding its importance and breadth of application, this exception remains one of the most difficult to elucidate."

On page 150 of that work, Your Honour, the criteria are set out by Mr. Ewart, in his opinion, as follows:

"It was noted above that the common law has, tended to develop numerous categories of public documents, each having its own unique features. Nonetheless, the topic can best be understood if public documents are considered as following into three basic categories. These are:

- (i) entries made in public registers or files by public officials;
- (ii) the results of official investigations or inquiries carried out by public officials;
- (iii) certificates prepared by public officers. {2249|2250}

The analytical framework which results from this tripartite [sic] division is sufficient to explain the admissibility or rejection of almost all documents encompassed by this exception. The first two of these categories

will be jointly discussed in detail in the ensuing sections, while common law certificates ..."

will be dealt with in another manner.

"Whichever of the two major categories is under consideration, certain basic rules can be said to underpin the determination of a document's status as a public document.

These rules, on which the common law doctrines in Canada, England and the United States are in general accord, are:

- (1) The record must have been made by a public official;
- (2) In the discharge of a distinct public function or obligation; {2250|2251}
- (3) With a view to a permanent record being created."

There is a fourth possible criteria, Your Honour, and the law is not clear in Canada as to whether this fourth criteria applies here or not. It does not apply in the United States; it does in England. As in so many things, we fall somewhere in the middle, and our case is going both ways.

The fourth criteria, Your Honour, is the English condition that there be public access to the record as an error deterrent device.

THE COURT: What is the second — what are the second and third criteria?

MR. GRIFFITHS: I'm sorry, Your Honour. First, that the record must have been made by a public official.

THE COURT: I have that.

MR. GRIFFITHS: Second, in the discharge of a distinct public function or obligation, and third, with a view to a permanent record being created. And the fourth is that there be public access to that record.

I would suggest, Your Honour, that {2251|2252} on the evidence of Mr. Murphy and the evidence of the film itself, which the case law I have given to you indicates we can use analysis of its content to see whether it falls within the rules, the record, the film record was made by a public official, an officer in the U.S. Navy — I'm sorry, in the Army, it was in the discharge of a distinct public function or obligation, and in the documents file, Your Honour, it's indicated on the movie as well that this was an order made by the Supreme Allied Commander, General Dwight Eisenhower, that these films were made with a view to a permanent record being created, and we've heard from Mr. Murphy that about half of the film footage in the National Archives, Washington, are from the Second World War, were made by various Armed Forces to keep a record of their activity, and that those form part of the permanent collection of the National Archives.

Finally, Your Honour, that there be public access, and as I said, the cases go both ways. In this case I don't really have to argue that because Mr. Murphy has indicated that there is free public access, free both in the material sense and also in the sense of liberal, to the viewing of these films and {2252|2253} the distribution of these films.

With those four criteria met, I would suggest that there is the protections that [ ] the case law and the commentaries indicate are important protections against errors being made in the production, or in what is being shown in the film; and it goes to support the truthfulness of what is contained in the record.

I would suggest that this record also falls into one of the three basic categories that Mr. Ewart defines. They are the three categories and the criteria that have to be applied in each one of the categories; and the categories, as I read the commentary of Mr. Ewart, Your Honour, are devised by him rather than judicially, but they were, as I've indicated:

- (1) Entries made in public registers or files by public officials; and
- (2) the results of official investigations or inquiries carried out by public officials; and
- (3) certificates — which doesn't affect us here.

I would suggest, Your Honour, that {2253|2254} this falls within the first basic category as an entry made in a file, register, by public officials, that the entry, Your Honour, I will suggest, does not need to be a written entry that consideration has to be made to changing forms of record-keeping, even as our courts have considered changing forms of record-keeping in interpreting the Canada Evidence Act in such a

manner that computer records are included in that, and in this case I would say that the terms of the exception, the common law exception, are broad enough to include a film record.

In fairness, though, I should indicate to Your Honour I know of no law where a film record has been accepted. I also know of no law where no film record has been attempted to be introduced.

There is some law on maps, charts, which simply require the interpretation of individuals, bearing all kinds of data, and of course a great many documents that might also be introduced as business documents would fall under the category of public documents.

I have, Your Honour, photocopies of the chapter in Mr. Ewart's book, and again there is some underlining, but I haven't annotated it, and I'd be {2254|2255} pleased to hand that up to Your Honour.

Unfortunately, I didn't get copies all around, but I do have the one I have been speaking from.

THE COURT: I have made notes. I don't know that I need that right now.

MR. GRIFFITHS: Thank you, Your Honour. I will be happy to give it to Mr. Christie.

So Your Honour, my final basis on which I would be requesting admissibility of this film is as a public document, at least in the law as I understand it as I have advised you, and on the evidence of Mr. Murphy as to the manner of the making of this record and the keeping of this record. And of course, the film itself speaks to a considerable extent of the taking, treatment of the record.

Just one other matter as to the content of the film itself, Your Honour, that is indicated at the very beginning of the film for what reason the generic eighty thousand film was taken. This particular film, "Nazi Concentration Camps", was made to be shown at Nuremberg for the International Military Tribunal.

As Mr. Murphy has indicated, having {2255|2256} seen a large portion of the generic film, this is not the strongest that is available. It is representative. And that, indeed, is what was indicated in the affidavit as well that was filed as an exhibit.

The narration, Your Honour, was indicated in the supporting documents describing what is shown in the film and describes what is being seen in the film. The film was accepted as an exhibit by the International Military Tribunal and shown there, which I would suggest says something about the veracity of the film.

THE COURT: What's the title of the film?

MR. GRIFFITHS: "Nazi Concentration Camps". As to whether or not the film is prejudicial I don't doubt, Your Honour, that the film is prejudicial. So is a confession in a murder case. But I think it's relevant, it's probative, it speaks to the issues that are contained within the pamphlet and should be seen by this jury.

Thank you, Your Honour.

THE COURT: Yes, Mr. Christie.

——— {2256|2257}

MR. CHRISTIE: Your Honour, I agree that a confession in a murder case would be admissible evidence, but usually the confession is attributed to the mouth of the accused, and that, of course, is not the case here, nor is it really the case that it is attributed to anyone whose responsibility is alleged. It comes as a narrative in the preparation for prosecution documents which is ultimately admitted into evidence, apparently.

I have provided my learned friend with the copy of one case that is referred to with approval by the Ontario Court of Appeal in the case he cited, which was the case of *Sturla v. Freccia* in the House of Lords, the Judicial Committee of the Privy Council, and I would like to provide Your Honour with a copy.

THE COURT: Yes.

MR. CHRISTIE: There is one case of which I am aware in which films were attempted to be introduced as documents, and that is the case of *R. vs. McKiller* (1968) 1 O.R. 797, and in that case the films were not accepted.

There is the exception which has been allowed in regard to films where, for example, the charge is assault and the film footage, in a

hockey game, for {2257|2258} instance, the film footage of the actual event —

THE COURT: I am somewhat familiar with the case. I tried it.

MR. CHRISTIE: Pardon me. But I think there is quite a difference there where we are not dealing with something to which the accused has any personal knowledge, nor is there apparently anyone before the court who can be cross-examined on the content of the film.

I would submit that the categories my friend has explained are acceptable to, and accurate descriptions to the Court's dimensions, but I would like to suggest that what they apply to are very minute pieces of evidence in comparison to what he intends to have the principles tended to in this case.

I think with respect it's somewhat like the Courts accepting the admission of certain pieces of evidence the size of a gnat, but we are presented with evidence the size of a camel that we are supposed to accept under the same terms as we were a birth certificate, a death certificate or a certificate of destination of export as in the case of the *Finestone* case in the Supreme Court. That is a document which speaks for itself. It {2258|2259} doesn't contain judgmental or hearsay portions. It is, in effect, a piece of paper which says the designation of the contents of this box are, and the country is specified.

In the Supreme Court of Canada's decision in *Finestone* it says on page 95:

*"The grounds for this exception to the hearsay rule are the inconvenience of the ordinary modes of proof and the trustworthiness [sic] of the entry arising from the duty ..."*

It's my submission that there is, indeed, reason to have doubt about the trustworthiness of the entry arising from the duty when, as in this case, it is not prepared by, I suggest, at least by a public official in the impartial administration of some judicial or quasi judicial function such as the attachment of a stamp, the issuance of birth certificates or some other public duty.

These documents, as my friend quite candidly related, were prepared with the specific objective of prosecution.

Now, I refer to McWilliams where this {2259|2260} subject arises, the second edition of Canadian Criminal Evidence at page 184.. We are dealing with the hearsay rule and the admission of documents at common law. He says halfway down the page:

*"Parliament has recognized that persons who are engaged in an investigation consciously or unconsciously develop an identification with their task and a motive which ranges from a workman like will to solve a problem to a zeal in some cases to do so at all costs."*

*Douglas, J. in Palmer et al, Trustee, v. Hoffman, Administrator 318 U.S., 109, (1943), stated the objections to such reports thus at page 206:*

*"In short, it is manifest that in this case those reports are not for the systematic conduct of the enterprise as a railroad business. Unlike payrolls, accounts receivable, accounts payable, bills of lading and the like, these reports are calculated {2260|2261} for use essentially in the court, not in the business. Their primary utility is in litigating, not in rail-roading."*

The significance of those remarks, suggest, are that if these documents were prepared in a neutral sense, perhaps even hearing both sides and perhaps there's two sides to the statements made in some of these investigations, if that was the case, it could be taken to be somehow a judicial or quasi judicial and trustworthy document in that it is not made with the objective of prosecution, which it is very clear these films were made for.

McWilliams goes on to say:

*"Where the business is that of a police force, its business is inherently investigative and the records kept by it are ultimately, if not inevitably, prepared with a view to a prosecution of a criminal, if, in fact it is concluded there was a crime. The adversarial nature of criminal investigation and prosecution renders it necessary for courts to be vigilant to {2261|2262} protect the right of an accused to a fair trial and to make full answer and defence from the encroachment of trial by records, which would deny or at least impair those rights by dispensing with the*

right to confront and cross-examine.”

Having said that, it is submitted that in many cases defence counsel would be tendentious [sic] to insist on proof of routine matters such as drugs' continuity as, apparently, was done in Clarke.

Now, if it was merely a matter of formality or the continuity of an exhibit or a stamp upon an exhibit, I think it would be tendentious for the defence to object. It would be obviously inherently futile, anyway, but we are not dealing with a formal document, simply testifying to a simple fact; it's a very complex piece of information.

I am sure it's obviously horrible, but I would like to point out that, in the document itself there are many confusing things which, on first sight, do not appear confusing because one is shocked {2262|2263} by the horror of it all, but it appears there is quite a distinction between that the bodies of the dead were emaciated and obviously very sick, and the photographs of the living who do not appear to be approaching the emaciation or sickness of those photographs.

These conflicts we could never explore or inquire into nor, I suppose, would it be seen as even humane or considerate by the jury who would no doubt be shocked by the film, and naturally so.

So in view of the fact that we are not presented with a simple statement of fact that, for example, a death or birth certificate or stamp or something of that nature, we are not able to cross-examine what is, in effect, a prosecution document we are extending the rule that permits the introduction of real evidence, or should I say documentary evidence, far beyond those which are trustworthy documents. They are obviously coloured by the intention of the producer of this film who was indeed preparing it for the purpose of a prosecution.

In that sense it's my submission it doesn't quite conform with the usual character of a public document or prepared by a public official in the sense {2263|2264} that it is generally understood.

To reiterate this proposition, I would like to refer to the cases I handed to Your Honour of *Sturla v. Freccia* where the subject is considered at great length, because in this issue, which no doubt occurred a long time ago, in 1880, the Court having considered whether or not proof of a person's birth could be accepted by a prepared record from a number of people who were interested, to some extent, in promoting the belief that he was born at a time and place and entitled to a portion of an estate, the House of Lords initially, through the judgment of His Lordship The Lord Chancellor, Lord Severn, considered the law of England at that time which permitted the introduction of aspects of formal proof through documents, and he said, at page 632 – I should begin probably at 631, at the bottom of the page where it says:

*“If Your Lordships look through that information you find it concludes by stating that every Genoese who, during the time Mr. Mangini had been consul in London, had occasion to ask for his good offices, {2264|2265} had been received by him with courtesy and hospitality and was very well satisfied with the manner in which Mr. Mangini discharged his duties as consul. The Giunta, therefore, had probably been in communication with some persons who had become acquainted with Mr. Mangini, in the discharge of his duties as consul in London, and there is nothing to shew that all the information received may not have been obtained by some such persons; and, if from them, there is nothing to shew whether those persons obtained the information from Mangini himself, or from others who were acquainted with him and talked about him.”*

Stop here to say that that's the same situation with the film. We have no way of knowing whether the statement of the narrator is acquired from first-hand knowledge or from someone who was there, or from someone who was not there and who formed these opinions, perhaps, on hearsay. It is certainly not clear {2265|2266} that the narrator is a witness to anything particularly.

I noticed there were actually two narrators, one would narrate one affidavit, the other would narrate the second, and they would alternate, and the same with camps.

Reading further on that same page, 632:

*“There is nothing to shew that at that time there were not people living in Genoa who, though not his relations, were more or less acquainted*

*with Mr. Mangini, who might have heard these things from others, and from whom this information might have been obtained. That those persons obtained their information from the members of Mangini's family, or from Mangini himself, is of course quite possible; – it may be so, but that is a mere conjecture, which has no element of reasonable certainty about it. If, therefore, it is necessary that the information received by the Giunta ...”*

and this is the body of the prepared report, within that, {2266|2267}

*“... which is contained in this report should be founded on statements proceeding from Mangini himself, or from some member of the family to which Mangini belonged, to make it admissible in evidence for the purpose for which it was tendered, there is not anything either in the nature of the case, or in the tenor of the report itself, or in any other evidence which has been brought to Your Lordships' knowledge, to lead to that conclusion; and, my Lords, am of opinion that it is necessary, by the law of this country, in order, to make this report receivable in evidence, that it should at least appear to have been founded upon statements made by members of Mangini's family or by Mangini himself.”*

Then he goes on to say: {2267|2268}

*“My Lords, several classes of cases in which evidence, not depending upon the oath of persons who have personal knowledge, is received in matters of pedigree, by the law of this country, have been referred to at your Lordship's Bar. It appears to me that none of these classes of cases has really any tendency to support the Appellants' proposition. Two of them may be laid aside at once – those which consist of declarations made against the interest of the persons making them – and those which relate to entries made in the course of business by persons whose duty it was to make those entries.”*

Neither applies. He goes on at page 633, halfway down the second paragraph, he says:

*“It does not appear that this Giunta di Marina had any legal jurisdiction whatever.”* {2268|2269}

Now, the film was made at the instance of the prosecutor, Robert Jackson. He had, I suppose, a legal right, no question about it, to make the film, but he wasn't authorized by any legal authority to do so in some objective way. He made it, no doubt, with the objective of prosecution which it ultimately was used for.

In that sense I say he made the film, or he authorized its creation, and so did the Commander of the Allied Forces in Europe, with the objective of being part of the prosecution's case.

Reading on:

*“Its members were not in the nature of a Court ...”*

And that's where I say this is true of the film,

*“... not in the nature of persons who, like the heralds, had authority by law, for a public purpose, to make particular inquiries ...”*

And I might add, an objective authority in that case. I am interjecting my own comments in that point. And {2269|2270} I will continue by reading:

*“... whose duty it was, in the exercise of that authority, to proceed upon just proof, and who may be presumably supposed to have discharged that duty properly, and to have taken such proof, and only such proof, as the law of the country required concerning the several matters before them.”*

Well, it's my submission that there is no doubt that this document was prepared with the objective of proving something, but it was prepared by one side to the dispute, and it certainly appears to be loaded with, shall we say, editorial expressions of opinion founded upon obvious hearsay to support the point of view of the prosecution.

No one can know, to this day, whether the statements contained in the narrative are true or false, because it doesn't appear likely that anyone could cross-examine Kellogg or the narrator. I am not sure that Kellogg is the narrator. It doesn't appear from the film that he is. {2270|2271}

So it might even be taken as some indication of the type of evidence received at Nuremberg that this is admitted. And how do you cross-examine a film? I am sure that defence counsel at Nuremberg had the same question posed in their own mind, and I think the answer would

be, probably, if that film goes in, what's the point? With that narrative and those piles of bodies, no judge, no jury in the world is going to even consider it likely to have the right to question what is such a horrible, obvious travesty. There may be explanations, but I am sure after one sees a film like that, one is not going to bother raising them.

I would point out that those words in that case gave it very careful consideration to just what type of documentary evidence one can accept from the general rule that you should be entitled to cross-examine the person presenting evidence. They concluded that where the body creating the document was not a body which had any legal jurisdiction – and by that, I should ask Your Honour to conclude they mean some impartial legal jurisdiction, such that one would hear both sides, giving the certain principles of justice to the process {2271|2272} of preparing a document, or it's a simple statement such as a stamp or something of that kind. They go on to say:

*"... it was not a body which is shewn to have been, or which can be presumed to have been, bound to proceed on any such kind of proof. It appears to me to have been perfectly open to its members to receive any species of information, on hearsay or otherwise, to which they themselves at the moment thought credit could be given; ..."*

I think that is an essentially apt phrase, this situation, because I think, with respect, as I said earlier, it can demonstrate that statements pertaining to the gas chamber allegedly at Dachau, even the authorities in the prison at the time – it's a museum now – put up a public statement that this chamber was never used. They don't say when it originated as a chamber, but they say it was a gas chamber never used.

But for the purposes of my argument, I would like to say that this film is containing regular hearsay which they, the formers of it, themselves, at the {2272|2273} moment, thought credit could be given. And he goes on to say:

*"... and, therefore, I am unable to apply to them any analogy derived from the cases of Courts, Commissioners, or other persons having a special duty or authority under the English law to make particular kinds of inquiries, to whose inquests or recorded proceedings credit is prima facie given."*

In other words, Your Honour, why would prima facie credit be given to the proceedings of Courts and Commissioners and others having a special duty? It's my submission that that is so because they are in a situation of impartiality. They apply certain basic principles of fundamental justice such as the right to hear both sides, the right to cross-examine, or in some instance that would apply certainly to Courts, but that does not appear to have been the case in the film-making enterprise of the Director from Hollywood.

In other parts of the judgment, Lord Hatherley says at page 636:

*"It appears to me, as I said before, that the Giunta was simply a {2273|2274} committee."*

By that they mean the author of the report that is in dispute. Right at the bottom of the page:

*"If the document were admitted you might take a committee of any public body as making statements which you would be entitled to bring in to prove collateral matters which happened to form part of the statement; and if you are to be at liberty to make this statement evidence, you would thereby extend the rule laid down in Doe v. Turford (1) in a most alarming degree."*

What it amounts to, in my submission, is the view that if he were to allow the rule to allow reports made by special committees – and one could classify the prosecutorial body as a simple committee by the Allies in a very highly-charged atmosphere – to provide evidence for the prosecution.

Lord Blackburn, referred to in the judgment my friend produced by His Lordship Mr. Justice Aylesworth, simply reiterated what I suggest the other {2274|2275} learned Lords have said. He, in effect, concurred. I think the concurrence is not distinguishable from the substance of the other remarks of the other Lords. In fact, he says, at page 643:

*"Now, my Lords, taking that decision, the principle upon which it goes is, that it should be a public inquiry, a public document, and made by a public officer."*

And by "public inquiry" I suggest is meant the term earlier defined by other Lords to mean not "prosecutorial" in the sense that my learned friend has very aptly conceded is the case at bar; a public inquiry of an impartial nature is deemed to be so constituted that its results are therefore given *prima facie* credit, whereas with respect, that by the definitions of McWilliams, that is not the case with, for example, a police document or a prosecutorial exhibit.

It does, indeed, cause me great concern that such a document would be admitted, because of course, of the inability to cross-examine the witnesses; but I suggest it creates a far greater devastating [sic] inability to answer to the charge, because – and to a large extent {2275|2276} it is quite irrelevant to the issue of, "Did Six Million Really Die?"

"Did Six Million Really Die?" refers to Jews, because that is the issue. The film, to a large extent, refers to prisoners of war – Polish, Russian, Belgian. It doesn't differentiate in terms of the position of Jews at all.

It would appear that, for that reason, it is quite off the mark of whether six million really died, which is the issue raised by the pieces in question.

It has highly inflammatory, prejudicial effects upon the sensitivities of human beings, and having seen it two or three times, it has less impact on me, but the jury is comprised of peace-loving people who have never seen War.

THE COURT: How do you know?

MR. CHRISTIE: On our land.

THE COURT: How do you know anywhere?

MR. CHRISTIE: Sorry if I made a misstatement. I can't say that they haven't seen a war, but I suspect that most of us have not seen war as close as these films portray. {2276|2277}

THE COURT: It depends on how old one is, doesn't it?

MR. CHRISTIE: I'm sorry, but I am stuck with my unfortunate prejudices, the results of my youth.

It is my submission, however, that most of us have not been confronted with this type of scene.

THE COURT: Your point is that the content of the film is highly inflammatory. I have your point.

MR. CHRISTIE: Yes, sir. The authorities my friend produced, two in number, I think I have dealt with what I suggest distinguishes this application from the application in Finestone.

The Finestone case was the admission of a certificate of designation, I think, a document, simple statement of designation of a piece of exported goods, and I think it is quite significant that it does maintain the simple principles articulated by Lord Blackburn that it must be a public inquiry, a public document made by a public officer, and the other words defined "public" in a sense of inquiry to mean "impartial". {2277|2278} Now, in the Kaipainen case where, I might say, the records were excluded, the Army records of the accused from Finland —

THE COURT: Excluded by the trial judge, or were they excluded totally?

MR. CHRISTIE: They were excluded, to my understanding, in the — maybe I am misunderstanding this case, but I think —

MR. GRIFFITHS: It was the Court of Appeal who excluded them, Your Honour.

MR. CHRISTIE: So I think I was right. The Court of Appeal took the view that I thought the trial judge had also taken that view, may be wrong, but taken the view that the documents should not be admitted.

They do reiterate the point I made earlier in that they apply Lord Blackburn's test, and in one they say that a judicial or semi-judicial inquiry was held. That is one criteria. And number two, that the inquiry [sic] in fact held by Salim was that his report should be made public.

Well, this film is obviously intended for, first of all, for prosecution purposes, [sic] and then {2278|2279} later became used for public purposes, and that the report, in fact, was at all times open for public inspection.

Well, it is not without doubt, I think the significant thing is that this is not the result of any attempt at judicial impartiality or semi judicial impartiality, and that, I think, is the major problem with the exhibit.

I noted throughout the film that the narrator frequently says that it was reported that, in the official report, "This man says this". Numerous things are attributed to causes, intentions. Motives are displayed. Statements are made pertaining to people in camps. No one hears from them. Words are said about them. They do not reply. They do not have an opportunity to reply.

I think that it does tend to indicate the kind of atmosphere that prevailed after the Second World War, quite justifiably. I am not suggesting that the Allies did not have every moral to be horrified, but one might, in response to that, say that one will never know what would have happened to the civilian internees of Canadian or American internment camps if {2279|2280} we were losing a war and could not feed our people. It is hard to say whether we would have fed them before it

our people, or what would have been the conditions of such camps if we had.

So in effect we are saying that, the judgmental aspects of the film, although we are unable to answer them because we are unable to cross-examine the participants, would have a prejudicial effect somewhat beyond the justification of the case at bar.

If it pertained to the issues in "Did Six Million Really Die?", that is, the extermination programme for the Jewish people, it could be, perhaps, justified in terms of its prejudicial effect because the allegation is one of a horrible crime, and it would be justified to show examples of horror; but these horrors are not the crime denied by the booklet. In fact, these horrors, and I know my friend was earlier making a remark about this and I didn't, at that time, reply and I don't want to be too long, but the point I make is that the report of "Did Six Million Really Die?" skims over – and I confess, skims over, obviously, to avoid discussing the horrors that are shown in this film. It says: {2280|2281}

*"That several thousand camp inmates did die in the chaotic months of the war brings us to the discussion of the wartime conditions."*

The remarks about conditions prior to the end of the War are not denied by these films. I think it could be attributed without some justification from the film itself that the deterioration in the final days of the War – in fact, I remember the film said they hadn't been fed in six days. Certainly people in a weakened condition die more readily when they aren't fed, and at the end of the War conditions in Germany may not have been the same as they were throughout the War.

So I think the book does not dispute these films in any way, and if they did, maybe it will be justified to introduce them to rebut some statement to the effect that conditions were wonderful at the end of the War. It said they were not wonderful at the end of the War. He doesn't go into detail about them at the end of the War, but it does say that prior to the end of the war conditions were not that bad.

Now, I suggest it does deal extensively {2281|2282} with typhus; it does attribute to the deaths in the camps that cause, and I don't think that the film necessarily disproves or proves that either, so I don't see how that is relevant to the charge.

What I do say about it, Your Honour, is that it really does extend the law pertaining to documentary evidence to an extent, I am sure, unforeseen in any case of which my friend, with his diligent efforts could find an example.

I think my friend is quite accurate in his perception that, if such a film as this could be shown, it would be highly effective in conveying to the jury an impression of horror, but I would respectfully suggest that, although that is certainly his duty as Crown counsel, which he is fulfilling, I must object, because it really is quite irrelevant to the issue in the book, and its effective prejudicial nature far outweighs any probative value it has in relation to the book.

My friend reiterated that, he cross referred to exceptions to hearsay rules of documentary evidence and he enumerated them, the usual ones – military record, marriage, death and birth certificates, corporate records, which surely are a category far less loaded with {2282|2283} value judgments and far less in the nature of editorial comment than the film in question.

Another question which I endeavoured to find an answer to which is not

really answered very clearly from what I can read, although the document in the Kaikiainen case – sorry, in the Finestone case was an American document, the Court I don't think is clear in saying that if a document is kept by a foreign country as public access that it necessarily implies that it's accessible to Canadian citizens as a public document, and that issue is one that I don't know can be resolved with any authority, because it doesn't seem to have arisen.

In conclusion, let me say that it certainly appears that my friend is confronted with a very difficult case, with a very great body of evidence involved, greater than, I suppose, has ever been the duty of any Crown counsel that I am aware of in a trial before, but to merely adapt the rules intended for admission of otherwise uncontested evidence to the introduction of highly prejudicial, large parts of irrefutable evidence – and by "irrefutable" I mean incapable of being answered by cross-examination or otherwise, and I think, too, what might [sic] be regarded as {2283|2284} another aspect of an ancient document such that we couldn't call the people involved, we could not test the accuracy even if we wished to call those people because we can never see them identified – no one is identified except, I guess, for Commandant Kramer who we see escorted out of the camp, I think that's about the only person, and I think that he is most certainly dead.

Your Honour, I am going to ask that the extraordinary nature of this application, justified as it is by necessity on the part of the Crown, does not justify in a legal sense the extension of rules not intended for the admission of such evidence.

Thank you, sir.

THE COURT: Thank you.

Any reply from Crown?

MR. GRIFFITHS: Yes, Your Honour.

MR. GRIFFITHS: My friend asks cogently, how can you cross-examine a movie? I guess the same way you cross-examine a document, Your Honour. It is an exception to the hearsay rule, which means that {2284|2285} cross-examination is not possible, but as a movie I would suggest that, and as a potential judicial exhibit, I would suggest that significant lengths were taken to ensure that the document, in this case the movie, was accurate.

My friend really seems to be objecting to the narration rather than to the photography itself. While this movie titled, "Nazi Concentration Camps", was as I understand it prepared for [the prosecution at Nuremberg, at the time that the film footage was taken, there was a war on. They weren't trying criminals. There was a war on, and the eighty thousand feet referred to of thirty-five millimeter film from which this film was made, edited down, had been made pursuant to orders of Allied Command – public duty.

This film contains footage in-keeping with that eighty thousand feet, and indeed, not even the strongest portions and what stronger argument could there be, Your Honour, than that nobody was intentionally trying to make this film as prejudicial as possible? There is far more prejudicial material in the eighty thousand feet.

Included in the affidavit, Your Honour, {2285|2286} at the beginning of the film, and copies of which I have filed with the Court by way of document, in the affidavit of George Stevens, the fourth paragraph indicates, "The accompanying narration is a true statement of the facts and circumstances under which these pictures were made."

Those were military personnel, Your Honour, the people who made this film, and I am sure it would have been available, if required, to testify I at Nuremberg. I don't know that they were required.

So I would respectfully submit, Your Honour, that there was certainly judicial or quasi judicial purpose for this which, rather than detracting from its veracity, lends to its veracity, and that it is most certainly a film footage and a narration taken pursuant to a public duty by public officers.

In the forty years since this film has been taken, ample opportunity has been provided given the wide distribution of this film, for those people who disagree with its contents or feel that it is inaccurate to come forward, have the matter looked into, and the film modified, and that's the

other part {2286|2287} of the proceedings of making public documents public.

That has not happened, to my knowledge, so I would respectfully submit it does, indeed, come within the hearsay exception to public documents.

THE COURT: Thank you, gentlemen.

— Luncheon adjournment.

(Page 2288 follows) {2287|2288}

#### REASONS FOR RULING

THE COURT: In the absence of the jury I am required to rule on the admissibility of a film. The film is entitled, "Nazi Concentration Camps". It was recorded in 1945 by personnel of the American Armed Forces who, as part of the Allied Armies, advanced into German-controlled and occupied countries of Europe, including Germany itself.

The film depicts or purports to depict conditions of Nazi concentration camps as each was liberated by the advancing American and British Forces during the course of that War. The original film, according to the evidence of an archivist, is in its original form in the National Archives of Washington in the District of Columbia in the United States of America. The length of the original footage is eighty thousand feet. Six thousand of that eighty thousand feet now composes the film. It has been marked here as a lettered exhibit for identification.

I have viewed that six thousand feet of footage on the film titled, "Nazi Concentration Camps". Crown counsel submits that the film should be part of the Crown's case along with the sound track. Dubbed in, the voice of the commentator, in the English language, is identifying certain places and things in the film itself.

The Crown's case against the accused is contained in two counts pursuant to s.177 of the Criminal {2288|2289} Code. One of those counts alleges that the accused published Exhibit 1, a booklet entitled, "Did Six Million Really Die?". The Crown's request that this film be admitted is to constitute evidence, if it is admitted, in response to certain portions of Exhibit No 1, the booklet in question. On page numbers 24 and 25 of Exhibit 1 there are several headings and a photograph. The first heading is entitled, "Humane Conditions". The second heading is entitled, "Unavoidable Chaos". Then there is depicted a photograph of what appears to me to be a number of inmates of a concentration camp all with round, healthy-looking, smiling faces waving at the lens of the camera. Underneath the photograph are the words, "Healthy and cheerful inmates released from Dachau". The purport, essentially speaking, of the words and paragraphs under each of the headings I have mentioned is very definitely to the effect that the S.S. in Germany during the Second World War punished its own for unnecessary brutality to civilian prisoners in concentration camps, that the alleged inhumane conditions in the camp are gross exaggerations, that the camp itself was clean, and that the inmates thereof were kept in a reasonably healthy state, both physically and, as I read it, from an emotional or mental point of view. {2289|2290}

Having viewed the film, "Nazi Concentration Camps", it is clear to me, at least, that if the film is admitted by my order in this trial as an exhibit, that exhibit showing the state of inmates in these camps as depicted would provide the jury with a good deal of evidence which, if believed, would permit the jury to certainly come to an opposite conclusion than the conclusion that is stated on the pages of Exhibit 1 that I have just described.

Crown counsel submits the film is admissible as an exception to the hearsay rule under three authorities. The first is s.30 (1) of the Canada Evidence Act. The second is s.25 of the same Act, the third is under the common law as a public document. For reasons that I will include in this ruling, I rely on the third authority, namely, the common law authority, the submission being that the film constitutes a public document. It is unnecessary that I make a ruling with respect to the admissibility or non-admissibility of the film pursuant to the other two authorities, namely s.30 (1) and s.25 of the Canada Evidence Act.

William T. Murphy testified as a Crown witness on this voir dire. He

testified that over the past dozen or more years he has been employed as a Records Officer {2290|2291} with the audio-video section of the National Archives located at Washington, D.C. in the United States. He testified that under American legislation the National Archives is an institution designed to preserve valuable records of national interest to that country. Probably over forty to fifty per cent of the motion picture section, over which Mr. Murphy presides as an officer of that institution, consists of unedited film records of World War II. The film in question, which is now an exhibit, "Nazi Concentration Camps", he testified, was "shot" by the Signal Corps of the United States Army during the course of World War II as the camps were liberated. The film itself is kept in the archives permanently, and has been kept, according to the evidence of Mr. Murphy, since it was deposited there, as I recall his evidence, from about the year 1946.

Copies of that film are made available by the archives to the members of the public domaine generally speaking, provided they are over the age of sixteen years. The public not only has access to the film itself through copies made by the archives or a division thereof, but also as the public always had, in a similar manner, access to the dossiers or the records confirming or tending to confirm {2291|2292} the authenticity, the fidelity and the continuity of the individual record – in this case the film itself. The National Archives sell copies of the film and, in that sense they have a distributor function to the public. He gave the set prices when films are sold to the public. He said each film, including the one in question, was fully documented. Insofar as its origin and the mechanics of the transfer of the property itself into the archives, the records in that regard, he said, are important because they show the transition from one department of government to another.

In cross-examination he stated that he had watched nine or ten hours of the eighty thousand total feet shot. In the absence of the jury, he viewed this six-thousand-foot segment during the course of this trial. The film in question is sixteen millimeters. He swore that it covers the same subject matter that was described by the Army Pictorial Centre. There are certain omissions, certain concentration camps not included – I believe Mr. Christie mentioned Auschwitz, Treblinka, Sobibor and Belzec.

The narration is adequately dubbed in. Mr. Murphy was not able to say that the narrator was present when the film was made initially. He swore that the orders {2292|2293} for the making of the film emanated from the Supreme Allied Command Headquarters under General Eisenhower. The films are unaltered from their originals, although portions of the originals only are taken and sold, as I have indicated. Mr. Murphy then proceeded to identify the affiants who made the certificates in affidavit, now Exhibit "T", to the film, James Donovan, Commander, United States Naval Research; he identified the accompanying documentation of George C. Stevens who, in paragraph 4 of the affidavit, appears to have sworn that, "The accompanying narration is a true statement of the facts and circumstances under which these pictures were made". Lieutenant [sic] Kellogg of the United States Navy, in another affidavit marked Exhibit "C" to the proceeding to which it was then relevant, includes in his affidavit that, "These excerpts comprise six thousand feet of film selected from eighty thousand feet, all of which I have reviewed and all of which is similar in character to these excerpts". Attached to the same document as Exhibit "D" is affidavit sworn the 21st of December, 1945, by Eric T. Tabeau. It says in part, "I am the director of Army Pictorial Division Office, the Chief Signal Officer, Theatre Service Forces European Theatre". The photograph of German {2293|2294} concentration camps under Lieutenant Colonel George C. Stevens, Army, of the United States, as described in his affidavit sworn on the 2nd of October, 1945, was a military operation order by Supreme Headquarters Allied Expeditionary Forces on or about the 1st of March, 1945.

Mr. Griffiths, for the Crown, submits that this film, under the heading of, "Exception to the Common Law Rule against Hearsay", is properly admissible because it constitutes a record made by a public official. That public official made the record in question due to a distinct obligation to create it. The obligation was the order of an official superior

officer of a sovereign nation. It was designed to be a permanent record, to be created and maintained as such, and according to a British case precedent, and perhaps to some Canadian case precedents, the public has had access to that film for the past approximate forty years of time. Mr. Griffiths was frank in his submission to the Court that he knows of no law where such a film has been introduced.

Mr. Christie for the defence takes the position that the film ought not to be shown to the jury. He made it clear that the film's contents were inflammatory. The film should not be accepted because no cross-examination upon it is possible. It contains judgmental and hearsay portions within its confines. It is untrustworthy because {2294|2295} it was not prepared by a person being solely objective in the exercise of a public duty to create the film. It does not conform to a document prepared by a public official in the ordinary course of his duties on a totally objective basis, as it should. The statements of the narrator on the film are obscure in their origins. There is no evidence that the narrator was present when the film was recorded. In essence, the element of impartiality is missing and to admit it would extend the law on this subject. Whether the film's contents are essentially irrelevant to the contents of the exhibit the film purports to rebut is not, in law, a record.

Mr. Christie then further made the observation that the film's contents are so inflammatory that this jury, unaccustomed as it is to seeing horrible sights, would be unduly influenced by it. With that submission I totally disagree for obvious reasons.

Section 36 of the Canada Evidence Act reads as follows:

*"This part shall be deemed to be an addition to and not in derogation of any powers of proving documents given by any existing Act, or existing law."*

Public documents in common law are {2295|2296} admitted as an exception to the hearsay rule. They relate to documents made by a public official in the discharge of a public function with a view to making a permanent record, and to which the public has had access. In the case of Finestone v. The Queen (1953) 107 C.C.C. 93, the Supreme Court of Canada recognized this exception to the hearsay rule. The Court noted that this exception is often confused with the business record exception. However, here the existence of a public duty is what makes the entry trustworthy.

The question as to what constitutes a public document was considered by the House of Lords in the 1880 case submitted by the defence of Sturla v. Freccia (1880) 5 Appeal Reports 623. In that case one group of claimants, who had to prove their connection to a certain gentleman, introduced a report made by a government body seventy-five years before that. The report was an investigation into the person in question and included the date of his birth, which the claimants thought to rely upon. The House of Lords concluded that the document was inadmissible because the public did not have the right to see the report. In 1952 the Privy Council adopted the above decision and stressed the dual requirement that documents should be available for public inspection and brought {2296|2297} about for that purpose. The Ontario Court of Appeal in the case of R. v. Kaipiainen (1953) 107 C.C.C. 377 considered the admissibility of certain reports which included a medical diagnosis relating to the mental condition of the accused in various hospitals in Finland while the accused was a member of the Finnish Army. The trial Judge admitted the documents on the basis that they were public documents without a thorough [sic] examination of the issues. On Appeal, the Ontario Court of Appeal adopted the English authorities and set out the tests that should have been considered by the trial Judge as follows:

- (1) There was a duty to inquire and report on the matters in question;
- (2) that an inquiry was held;
- (3) that an object of the inquiry was that a report should be made public; and
- (4) that the report at all times was open to the public.

Finestone was decided by the Supreme Court of Canada in the same year as Kaipiainen.

In my respectful view, once a document is found to be a public record in common law, the maker of {2297|2298} the document need not be

brought to testify as to the genuineness [sic] of the document. The person introducing the document must simply show that the record came from the proper custody and emanated from a proper, legal environment to make it admissible.

Mr. Murphy, in this case, was that person. It would appear that all of the requirements for admissibility in the film had been complied with as a matter of law. It is therefore going to be admitted. In making this ruling I disagree with Mr. Griffiths that films have not been admitted into Courts before. Albeit for a different purpose, there is a case of R. v. David Williams, once known as "Tiger Williams". A film in three speeds was admitted on consent. The speeds of the film were the normal speed, high speed and half speed. Adjudication was made upon that and other evidence, as I say, with capable counsel for both sides present. That film was admitted by a Judge of this Court at the Crown's request and, as I recall, without objection from either side. This film will be admitted. {2298|2299}

THE COURT: The film will be the next exhibit.

— EXHIBIT NO. 32: Movie, "Nazi Concentration Camps"

— The jury enters. 3:00 p.m.

THE COURT: Members of the jury, thank you for your patience. I can assure you that while you have been kept waiting, we have been quite busy. What is going to occur now, as you can see, a film is going to be exhibited. The title of the film you will see. First of all, can every member of the jury see the screen on my right? You are all nodding your head. I do not see anyone that shakes his or her head. If there is any difficulty with seeing everything on it, please indicate, and I will make other arrangements so that you can see it.

Go ahead.

MR. GRIFFITHS: Just one thing, Your Honour. Because the film is a numbered exhibit, I wonder if Mr. Murphy can be released, or does Mr. Christie {2299|2300} require his presence further?

MR. CHRISTIE: I thought it would be possible to cross-examine on some of the points in the film from Mr. Murphy. I thought that was part of my right.

THE COURT: There is your answer.

MR. GRIFFITHS: Thank you, Your Honour. In that case, Your Honour, I would call Mr. Murphy at this point to introduce his role in this.

THE COURT: Go ahead.

**WILLIAM T. MURPHY, sworn.**

**EXAMINATION-IN-CHIEF BY MR. GRIFFITHS:**

Q. Mr. Murphy, I understand you are from Washington, D.C.

A. Yes.

Q. And where are you employed in Washington?

A. I am employed at the National Archives.

Q. All right. And what is your job title at the National Archives?

A. I am the Chief of the Motion Picture {2300|2301} Sound and Video Branch in the National Archives.

Q. And can you tell the jury what it is that the National Archives does?

A. The National Archives is a federal agency, and its primary mission is to preserve and make available the permanently valuable records of the United States Government.

Q. And are you familiar with a film by the name of "Nazi Concentration Camps"?

A. Yes, I am.

Q. And what can you tell us about that film?

A. This film has been in the National Archives for a long time. I believe the first copy came in in 1946, and then another copy was accessioned in 1957 or '57. It is an exhibit film that was made for the International Military Tribunal at Nuremberg, and it was given an exhibit number and submitted before the International Military Tribunal.

We have the edited film, which is six reels and thirty-five millimeters, and approximately eighty reels of thirty-five millimeter, unedited material from which this film was made.

Q. And can you tell us if the public has any access to seeing these films?



A. As a public document in the National Archives, without any restrictions, it is available for study purpose in our research room. Also copies may be purchased for a fee.

THE COURT: Is this available to the public? {2301|2302}

THE WITNESS: Yes.

THE COURT: Thank you.

Q. MR. GRIFFITHS: And in what format is it available to the public, this film we have here, "Nazi Concentration Camps"?

A. That film is available in, well, in sixteen millimeter or thirty-five millimeter, and also in various formats of video tape.

Q. All right. And do you have any knowledge as to how widely this is distributed?

A. I don't have any firm statistics, I but I am told that quite a number of copies have been sold over the last few years.

Q. Can you tell us what source the majority of your film at the archives comes from?

A. The overwhelming majority come from other agencies of the United States Government. They were films that were produced in the course of the official business of these federal agencies, civilian or military.

Q. Other than the eighty thousand feet of film from which the edited version we have here is made, is there any other war film in the archives?

A. Yes. There is a very substantial quantity of war-related motion picture documentation in the National Archives produced by the various arms of the United States Military establishment, and quite a large percentage of our holdings relate to World War II. Of course, we have a large collection on World War I, in addition.

Q. And do you, sir, have any personal {2302|2303} knowledge of matters of wartime Germany from 1940 to '45?

A. I have no personal knowledge. I have read books and seen some other films, but I have no personal knowledge.

Q. All right. And the film that we are about to see, have you viewed it?

A. Yes.

Q. And can you tell us whether or not it is a copy of what you have in the archives?

A. Yes. It's an exact copy of what we have in the archives.

Q. And have you seen the raw footage, if I can call it that, the eighty thousand feet of film from which the movie was made?

A. I have not seen all of that. I have seen a good portion of it.

Q. And can you tell us whether or not, from your viewing of the eighty thousand feet, the edited movie is in keeping with that eighty thousand feet?

A. I think the edited film is characteristic of the raw material.

Q. Is there anything that was stronger in the raw material —

MR. CHRISTIE: That's a leading question. I don't think it should be asked.

THE COURT: Do you want to rephrase it?

MR. GRIFFITHS: Thank you, Your Honour. Well, I will leave it, Your Honour.

Mr. Murphy, I have no further questions, subject to Mr. Christie.

——— {2303|2304}

THE COURT: Mr. Christie?

MR. CHRISTIE: Thank you.

#### CROSS-EXAMINATION BY MR. CHRISTIE:

Q. Mr. Murphy, do you know if this film accurately depicts the whole of the circumstances in the camps that it shows?

A. Based upon my education and readings, personal readings —

Q. I'd like to know from your personal knowledge, sir.

A. I have no personal knowledge of the subject.

Q. Do you know if the film we are about to see has been made in the narrative form by someone who viewed the scene?

A. I don't know if that's the case.

Q. So we understand that the narrator could have been provided a script after the film was made.

A. That is very typical of other productions.

Q. Other Hollywood productions.

A. Any kind of documentary productions, usually a professional narrator reads the script.

Q. Yes. And this was produced by a Hollywood director; is that right?

A. I think that the —

Q. By the name of Stevens?

A. George Stevens did not produce the {2304|2305} edited film. He supervised the unedited material.

Q. Well, this is part of the unedited material, and it is the part that George Stevens produced, isn't it?

A. I can't agree. I am not sure what role he had, if any, in producing the edited film itself. I know from the records that he supervised the photography of the liberation of the camps.

Q. Well, now, let's get this straight. The eighty thousand feet is the unedited version.

A. Right.

Q. Some of which you have seen.

A. Mm-hmmm.

Q. And that was produced by a Hollywood producer by the name of George Stevens. Correct?

A. Yes. Except I am not sure I agree with the use of the word "produced".

Q. Well, what do you mean by the word "produced" in a film?

A. He supervised the footage of the shootings.

Q. That is what I call production. Isn't that what you call production?

A. Not exactly.

Q. What is supervising the shooting of the film? Isn't that directing where the camera will focus and what will be seen and how it will be cut? Isn't that production?

A. I expect it meant that the officers who are in charge of the combat camera unit reported directly to George Stevens and took their orders from him. {2305|2306}

Q. Yes. As to what to film.

A. Mm-hmmm.

Q. Yes. Thank you. So it is correct that George Stevens, a Hollywood producer, produced the eighty thousand feet in the sense you have described as to the directing and how it would be going.

A. Yes, in the sense I have described.

Q. Then in the sense you have described, he also directed the six thousand feet of thirty-five millimeter film that we are about to see, did he not?

A. I think the records suggest that the two naval officers co-directed the film, Commander Kellogg — Lieutenant Kellogg and Commander Donovan.

Q. Are you sure there was even such a person as Lieutenant Kellogg?

A. I have to assume that such persons existed.

Q. Well, I put it to you that the supervision of the shooting of the entire eighty thousand feet from which this is an extract was under the direction of George Stevens, the Hollywood producer. Do you deny that?

A. I don't know. I don't know the answer.

Q. Well, you do know that he supervised the filming of the eighty thousand feet. Right?

A. Yes.

Q. He directed what should be included, what should be filmed and what should not be filmed. Correct? {2306|2307}

A. Presumably.

Q. Well, isn't that what you produced from the documents that accompanied this film? Isn't that the sworn evidence that accompanies this film?

A. Yes.

Q. Thank you. Is it true that you store newsreel in the National Archives in the same way you store this film?

A. More or less.

Q. What difference do you do for a newsreel film of that time?

A. They are stored pretty much in the same way. They are given climate controls and they are stored in secure vaults and they also are made available to the public for research and duplication.

Q. Do you know if this film was made with an objective viewpoint of



explaining the cause of any diseases?

A. I don't know.

Q. Do you know if this film was made with an objective to explain conditions or merely to describe the German Government in the worst possible light as this was made during the War?

A. I don't know the answer.

Q. Was this made during the War itself?

A. It was made during the closing days of the War, yes.

Q. And was this film, in fact, made with the objective of showing it to the German people to convince them of the evils of their government? {2307|2308}

A. No. Not —

Q. Isn't that part of the film itself that you, yourself, have seen?

A. The U.S. Military made another film to show the German people, which is called, "Death Mills", or "Tod[e]smühle[n]" in German, which is a different name from this.

Q. This film was produced by the same director as that, wasn't it?

A. I don't know the answer.

Q. Do you know if, on this film, the German officials who were responsible for the camps were given an opportunity to explain the circumstances?

A. I don't know.

Q. Have you seen the film?

A. "The Death Mills"?

Q. This film.

A. Oh, yes, this film.

Q. Is it true that the German officials responsible for camps were given an opportunity in this film to explain the circumstances and their cause?

A. They are not given an opportunity in the film, but I think that occurred later at the Nuremberg trials.

Q. Do you? You are an expert on that, are you?

A. No.

THE COURT: Oh, now, come on, Mr. Christie. He is not an expert on that, and you know it. Get on with the next question.

MR. CHRISTIE: Sir, I object to that {2308|2309} remark. I didn't think I was totally out of order.

THE COURT: You were totally out of order. You asked the question, you asked for an answer and you got an answer and you didn't like it.

MR. CHRISTIE: I didn't say that I didn't like the answer.

THE COURT: It is perfectly obvious from your tone that you didn't like it.

Get on with it, please.

MR. CHRISTIE: Sir, I would appreciate it if I would be permitted to ask that question and get an answer.

THE COURT: You are not. Now, if you want, you may appeal it. Now, what is your next question?

Q. MR. CHRISTIE: From your viewing of the eighty thousand feet of film can you say that they were a selection representative of the condition of the camps as they existed at that time?

A. I, from the literature that I am familiar with, I would have to say yes.

Q. And you are familiar with the literature that you have accomplished through your activities as an archivist in the United States Army.

A. Archivists are not historians, but from my own personal interest in the subject I have concluded that the footage is fairly accurate and represents the conditions that existed at that time.

Q. Oh, so are you saying that there were no healthy people in those camps, from your knowledge?

A. I really can't answer that. I {2309|2310} don't have enough knowledge of the subject to say that.

Q. You are familiar with the type of films and newsreels made at that time because you keep a lot of them and have viewed them. Is that right?

A. Yes.

Q. Isn't it the case that the newsreels and the films at the time were highly and emotionally charged?

A. Yes, they are.

Q. With the objective of depicting the German people and the German government in the worst possible light: is that correct?

A. I agree with the first part of your statement. I am not sure what the objectives were.

Q. Thank you.

THE COURT: Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

#### RE-EXAMINATION BY MR. GRIFFITHS:

Q. Are you, not knowing what newsreels you have seen, but are you able to compare the newsreels you referred to to Mr. Christie to this movie?

A. Well, newsreels by nature are very short. Most of the theatrical newsreels that one used to see in the United States, at least, were only seven or eight minutes long and they usually preceded the feature film that was going to be shown. And so, by the limits of their {2310|2311} form, they could only cover a subject very, very briefly and only touch upon the most superficial aspects of whatever it was they were describing or reporting on.

Q. Thank you very much, Mr. Murphy. have no further questions.

THE COURT: Is there any objection to this witness departing back to Washington, Mr. Christie?

MR. CHRISTIE: No, sir, I have no objection to the witness leaving for Washington.

THE COURT: Mr Griffiths?

MR. GRIFFITHS: None at all.

— The witness retires.

MR. GRIFFITHS: Your Honour, with that I would show the film.

— The Court and jury are shown movie, "Nazi Concentration Camps".

MR. GRIFFITHS: That's the case for the Crown, Your Honour.

THE COURT: Members of the jury, you have now heard the case for the Crown. This case is far from over. Please keep an open mind. Please do not come to any conclusions with respect to the guilt or non-{2311|2312}guilt of this accused until the whole of this case is over — and when I say that I mean until such time as you have heard all of the evidence that you are going to hear, and until such time as counsel for both sides have delivered their closing addresses and I have delivered my charge. Please totally ignore whatever you may read or happen to see on any forms of the media. Have a good weekend.

— The jury retires. 4:18 p.m.

MR. CHRISTIE: Excuse me, Your Honour, something has arisen that I would like to ask you about.

This exhibit, I've noticed, seems to be different from the transcript of the IMT version. I may be wrong, but —

THE COURT: This film?

MR. CHRISTIE: Yes. I'd like to check that point and I would like your permission to have the opportunity to see this now. I don't think it has to be in open court, but I think I should be entitled to do this. It comes in the Buchenwald portion, after the {2312|2313} words, "All bodies are finally reduced to bone ash", and there is quite a different version from then on it and there is something wrong with this and I would like to be able to see it.

I don't think that the Board of Jewish Education will mind if I use their projector.

MR. GRIFFITHS: No. The film is theirs.

MR. CHRISTIE: Oh, the film is theirs. I see. The film belongs —

THE COURT: It is open to the public. If you want to buy one, I am told.

MR. CHRISTIE: I thought it came from the National Archives.

MR. GRIFFITHS: I made it quite clear in questioning Mr. Murphy that the film was here obviously before Mr. Murphy was here. He saw the film, watched it.

THE COURT: I am unconcerned about that. It is now an exhibit in the court. Defence counsel is entitled to see the film.

MR. CHRISTIE: That is what I wanted.

THE COURT: No problem. There is no proprietary [sic] interest in an exhibit. You are an officer {2313|2314} of the Court and entitled to see it.

— Whereupon the hearing is adjourned to February 4, 1985.

(Volume XI Follows) {2314|2315}

## VOLUME XI

### FEBRUARY 4, 1985

— Upon the hearing resuming.

MR. CHRISTIE: Your Honour, I ask to speak to you in the absence of the jury about two matters arising from the film.

First of all I want to put on record that I originally was under the perhaps misapprehension that the film was originating from the National Archives or a copy of it. That was my understanding, but I gather that it didn't come from that source; but the more substantive thing which I am concerned about is that I was under the impression that the witness swore in the affidavit which is provided that the film as it existed was a true copy of what is revealed in the transcript.

Now, I have checked that transcript, Your Honour. That transcript conforms to the Exhibit 2430PT of the International Military Tribunal found in Volume 30 at page 459 and following, but I found — I was reading along with the transcript of the narrative and I got to the point of dealing with the Buchenwald camp where it said, "All bodies were reduced to bone ash", and then I was reading on and reading on and I was very surprised to find that large parts of the film as re-{2315|2316}vealed in the transcript and as sworn to in the exhibit before you that is the lettered exhibit which is the transcript of the film, identical to the 1945 version, large parts of that film are missing, and I couldn't believe my ears. I thought that I had fallen asleep and missed something.

Then, when the jury left, I asked my friend to replay the part which I had found missing, and sure enough, it is missing.

Now, further analysis revealed that it had been cut out of the portion revealing the text of Buchenwald and spliced into the portion revealing the portion pertaining to Nordhausen. So it's been rearranged in that respect and is, in fact, not a true copy either of the exhibit that is before you which was sworn [sic] to by Mr. Murphy as being the transcription and true copy of the transcription of the film of 1945, nor is it a true copy of what was revealed in the International Military Tribunal.

In other words, anyone who swore that film to be a true copy of the original has to be either mistaken or lying.

Now, had I known that at the time, I {2316|2317} would have objected to the introduction [sic] of the film, because it is not the document that it purports to be. In fact, it's quite a re-arranged document, if it's a document, and Your Honour has ruled it is a document; but unfortunately we weren't provided the opportunity to see this film beforehand, and I have found out that several of the copies being distributed by the National Archives are not true copies; they are as untrue a copy as the one that's introduced here, but I find it difficult to believe that Mr. Murphy was not aware of that fact, but in any event, when he went through and saw the film and read the transcripts, he would have seen exactly what I saw, and it doesn't involve a minor part of the film, it involves the following narrative which Your Honour will probably recognize having seen the film. It follows after the words: —

THE COURT: What page are you on?

MR. CHRISTIE: I don't know what page it is of that. It is open on that page, Your Honour.

"All bodies were finally reduced to bone ash." Then it goes, "Twelve hundred civilians walk

to ..... That is part of the film all right, but it {2317|2318} is in another part of the film. That is, apparently the original has been cut and that portion from there to the word, "malaria", which is approximately ten minutes of film, have been extracted from that portion of the film and placed, I believe, in the area of the Nordhausen camp.

In other words, the film has been substantially altered from its original form. I think there other alterations, too. It's just that it's obvious that the document is not a true copy of what was presented in 1945, and I suppose, having the jury having seen it, all I can do now is simply put on record what I have to say.

I was almost tempted to stand up when this was occurring and interrupt the film, but I thought better of it because I wasn't sure I had missed something. I couldn't understand what was going on at the time, but you can see there's eight paragraphs of narrative, and approximately ten minutes of film is not in the place that it was in 1945; it's in another place, re-arranged in the film.

I think there are other errors, too, but I haven't researched them enough to prove the point. {2318|2319} I was hoping we could show that part of the film, and I could demonstrate what I mean from the film itself, but I see the film is here but the projector is not, and at times I may need to refer to that film, and I think in view of the fact that it was shown by the Crown, that it should be available for me to show so that other witnesses may comment on it. I have the intention of calling people who were present at the time that the film was made, and so I want to be able to have them comment on what it says there.

THE COURT: Well, is there any indication that the projector and the film won't be here for your use?

MR. CHRISTIE: Well, it's not here. I have no control over it. I guess I could get a projector that was supposed to be part of the proceedings that I could refer to when and if I need to.

THE COURT: Subject to what I hear from Mr. Griffiths, what I expect to hear will not disturb the present thoughts, you will not have any trouble at all. The projector will be here and the film will be here.

MR. CHRISTIE: Well, I think it {2319|2320} should be here, and that's all I have to say about it.

Now, I just want to indicate those matters on the record. The other thing I have to do, which is brief, is simply to indicate at the outset that I wanted to have commission evidence, and I think Your Honour we can go through it very quickly. I want commission evidence of Mr. Fried who testified at the preliminary hearing.

THE COURT: Mr. Who? [sic]

MR. CHRISTIE: Mr. Fried. John Fried. It proves, his evidence proves the position of the defence in that he was one of the advisors to the judges at Nuremberg, and it's my — it would be my argument that he was obviously very biased. He makes comments about some of the judges, calls them anti-semitic at one point, and it was just my hope that under the rights I have, even at trial, to obtain commission evidence.

You see, we were not told until very shortly before the trial that John Fried would not be coming. My friend explained at the beginning why he was not calling him. My submission is that we have a right to rely on him, because he was a substantive witness about the Nuremberg matters in the booklet. That {2320|2321} was transferred to Dr. Hilberg, and we wanted the right to have the evidence of John Fried on the point that here was someone who has very strong feelings and was an advisor to the judges at Nuremberg in some respect, and we wanted the right to demonstrate to the jury that those who were involved in the prosecution and those who advised the judiciary were very close together and were, in fact, very strongly opposed to the views that would otherwise be regarded as impartiality.

He was obviously very committed to the Jewish cause, very concerned about the Jewish people, himself being Jewish, and he was an advisor to the judges. So we wanted to demonstrate that to the jury in the trial. We are not allowed to because he is in New York, unavailable for comment.

Now, under s.637 (a) and 637 (b), witnesses outside of Canada — I am simply making the application, Your Honour can then dispose of it. It is just my submission that it is very unfair that a witness who was available to testify at the preliminary beneficiary to the defence is made unavailable at the trial by virtue of both circumstances, and either unwillingness or unavailability of the Crown's capacity to call him as a {2321|2322} witness.

Section 637 deals with the power to appoint a Commissioner. So that's what I have to say, Your Honour. The other thing I was going to mention briefly is the matter of Sabina Citron, but it is not the end of the trial yet and we can deal with that later.

THE COURT: Yes. Mr. Griffiths.

MR. GRIFFITHS: Yes, Your Honour. First of all, Your Honour, the projectionist that was here last Friday reviewed the film. There's no splicing or changes in this film as it was received from the National Archives, and I think Mr. Christie made that point in that he's seen other copies from the National Archives identical to the one that was shown here in court.

Really, Your Honour would – Mr. Murphy testified to that the written documents, the affidavits and the transcription of the narration were as received from Nuremberg and filed, and he took a copy of those to bring up to court with us and they are filed as a lettered exhibit here. He also testified that the movie that is in court that we saw on Friday is a true {2322|2323} copy of the original that's being held at the Archives.

It may be that between the transcription and narration and the showing of the movie at Nuremberg the movie was changed around, and the narration – I remember I was typing up the narration and made some mistakes, I don't know, but I do know that the evidence here is that this was the public document that was on display, and it's in the vault at Washington, D.C. at the National Archives, but there is nothing to indicate – well, I don't know if I want to go back that far, but I would say that there is no one here who can say what film was shown at Nuremberg, and we have to take the inference from the evidence of Mr. Murphy.

A projector, of course, will be made available, Your Honour, and I have already spoken –

THE COURT: I assumed that.

MR. GRIFFITHS: I have spoken to Sergeant Williams. I can't guarantee to have a projector standing by.

THE COURT: Well, you and Mr. Christie can liaison when required. I assume you will co-operate, as always.

MR. GRIFFITHS: As to the application {2323|2324} of my friend under s.637, first of all Dr. Fried was called as an expert witness at the preliminary hearing. He is a gentleman who is in his eighties and does live out of the country. He lives in New York. I advised my friend, I think shortly before Christmas or immediately after Christmas, I can't remember which, that Dr. Fried would not be called by the prosecution and that I intended to adduce his evidence as to the conduct of the Nuremberg trials through Dr. Hilberg, one of the reasons for that being, Your Honour, that part of the discussion of the pamphlet deals with the conduct at the International Military Tribunal when Dr. Fried was not present at the International Military Tribunal. He was involved in the American Military Tribunal and didn't go over to Nuremberg until after the trial, and the judgment, the sentences had been handed down at the International Military Tribunal.

I would suggest, Your Honour, that while it is certainly open to my friend, he has indicated from my recollection the very first day that he will be bringing this application, it's open to him to bring it in the course of the jury trial, but it is not evidence that is of the type, if Your Honour should interrupt the

(Page 2326 follows) {2324|2326} trial, to have a Commissioner appointed and attend in New York to take the evidence.

That is all I will say about that, Your Honour. He is not somebody who is an eye witness to an event or circumstances of the death of the six million Jews. He is somebody who, to my understanding, has proffered [sic] some advice and was hired by the judges at the American Military Tribunal.

His background is in public law. I can speak further on that if Your Honour requires, but that will be my essential submission. And I think that the case cited in Martin's, R. v. Bulleyment, 46 C.C.C. (2d) 429, a decision of the Ontario Court of Appeal, considers the circumstances under which a jury trial should be interrupted for the taking of Commission evidence, and the brief note in Martin's of that case indicates that:

*"In deciding whether to grant the application, the trial judge is entitled to consider such factors as to whether the trial will be seriously disrupted, the possible prejudice to the opposite party {2326|2327} resulting therefrom, as well as the consequences that the trier of fact will not have the advantage of observing the demeanour of the witness."*

And finally, Your Honour, I indicated to Mr. Christie with respect to Dr. Fried and, indeed, any of the other witnesses that testified at the preliminary inquiry that I am not calling, that I was prepared to provide him with such phone numbers, addresses that I have to assist him in contacting those witnesses and making arrangements, his own arrangements for them to appear, and I've had no such requests.

——— {2327|2328}

#### REASONS FOR RULING

THE COURT: In the absence of the jury Mr. Christie, counsel for the accused, has made two observations concerning this trial. Both of the observations pertain to the subject of evidence yet to be called, or evidence which has been called.

Mr. Christie has taken objection to what he refers to as a discrepancy involved in the narration of the film, "Nazi Concentration Camps" which was shown to the jury last Friday. He states that in his view there is a portion taken from the original raw footage of eighty thousand feet missing from the film that was placed into evidence before the jury last Friday.

In place of that missing part there appears, in Mr. Christie's view, to be a spliced edition concerning another prison camp which was not in the original. Mr. Christie makes it clear that he makes this observation for the purposes of placing his objection to the film on the record, and apparently nothing further.

I have not had any request for any relief with respect to this matter at the present time except that Mr. Christie wishes to be assured that when {2328|2329} he calls evidence in this regard during the course, presumably, of the defence, there will be a projector available, and the film itself, which is now an exhibit.

Crown counsel has clearly stated that a projector will be available and, naturally, the exhibit itself will be available.

Not having received any request for any relief other than what I have set out, subject to being corrected by Mr. Christie when I finish speaking, I intend to take no further action at this time with respect to his observation.

Mr. Christie's second observation or request is that he wishes an order of the Court pursuant to s.637 of the Criminal Code to order the taking of Commission evidence from a witness who resides, I am told, in the United States in the State of New York. That witness is Dr. John Fried. Dr. Fried testified, I am told, at the preliminary hearing of this matter. He was an advisor, apparently, to certain judges at Nuremberg. He is a person whose evidence is requested and required by the defence in order to show that the Nuremberg Trials were improperly conducted. What I gathered from Mr. {2329|2330} Christie was that the judges were biased at the Nuremberg trials.

Crown counsel stated that he informed the defence in this case that Dr. Fried, a man in his eighties, would not be called as a witness. Any evidence that was to be given by Dr. Fried could be given and was given by Dr. Hilberg who did testify here.

Crown counsel states that he made it known to the defence that he would provide the defence with Dr. Fried's address, phone number and the like so that that proposed witness could be called to testify by the defence. No such request was ever made of the Crown in this regard.

Defence has known since last December that Dr. Fried would not be called. Defence made it clear that it would be bringing this motion for this type of evidence to be taken on Commission. Mr. Christie has indicated that I might dispose of this motion of his now.

I do not propose to do that unless Mr. Christie assures me that he is unable to call any witnesses on behalf of the defence if, indeed, he intends to lead evidence by way of defence in this trial. I do {2330|2331} not believe that to be the case, but I stand to be corrected. I wish to read the appropriate case law in this regard. I presume that

the motion is a serious motion. If it is a serious motion, it is going to be treated in a serious manner by the Bench.

I will want full argument, precise argument to be put to me so that I can be assisted in making a proper judicial decision with respect to whether or not the evidence is relevant to an issue, whether it is properly receivable in its essentials, and whether or not, under all of the circumstances, including decided case precedents, the order should or should not be made.

I have no intention, at the moment, of making any imprecise order at this particular time.

THE COURT: Mr. Christie, I will hear from you later on that. Are you prepared to call a defence now?

MR. CHRISTIE: Yes.

THE COURT: I presumed that you are. Then at the appropriate time let me know sometime in {2331|2332} advance so that I can say to the jury not to come in for a certain period of time. That is the only decent way to treat juries.

I will read Bulleyment and a few other cases between now and the time you bring that motion.

MR. CHRISTIE: I think, Your Honour, in view of what you have said, I should provide some cases in support of my view which I have available, although I don't happen to have them with me at the moment.

THE COURT: We will just adjourn that for further argument.

MR. CHRISTIE: I was then going to, as the Crown closed its case, make an opening statement to the jury in which I outline the position of the defence on the case as a whole, the case of the Crown and what we propose to provide by way of answer.

THE COURT: It seems to me that certainly, if you wish, you can make an opening statement. I don't think the opening statement should go any further than what the Crown is permitted to do. I would think you'd be permitted to outline what your {2332|2333} defence is, if you wish, and to let the jury know in advance what you hope to prove. In the same way that the Crown is not entitled to give evidence to the jury in its opening statement, the same applies to you. You are not entitled to give evidence, either, to the jury. However, if you wish to give a statement about what you hope to prove, then certainly it is admissible, unless I hear from Mr. Griffiths to the contrary.

MR. CHRISTIE: Well, Your Honour, I don't know that there's any clear delineation in law for what it can be used in an opening statement, but I intend only to demonstrate or indicate our position with the usual traditional warning that nothing I say constitutes evidence. All I am saying is the position of the defence and what we hope to prove and what we say our position is.

I wanted, because it is a rather involved case and it is considerably longer than most, I wanted to explain to the jury what our position is in answer to the case and what we understand the case to be.

Now, I didn't want to do this in such a way that it caused offence to the usual fair play that prevails, and yet I recognize that it may involve more than what most opening statements involved. {2333|2334}

THE COURT: If it is going to become an opening statement which really is a disguised second address by counsel for the defence, then of course that is objectionable. It all depends on how far you want to take it. If you will take it beyond a certain point, you will incur judicial censure.

MR. CHRISTIE: Well, I don't want to take it to that point.

THE COURT: I don't want you to, either.

MR. CHRISTIE: I don't want to take it to the point where that is necessary, and I'd like to find out, somehow, just where Your Honour would like me to draw the line. I mean, you can understand how I would rather not cause Your Honour to have to interrupt me. And yet it's an unusual case where a lot more may be said than usually would be said, and I know exactly what Your Honour has said about the matter, and I can see how that might be the appearance of the thing.

THE COURT: In order to decide that issue I'd have to hear what you are going to say first in the absence of the jury, and I have no intention of doing that. I would have to think with your experience {2334|2335}

and with your obvious ability and knowledge, you having had the opportunity to assess me over the last three weeks or four weeks, or whatever it is, that you would be able to successfully blend moderation with getting your point across.

MR. CHRISTIE: I'll do my best, Your Honour. I wanted to be fair and to explain what I was going to do, and I think I will make my most conscientious [sic] effort at restricting myself to what is appropriate. I may be wrong, and I am sure I will be corrected.

THE COURT: Thank you. Bring in the jury.

Mr. Griffiths, do you have any comment on that last exchange at all?

MR. GRIFFITHS: No, Your Honour.

— The jury enters. 10:35 a.m.

THE COURT: Go ahead, Mr. Christie.

— {2335|2336}

### **OPENING ADDRESS TO THE JURY BY MR. CHRISTIE**

MR. CHRISTIE: Ladies and gentlemen of the jury, there are two occasions in the course of the trial where I have an opportunity to speak to you person to person. This occasion is the occasion of the opening of the defence. On this occasion it's my right to outline to you the position of the defence.

I must explain, at the beginning, that everything I say in this portion, well, in fact, throughout the trial when I speak to you person to person, is not evidence. It is my hope to prove the propositions that I am about to explain as the position of the defence.

Now, at a later stage, after the defence is over, then I get an opportunity to address you, then the Crown addresses you, then His Honour addresses you on the law. So at this stage my duty is to explain to you what is the position of the defence in brief, and what is the defence, and in saying this, anything I say about the facts or the evidence is not to be taken as proven or a fact, or it's not anything other than, perhaps, my presentation of the defence. That's what it is.

Now, in order to do this, I have to make certain statements about the case as it has proceeded so far, and only to the extent that I am trying to explain what the defence position is in regard to the whole case. Now, may {2336|2337} I say that we are dealing with two publications, to start with. This is the first, and it seems to be the most controversial. This is Exhibit 1 in these proceedings. It is called, "Did Six Million Really Die?" And I'd like to emphasize the question mark.

The position of the defence on this booklet is this, that it isn't, as the Crown has presented it, a debate over what happened in the Western camps. It directs its concern to what occurred in the Eastern camps. Now, I don't think I could explain the position of the defence better than by reference to the map on page 17, because this is the core of the question presented by this booklet. When it says, "Did Six Million Really Die?", the position of the defence is, did six million Jewish people really die. It's not a debate about the War, not a debate about who was right or wrong. This booklet, the position of the defence is not that Jewish people didn't suffer, Jewish people weren't important. It doesn't say that at all. It doesn't say Jewish people didn't die. It doesn't say all those things. The question raised by the publication of the accused is, did six million Jews really die.

Now, the position of the defence is that {2337|2338} what really is the core of the question is the question of the gas chamber, because on page 17, the Western camps, what are sometimes referred to as the German camps or the abkreit (ph), as it was referred to in the evidence, in the west were called concentration camps – not that any of them were justified, we are not here to say whether they were justified or not; but the extermination camps are considered a different category by not just this book, but by other authorities.

The position of the defence is that there is a historical consensus [sic] pertaining to this issue that indicates that those of Auschwitz-Birkenau, Chelmno, Stutthoff – although Dr. Hilberg questioned that – Treblinka, Sobibor, Maidanek are concentration camps. Why are they? It is the issue of gas chambers, the specific issue of gas chambers for the specific crime of genocide. That's the issue. "Did Six Million Really Die?" means, when you capsulize what this book has to say, is, is there proof

for the specific crime of genocide and the specific weapon of gas chambers, and that is why the position of the defence, as you saw, was that it was traumatic, that it was horrible; the booklet, its position is that those circumstances existed at the end of the war, and I will be referring {2338|2339} to the booklet where, at the end of the war, due to the breakdown of the German economy, the German government and all the provisions that existed previously – now we will be calling witnesses to prove those Western camps were not extermination camps in the deliberate sense; they resulted in massive extermination of people, but the issue is whether there was a plan to exterminate six million Jews, or whatever the numbers – that is not really the issue, not the issue at all. The issue is whether the extermination through gassing is proved.

Now, the Western camps that you saw in the film certainly did not account for six million people. That's the position of the defence, whatever their condition in the west, and that can be dealt with and will be dealt with by the defence, but that is not the issue. We will be presenting evidence to show that there is great reasons to doubt, that ought to be discussed, that genocide allegation, and the gas chamber specifically, because without the gas chamber it will be the contention of the defence, there is no plan of genocide. The gas chamber, the defence will contend, is founded upon certain pillars of information in evidence – you've heard a lot about them – Gerstein, Hoess, – “Commandant of Auschwitz” – {2339|2340} the rest of the evidence comes from the IMT Nuremberg, and from Dr. Vrba. So the defence position is, you have heard the origin of the extermination or genocide crime allegation. The position of the booklet by Harwood – and I point out not by the accused but by Harwood – is that those extermination claims are false. The position of the accused is that he honestly believes that, has a right to believe it, has a right to discuss it, has a right to question it, has a right to publish what he believes to be true from the point of view of this booklet. And in fact, you will find at the very beginning the position of the defence is very clearly articulated in what is over the signature of Ernst Zundel, which I don't know if you had an opportunity to read, but you will have a chance and we will go over this. Ernst Zundel's position is that we ought to be free to discuss this question. That was his position and it will be his position, and he will be testifying here that after extensive research both into this book itself and to all the references in it which, page by page, we will produce or endeavour to produce, the booklet appears to have substantive basis in fact. And furthermore, he will introduce, through himself and other witnesses, substantial verification of the positions even {2340|2341} from outside the book. Now, this is an unorthodox view, but we are not dealing with religion here but the right of belief or disbelief, the right to question, the right to publish questions, the right to take a position that other people might not take, controversial positions. So what is at stake here is far more than the book, far more than Mr. Zundel's own views. The position of the defence is that the basis of the importance of this case rests on the issue of how much do we actually rate freedom of opinion in this country. So it becomes a far more important issue than myself or this Court or Mr. Zundel. It becomes an issue fundamental to all people who will live in this country hereafter. Many of us will not take controversial views in life, but the position of the defence is that the right to take controversial views is at stake here.

Now, the defence intends to introduce evidence of what is described in the literature as a gas chamber. We want to go to the heart of the question, and we will introduce experts who have studied this at great length. We will endeavour to show you where Mr. Zundel got his beliefs that this is true that everyone says is false so far. You have heard what they had to say and why they {2341|2342} had to say it. When you've heard the position of the defence, you will then know why he holds these beliefs, and then you can assess whether he honestly holds them. We intend to lead evidence as to the dubious nature of all the evidence about gas chambers – that is, in this case, the evidence of Vrba, the evidence of Urstein, the evidence of Lederer, and the peripheral [sic] evidence of Friedman and Phillips. We intend to lead evidence as to the chemical nature of Zyklon B. We intend to lead evidence to prove that Zyklon B is lighter than air, which means it rises to

the top of any room, and we will ask you to consider that in relation to Urstein's evidence about people screaming to get up to the top. We intend to lead evidence as to the internal conditions, the plans and the surroundings of Krema II. We intend to lead evidence of the state of the roof of the mortuary on the plan where Vrba says he saw a man climb up. We intend to prove the physical conditions are totally contrary to that from photographs taken at the scene by witnesses we intend to call, and we intend to also prove that the chemical properties of Zyklon B leave effects on anything they touch in the nature of concrete, porcelain [sic]. We intend to show what those effects are, and we also intend to show that {2342|2343} those effects do not exist inside Krema I or Krema II, which is a profound piece of evidence we will ask you to consider. Through all of this calling of evidence we will be asking, if the physical effects are not there, we will ask you to draw certain inferences. We intend to produce evidence to demonstrate how the specific recollections of the witnesses, Urstein and Vrba, are inaccurate or impossible. Their generalizations, we will be putting to you, in another way, are equally dubious.

The significance of this case is probably not yet fully realized by many, but it is, my my [sic] submission, our right to introduce this evidence, and we intend to introduce evidence of the varying accounts of so-called witnesses to analyze their possibility and thereby to demonstrate to you the justification for doubt. We intend also to lead evidence as to the origin of the statements and the internal consistency of the statements at the International Military Tribunal. We intend to introduce evidence of torture. We intend to introduce evidence of the condition of the men at those trials. We intend to introduce evidence also of the results of their interrogations to analyze, with the text and documents expert, someone who analyzes the internal consistency of documents, what {2343|2344} their meaning really is.

As I said in the beginning, this booklet, the controversial one – I think they are both controversial, but this seems to be the centre of the Crown's attack – is not to say that Jews didn't suffer and Jews didn't die and that there wasn't concentration camps and that there wasn't the things that existed in Dachau and Bergen-Belsen;

that is not denied by this book at all. This book is intending, and it is the position of the defence, to direct your attention to the Eastern camps where the issue is, did six million really die. That is the population of Quebec, for example.

I made a few little notes that I would be able to follow through with certain things that I wanted to say. I wanted also to say certain general things that I haven't already said. The film you say is disputed as to the narrative. Some of the things on that film will be disputed by the defence as to the narrative. There were a lot of statements in the film, narrative that is attributed, in a way, and we will call evidence to show it is not quite the way it was, especially in regard to Belsen. We will also draw your attention to the fact that very little reference is made there to Jews at all in the film. It is {2344|2345} obvious that the suffering that existed there was not directed against the Jewish people specifically.

So the position of the defence will be that Mr. Zundel is a man who holds views – you may not agree with his views, but we will be calling him to prove that he has made a diligent, honest search for the last twenty-five years to seek answers to questions that trouble him, questions that he conscientiously [sic] examined, that he thoroughly searched, not just in the ordinary sources, that we can all watch television, but he searched for eye witnesses, he searched for direct knowledge, he searched for truth and he concludes, after all his research, this is the truth. He will give evidence that he sought this information to vindicate people that he loved – his own people. He has a deep love for the German nation. He is a member of it, and he's travelled the world, he will tell you, to try and find out if what they say about his people is true. Naturally, he has a bias. We all have a bias, and the defence will introduce evidence to show that his position is reasonably founded and he has, therefore, a right to believe it in a free society. He will give evidence as to where he has gone, what he has sought, what he has found, how he has found it, and what he's done with {2345|2346} what he found. With this intention my client has contacted

people all over the world and discovered there are others like him who are troubled by the same question and have done research to find an answer.

In the course of this trial two terms will be used by the defendant and defence case. One term, I will suggest to you, has a meaning. It's called revisionist. After the I [First] World War, it will be alleged, revisionists started to say that some of the stories in the I [First] World War were not true. We will be calling evidence about who those people were. They are accepted historians. One is Harry Barnes in the United States – fairly well known. After the II [Second] World War no such enterprise was undertaken. It was much more emotionally charged, largely due to the six million allegation, but if the position of the defence is taken, it can be categorized as revisionist, which is to doubt, to question and disbelieve the six million allegation in much the same way that people disbelieve the Belgian baby stories after the I [First] World War which were then publicly denied by the British.

The other side of this controversy will be that it is the defence position that it is a reasonable controversy to allow this kind of discussion in the world. The other side of the position is the exterminationist view. It will be referred to by our witnesses. It is the view Dr. Hilberg represents which, he said, we don't ask what happened. He asks how and not why. Well, these people, these revisionists, the defence contends, have a right to ask how it happened and did it happen. That is their position. So they have been called heretics at a different time, but we suggest they are called revisionists. They are confronted by a position. We are saying this is the truth, and that our position is that Mr. Zundel ought to be able to publish it. To the contrary, the position of the Crown is that it is lies, and that he ought not to be allowed to publish it. Well, he is here. Our very first position of the defence is we ought not to be here. We ought not to be in this Court debating history. That's the first position of the defence. We are here not by choice. We are not here because we like to interest you or we are not here because we want to debate history in Court. We would rather not be here. The position of the defence is that this is a debate that should be taking place in a free market of ideas where there is peace and the public can decide, and nobody has the ultimate stamp of approval from anybody, that history is not carved in {2347|2348} stone, and that this man and others ought to be free to debate. We say, our first position is, we ought not to be in this case or in this Court for four to six weeks or whatever we are here for, but we are here, and the defence will fight for what it believes to be true. That is the basic position. And these heretics or revisionists will take the position they have honestly believed founded on reasons, and a right to believe them. I would like to ask that you consider the position of the defence this way, because this is what the defence takes as a position, that it's an emotional issue, but we ought to detach emotion from the decision as to what actually happened. When we try to find out facts we set aside emotion, that the film and all its emotions doesn't prove or disprove anything about the book. That's the position of the defence on that aspect of the case.

It will be the position of the defence that, although this process has never happened before, that historical views have been the subject of a judicial inquiry such as this, that this is therefore a historical trial, not so much about liars or lies as about freedom of speech, freedom to research, freedom to think, freedom to communicate and freedom to disbelieve. The defence, in its position, is {2348|2349} not here merely to assert the freedom of right to err, but it is here for the reasonable basis of these disbeliefs in an arena where history ought not to be debated. We are obliged to prove the validity of a historical point of view. This is our position.

The defence proposes to prove the truth of the book's thesis. We are not going to prove that it is all true by page by page, boring, methodical analysis, which we would rather not do but we will do if necessary, but we are here to prove that the book's thesis is that six million did not die, because the gas chambers are a myth. That is the thesis of the book, and that is the position the defence takes, by reference to its own sources, as I said, and by reference to other sources as well.

We will also endeavour to call, and all of this is subject to the caveat

that none of this is evidence, this is nothing more than a stated intention of the defence as to what it intends to prove, what position it intends to take, this is all I am telling you now, and all of it is subject to the admissibility of evidence which His Honour will rule upon from time to time as things come up, but the defence intends also to call people who read the book to indicate what effect it had upon them, and that {2349|2350} will be our position on the book, that it ought not to be subject to judicial sanctions. It ought to be available for people to think about them, and that it ought to be tested not in a court, but in the free market of ideas where everyone has an opportunity to answer with all types of argument and evidence. And I would conclude by saying that the position of the defence is that there is more at stake here than probably has been at stake in any other trial probably in Canada's history. That's why the defence takes as much time as it does with the witnesses. That is why the defence intends to take as much time as we unfortunately are obliged to do. The defence is not going to abandon its beliefs and perceived truth, nor does it intend to abandon its right to believe without the greatest possible fight. And my client takes the position that his reputation is that of an honest man, that he is a man honestly communicating his ideas for a number of years, and much as the media may have said contrarywise, you will assess him for yourselves, you will hear him for yourselves, and it is my belief and hopeful opinion that you will consider the evidence in Court as His Honour said. We are not to view the decisions and promulgations of the media as law or fact, and I am sure you are well aware of those opinions. {2350|2351} It is almost as if we have to pretend they don't exist. We live in an artificial world that way.

The position of the defence is that we'd like to ask you to look at the evidence impartially, and look at it from the point of view of what is going on here, not what you will hear about it, which I suggest has happened so much, but what can you do. That is what we are trying to do, is to deal with the case in Court. We will endeavour to freely express the opinions of those who have assisted Mr. Zundel in his research. Now, that may be a problem. We will see about that. His Honour will decide. But the position of the defence is that whether or not these opinions of other people whether experts or not is really irrelevant to whether Mr. Zundel had an honest belief or not, and that you should be able to hear those opinions and decide if his belief was reasonably founded – whether you consider him expert or not, we all get beliefs from other people's information. So does Mr. Zundel have the right to do that.

The position that we take is contrary to a great weight of prejudice. I am going to have to impose upon your patience so far. It's been onerous upon us all. We take the position on the part of the defendant that it's {2351|2352} a matter of freedom, and it's a matter of truth, and I regret, as a representative of the accused, that we have to put this burden on your shoulders, because by no means is it pleasant, and by no means is it easy, but all the defence can do, and intends to do, is demonstrate that he has a right, reasonably believes and does believe what he published to be the truth.

THE COURT: Just a moment. Members of the jury, would you excuse us, please?

— The jury retires. 11:05 a.m.

THE COURT: Now, Mr. Christie, I marked down the time. The law states that the Crown is entitled to give a short indication to the jury of what it intends to prove.

In thirty years I have never heard Crown counsel in any case exceed ten minutes. You have been talking for twenty-five, and you are now making a speech to the jury which is an undisguised second address.

You will cease and desist doing that. You have made your position clear. You have done it without interference from me. You were warned before {2352|2353} this started. You have ignored the warning. You will please wind up your address and cease giving a second address to the jury before you have called a defence. Are there any questions? Do you have any questions?

MR. CHRISTIE: No, I have no questions.

THE COURT: Bring back the jury, please.

— The jury returns. 11:08 a.m.

THE COURT: Go ahead, Mr. Christie.

MR. CHRISTIE: I would like to call my first witness, Dr. Robert Faurisson.

**ROBERT FAURISSON, affirmed**

EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. How old are you, sir?

A. Fifty-six.

Q. And what is your academic background, sir, please?

A. I am a professor in France in a university called Lyons II. Lyons I is a scientific {2353|2354} university. Lyons II and Lyons III are law, literature, sociology, etcetera.

Q. I see. And what is your academic background in relation to the specific subject of texts and documents?

A. My speciality is what we call text and document criticism, but at the beginning it was not that. At the beginning my speciality was Greek, Latin and French literature. Then, from 1973, what we call text and document criticism, and I think that, perhaps, I must explain what it means.

Q. Yes.

A. Everybody, I think, knows what is a text. A document is anything from which a meaning can be provided. It could be a photo; it could be an article of a newspaper; it could be a stone, if you do any archeological research. So it could be about literary text or historical text. It is a method which is rather spartan, I mean dry, difficult. I am going to try to give you some example.

In France, the method of teaching, for example, French literature is to make the people express their feelings about texts which are supposed to be literary. Some are supposed to be poetical, some others are supposed to be novels, some others are supposed to be historical.

We would say, we must consider all those texts as texts only, and instead of trying to express feelings or comments, we must be very careful about the text.

Since few weeks that I have been {2354|2355} there, I have noticed that many times it was said, to understand the text you must be very careful about the context. I agree. But I think that something is more important than the context. It is the text itself, word by word. We don't stay enough on the text, if this text has 128 words, this is the principle of our work.

Q. All right. So you have studied, you are qualified as a professor in this speciality; is that right?

A. That's right. And also two specialities, French, modern literature, and this one.

Q. As a result of your specialization in texts and document analysis did you become interested in the problem of the gas chamber?

A. It was certainly not as a specialist of text and document criticism that I got interested in this matter.

Q. When did you get interested in this matter?

A. In 1960.

Q. And why did you become interested?

A. Because of what a very distinguished professor

MR. GRIFFITHS: Excuse me, Dr. Faurisson. I think we should have the Doctor finish his qualifications before he gives us his opinion.

MR. CHRISTIE: I was trying to do so, but my object is to have Dr. Faurisson qualified as an expert in the matter of the Holocaust in the same way {2355|2356} that Dr. Hilberg was, so I will go point by point.

Q. When did you begin to study the gas chamber question?

A. I begin in 1960.

Q. And what did you do to study the question?

A. First of all I read what we could call classic books about the question.

Q. How do you mean, classical because some people think Greek and Latin?

A. So at that time Raul Hilberg had not yet published his book.

THE COURT: I'm sorry, I missed that. Could you – who published his

book?

THE WITNESS: Raul Hilberg had not yet published his book.

Q. MR. CHRISTIE: So who were you studying at the time?

A. Reitlinger, "The Final Solution", on one side, and on the other side Rassinier, Paul Rassinier.

Q. And you say on the other side. Who was Paul Rassinier?

A. Paul Rassinier, born in 1908, was a resistant.

Q. What does that mean?

A. A man who fought against the Germans during the War, very courageously. He didn't wait for the end of the War. He fought in 1933, was arrested by the Germans, very badly treated, sent to a concentration camp, Buchenwald and Dachau, stayed nine-{2356|2357}teen months, came back very ill.

Q. What did he write and what did you study?

A. I read, first of all, a book called, "Le Passage de la Ligne". It was a story of his time in concentration camp, and this book provoked, in France, some emotion because Rassinier was nearly the first to say that, in those camps, at least, the inmates had very few relations with the S.S., and that they suffered very much from the kind of self-government by the inmates that the Germans had installed.

Q. Yes.

A. That was his first book.

Q. And you studied that in 1960. Did he write more that you studied?

A. But should I say, please, why I was suddenly interested in 1960?

Q. Go ahead.

THE COURT: Well, perhaps you should ask him the general idea so that we can assess this gentleman's qualifications. He can be asked on that. He's read one book, and I would like to hear more.

Q. MR. CHRISTIE: His Honour would like to hear all you studied, and then find out whether you are an expert. Just what you studied, not what was in it. Now, you said Reitlinger and Rassinier.

A. That was in the beginning.

Q. What else did Rassinier write that you studied?

A. He wrote many books.

Q. Name them. We have to get to the {2357|2358} books.

A. "Ulysses is Lie". Must I explain the title?

Q. Perhaps if you want to explain what the book was about.

A. It was about the experiments of the camps. Rassinier was very surprised to see that people who had suffered as much as he had suffered himself seemed to invent some other conditions, and he called that the complex of Ulysses.

We know that Ulysses new hundreds of sufferings, but when he came back he told thousands of sufferings, which is normal, because when we suffer, we have few words to express our suffering, and often we are continued to invent some of them.

Q. So you studied Ulysses?

A. Yes.

Q. What else?

A. "Ulysses Trahi", treated as traitor by the same people as himself. Paul Rassinier took many witnesses' reports and showed that there was a question about the gas chamber.

Q. All right. Now, any other works of Rassinier that you can recall?

A. Yes.

Q. That you've studied.

A. Mm-hmmm. "The Eichmann Trial".

Q. He wrote a book on the Eichmann trial?

A. Yes.

Q. Yes. {2358|2359}

A. A book also called, "The Drama of European Jews".

Q. Yes. You studied that as well?

A. Yes.

Q. Okay. Did he write more on the subject?

A. Yes. Another book about Gerstein. The title is a bit difficult to translate in English.

Q. All right. So those were how many books, Dr. Faurisson?

A. He wrote five books about what we call the Holocaust question, and some other books.



- Q. What studies did you conduct of those books? You read them?  
 A. I read those books, yes.  
 Q. What else did you do? Did you check the material in them?  
 A. Yes, but I must say that I read before many books which were not on the side of Rassinier.  
 Q. Such as – please name them.  
 A. Yes. So I went into the forty-two volumes of the Nuremberg transcripts and documents.  
 Q. Yes.  
 A. I even checked sometimes the French text, the English text and the German text.  
 Q. You speak French, English and German?  
 A. I speak French, badly English, and understand German, yes, but I need sometimes to be helped.  
 Q. Yes. {2359|2360}  
 A. Okay. The fifteen volumes of what we call the Green series.  
 Q. That's the —  
 A. The American NMT.  
 THE COURT: American ...  
 THE WITNESS: National Military Tribunal. We call that the Green Series, fifteen volumes.  
 Q. MR. CHRISTIE: The other series, the IMT, is how many volumes?  
 A. Forty-two.  
 Q. Forty-two. And you studied those in relation to —  
 A. Yes. The French edition has only forty-one volumes because one volume of index is missing, which makes our work very difficult.  
 Q. Yeah. The index volume is in English, but not in French?  
 A. In English and in German you have it.  
 Q. I see. So you studied those?  
 A. And also I studied the nineteenth volume produced by Amsterdam University about all the trials in West Germany.  
 Q. I see.  
 A. But we don't have the transcript. We have only the judgment.  
 Q. Yes. You studied those in Amsterdam?  
 A. No.  
 Q. Where?  
 A. I discovered this in Amsterdam – {2360|2361} no, in Vienna, Austria, and then I studied that in French.  
 Q. All right. What other texts and documents did you analyze in the course of your studies?  
 A. I work specially very, very long time in what we call the Centre of Jewish Contemporary Documentation in Paris.  
 Q. Yes. How long? People want to know facts about that, so ...  
 A. Yes. The first time I went in this place was in '64.  
 THE COURT: That's the centre of what?  
 THE WITNESS: The Centre of Contemporary Jewish Documentation, in Paris. This is the place where I worked so much.  
 Q. MR. CHRISTIE: Would you have worked months or years in that place?  
 A. Years. So first in '64, then in '67, from time to time from '67 to '74, and very hard from '74 to January '77, I think.  
 Q. What happened then?  
 A. I was chased from this Centre.  
 Q. You had then published some of your findings, is that right?  
 A. Yes. Very little because it was very difficult to find somebody to publish it.  
 Q. Okay. Now —  
 A. But what I would say – may I say what kind of documentation I studied in this place?  
 Q. Yes, please do.  
 A. Instead of studying books, printed {2361|2362} matter, I wanted to go to the originals. So I needed the documents themselves, all those documents that we call, "NO" – Nazi Organization; "NG" – Nazi Government; "L" – London; and "IT", etcetera, etcetera.  
 Q. These are documents where, sir? The judge is wondering where these documents were tendered.  
 A. These documents were published by the American Government.  
 Q. Mm-hmmm.  
 A. The prosecution in Nuremberg.  
 Q. Yes. That is what I wanted to bring out. Those are the Nuremberg documents, then.  
 A. Yes.  
 Q. You studied the originals of them?  
 A. Originals or copies. It could be in National Archives in Washington.  
 Q. Have you studied there?  
 A. Yes.  
 Q. Yes. How about – have you studied in Vienna the subjects of these documents as well?  
 A. Yes, but for a very short time, because I was chased also. But in America I could work, yes, National Archives in Washington, National Archives in Suitland, Maryland, and also in Auschwitz Museum.  
 Q. You have been to the Auschwitz Museum?  
 A. Yes.  
 Q. When did you first go there, sir?  
 A. In 1975 for one day.  
 Q. Have you been there for longer {2362|2363} periods since?  
 A. Yes. In 1976.  
 Q. For how long?  
 A. Ten days.  
 Q. And what did you do when you went there?  
 A. I visited spots, made photographs and so on, and I worked in the Archives.  
 Q. What are the Auschwitz Archives?  
 A. We are not able to answer, really, because when you ask a document in those archives, you must have already the idea of this document. You must ask, for instance, "I want a plan of Krematorium I, of Krematorium II", and they may answer you, "We have that. We have not that." Or, "We have it but we must ask permission."  
 Q. Mm-hmmm.  
 A. And it is a very bad sign if they have to ask permission. You may have to wait a very long time. I can explain you how the first time I got into those archives.  
 Q. Yes, if you could. That would explain how.  
 A. I could explain by the way what I call text and document criticism.  
 Q. Yes. Please do.  
 A. Which is something very matter of fact.  
 Q. Right. Show us the factual basis of how you found the archives information.  
 A. I must ask a question to Your {2363|2364} Honour. Have I the right to say something that I have heard or shall I be cut and ...  
 MR. CHRISTIE: Well —  
 THE WITNESS: — and it will be said hearsay? Because beginning like that, you see.  
 THE COURT: I don't know that we are interested right at the moment in what you've heard.  
 Q. MR. CHRISTIE: Perhaps if I could explain to you – just deal with what you said, what you saw and what you did. And then what happened. Don't give the conversation from the other side. Okay?  
 THE COURT: This, I gather, Mr. Christie, is going to be evidence about the trouble he had obtaining documents and information from the Archives of the Auschwitz Museum?  
 THE WITNESS: It was easy.  
 MR. CHRISTIE: It was his method of operation and how he got information to show his expertise. That is why it was so, and that is what I want to ask him.  
 Q. Now, just tell us, Doctor, what you did and, therefore, what you saw. This is an example of how you got into the Archives.  
 A. Yes. I want to show that I tried to be as matter of fact as possible.  
 Q. Right. In your inquiry what did you do then?  
 A. So I went to visit first what is called Crematorium I.  
 Q. Where is that?  
 A. In Auschwitz I. {2364|2365}  
 Q. Yes.  
 A. You have in the same building a path, on the left, called "Krematori-



um", and on the right a place called "Gas Chamber".

Q. Yes.

A. I got first into the place called "Krematorium". There were there two furnaces with two openings.

Q. What did you do?

A. I noticed some things which were not normal.

Q. What did you notice? Tell us what you noticed.

A. I noticed, for example, that there was no soot at all.

Q. How did you find that out?

A. Putting my finger like that, I saw that there was no soot.

Q. Inside the furnace?

A. Yes.

Q. All right.

A. So I decided to find the highest possible responsible ...

Q. Person.

A. ... person, of the Auschwitz Museum.

Q. And then what did you do.

A. I found that man called Yan Machalek. I asked him to come on the spot. I asked him if those ovens were genuine or not.

Q. Yeah. Don't tell us what he said. {2365|2366} What did you then ask him for?

A. I can say that I showed all the same that there was no soot?

Q. Yes.

A. Okay. The conclusion was that it was a reconstruction, a rebuilding and not something genuine.

Q. So what did that lead you to do?

A. I thought, if it is a rebuilding, there was a plan, an engineer or an architect saying to the people, "You must put those bricks like this or like that." I said at the time that I'm a Professor at Sorbonne, that I was interested in the gas chamber.

Q. You were a professor at the Sorbonne?

A. Yes.

Q. So you asked for what?

A. For a plan of the place.

Q. Did you get it?

A. Yes.

Q. Until this time, in all your research, had any plan been published?

A. No plan. I think that I have been the first to publish really a plan.

Q. All right. What is your method of research? We are just showing to His Honour —

A. Okay.

Q. Now, as a result of that, what did you do?

A. So I tried to find other plans. tried to find also other documents about those {2366|2367} crematorium, but that's the part of my research, and there are many others.

Q. At the moment, rather than deal with all that you found, I am going to deal with your method of research, and what more research you did. Was that all the research you did at Auschwitz?

A. Essentially, yes.

Q. All right. Did you go to the other camps as well?

A. Yes. In Maidanek. I went to also Dachau, Mauthausen, and I studied — and very important, the Hartheim Castle.

Q. Can you give us roughly the years for those visits?

A. It was '75, '76, '78, '80. Dachau only in '82. I was not interested in Dachau because it's known since 1960 officially that there were no gassings in Dachau.

Q. Yes.

A. All right. Now, this is the onsite research you did.

A. I forgot something important, please.

Q. Yes.

A. And in France, Struthof-Natzweiler, (sic) where we have a gas chamber presented as in its genuine state.

Q. I see. So you were inquiring into — why were you going to all these places?

A. Because I think that the gas chamber, the homicidal gas chamber — let me persist that {2367|2368} in many German documents we have the word Gas Kammer for disinfection or for the training of soldiers to

wear the gas mask. Many other Gas Kammer, as they say, exist, but I was interested in the homicidal gas chambers.

Q. What do you mean, homicidal?

A. For killing people. I thought it was the cornerstone of what we call genocide. For me, if I may explain that, the genocide is the specific crime without precedent in history. It is defined like this by Dr. Raul Hilberg, and I agree with him; but this specific crime needed a specific weapon. This specific weapon were supposed to be those enormous gas chambers.

Q. Yes.

A. For killing people.

Q. Yes. So how does that relate to your investigation at the camps?

A. So I wanted to go on the spot and to see if I could find any gas chamber supposed to be in its genuine state, or any ruins of gas chamber, because ruins are very interesting. We cannot say there are only ruins; We go back, we must study the ruins.

Q. Yes. So your process of research was to read the literature. Have you told us all the literature that you studied?

A. Oh, certainly not. No.

THE COURT: I think we will hear about that after we adjourn. Twenty minutes.

— The jury retires. 11:30 a.m.

— The witness stands down.

— Short adjournment.

—— {2368|2369}

— Upon resuming.

— The witness returns to the stand.

— The jury returns. 12:05 p.m.

MR. CHRISTIE: Your Honour, I have given a copy of this to my learned friend, and it is background information on Dr. Faurisson. I would like to ask him if he read this material and file it as part of having him qualified as an expert.

Q. Dr. Faurisson, I now produce and show to you a photocopy of a document marked, "Personal background" and an article about yourself involving listing all your publications and your text and documents criticism. Have you read that, and is it true to the best of your information and belief?

A. Yes.

MR. CHRISTIE: And my friend having a copy, I would like to give Your Honour a copy and file it as an exhibit.

THE COURT: It will be a lettered exhibit for identification.

— EXHIBIT "Q" (For identification) Curriculum vitae of Dr. R. Faurisson.

Q. MR. CHRISTIE: Now, Dr. Faurisson, you were telling us about the visits you made to the various —

THE COURT: Just a moment. It's in English, is it?

MR. CHRISTIE: Oh, yes.

THE COURT: All right. The first page isn't. The second page {2369|2370} is.

MR. CHRISTIE: The first page is a photocopy of the doctorate from the Sorbonne. All the rest is in English, sir, I believe.

THE COURT: Yes. Go ahead.

MR. CHRISTIE: Thank you. Except the titles of his books, which are in French.

THE COURT: That's no problem.

Q. MR. CHRISTIE: Now, Doctor, I suppose you said you went to see all these gas chambers and you were explaining why, and maybe you could expand on that for a moment, why you were going to visit all these places where the gas chambers existed.

Q. Because when somebody tells you a crime has been committed, if he says this crime has been committed in such or such places, you must go and see those places.

Q. Yes. So when you had seen the various representations of gas chambers in Europe, what did you do then in your research?

A. Then I decided to make an inquiry about the American gas chambers, because the American, to execute one man, use hydrocyanic acid, and Zyklon-B is exactly hydrocyanic acid. I must say that I should

have begun by that.

Q. Where?

A. An idea on which I insist very much with my students is that we must begin by the beginning, but it is sometimes very difficult to do it.

Q. Mm-hmmm.

A. And perhaps I spent many years {2370|2371} instead of beginning by the beginning —

Q. Yes. So you went to the American gas chamber where the people are executed.

A. So my question, to explain you my method, if I have somebody who tell me I believe in the gas chambers, another one says, I do not believe, I think that most of the time the first question would be, why do you believe? Why do you not believe? Instead, the first question should be, but what is a gas chamber?

Q. Yes.

A. Have you thought on those two words, "gas chamber"? Could you tell me what you have in mind? Could you draw me something so that I can see your mental representation? If you mean that any room any place could be a gas chamber used as a gas chamber, I must tell you that you are doing a terrible mistake because the problem, the first problem, is when you have gassed somebody, the problem is to go into the place to take out the cadavers. To gas is rather easy. I say easy because it is a weapon very difficult to handle, the gas. Most difficult is to go into the place and to take out the corpse.

So I made an inquiry. I wrote to, perhaps, ten American penitentiary with a lot of questions, technical questions. I received six answers, and I must say that they were more or less identical. I discovered that, as I suspected, it was very, very —

MR. GRIFFITHS: Excuse me. Again, Your Honour, we are still just qualifying Dr. Faurisson, and before we hear his opinion, we should have his qualifications. {2371|2372}

Q. MR. CHRISTIE: Before you express an opinion we would like to examine the basis of your inquiries so if you tell us what inquiries you made, rather than the conclusions of those inquiries

A. So I made this inquiry.

Q. Where did you go and what did you do?

A. And I decided to visit an American gas chamber, and in 1978 I visited the penitentiary of Baltimore, Maryland, and I asked to see this gas chamber. I asked explanation. I got the procedural check sheet. So I don't describe it?

Q. No. Don't bother at this stage. You got the procedure check sheet. Did you take photographs?

A. Yes.

Q. Of the inside and outside of the gas chamber?

A. Yes.

MR. CHRISTIE: I am going to lead the witness a bit, if I may, if my friend has no objection.

MR. GRIFFITHS: Certainly.

Q. MR. CHRISTIE: All right. So you made photographs of the Baltimore, Maryland gas chamber?

A. Eight photographs.

Q. Eight photographs. You then went to other gas chambers as well?

A. No.

Q. You got information from other gas chambers.

A. Yes. Five others. {2372|2373}

Q. Can you say why you were getting all this information in the course of your research?

A. Because I wanted to see what could be the procedure, how could Zyklon-B or hydrocyanic acid kill somebody, and how it could be possible to get into the place and to take the body out.

Q. Okay. Then did you make other inquiries about the use of hydrocyanic acid or Zyklon-B?

A. Oh, yes. Many in books.

Q. Could you describe some of those inquiries, sir?

A. Yes. There were many technical works in German about Zyklon, and also many American books, few French books.

Q. And some French books.

A. Few.

Q. The books in German, would they be Second World War books about Zyklon?

A. No. Before the War, because Zyklon has been invented in 1917, but the label was given in 1922. It was used currently before the War, during the War, after the War and today.

Q. It is still used?

A. It is still used, yes. I can give you the address in America, or —

Q. You have inquired as to all the development and use of Zyklon, then?

A. Yes.

Q. Have you done anything else to assist you to understand what Zyklon is like? You say that you visited the gas chambers, etcetera? {2373|2374}

A. I visited also technician, a French technician, and I made inquiries about the use of hydrocyanic acid for many purposes. For example, for the foxes' burrow.

Q. And can you describe other uses to which you inquired into?

A. Yes. How was done the delousing of the sheep by Zyklon-B, of a building of a mill.

Q. Of a mill, what do you mean a flour mill?

A. A flour mill, yes.

Q. That's all the things you've inquired into the method of use of Zyklon?

A. Yes.

Q. All right. And times of use and time of airing and that sort of thing, have you inquired into that?

A. Yes. And I consulted also toxicologist, the most well-known in France. His name is Truffert, and toxicologist also of what we call Prefecture de Police in Paris, Laboratory of Prefecture de Police.

Q. So did that exhaust your research into the subject of Zyklon-B?

A. I don't know if it exhausts.

Q. There were other —

A. It's very, very wide.

Q. All right. And how long have you been engaged in that aspect of your research?

A. Oh, perhaps three, four years.

Q. Have you investigated other areas {2374|2375} in respect to the gas chambers? You have described the visits to the concentration camps; you've described the visits to the gas chamber in Maryland and its operation and use, and inquiries into other uses. Have you done other research into the Holocaust as well?

A. Oh, yes. Principally in reading and studying books, Raul Hilberg book — I esteem very much Raul Hilberg, although we are not the same opinion.

Q. Yes.

A. There are other people, like Leon Poliakov.

Q. Yes. What has he written that you've studied?

A. "Harvest of Hate" is the name.

Q. Have you studied other what might be called exterminationist sources?

A. Yes, especially the thesis made by French historian, a Jewess, Olga Wormser-Migot. And can I say, perhaps, why those books?

Q. Yes, please explain.

A. Why they were important, the most important date in my inquiry, since twenty-five years, the most important date in 1960, because of what Mr. Brochat [Broszat] published in a German newspaper that I don't want to go into detail, saying that there were no mass gassing in the West, and I knew that there were so many proof, some many testimonies and so many trials about those gas chambers in the Western part of Europe. It was very surprising for me.

Q. I see. So that began your inquiry.

A. Yes. {2375|2376}

Q. The next most important day in your research?

A. 1974, when I had an exchange of correspondence that I can show with Mr. Brochat [Broszat], who was at that time the Director of the Historical Institute in Munich, and I asked him very simple questions. It

was a list. Were there any gas chambers in Bergen-Belsen, Buchenwald, Dachau, Mauthausen, Auschwitz I, Auschwitz II, Belzec, Sobibor, etcetera. It was a simple question.

Q. Did you ask those questions of other historical researchers?

A. Yes. To many others.

Q. How many others?

A. I couldn't tell you today, but I sent it, I think, I sent this kind of questionnaire to every representant [representative] in the world of what we call Committee of History of World War II. I remember that I even sent a letter in New Zealand about that.

Q. Yes. There was a Committee of Historians about the Second World War?

A. Yes.

Q. And you sent this questionnaire to each one of them?

A. We had every country as has committee, and there is an International Committee.

Q. Yes.

A. The historian Henry Michel was President of the French Committee, but he was also presiding the International Committee; but this Committee hasn't exist for a few years. So the second date important {2376|2377} was '74 when I asked those questions to Dr. Martin Brochat [sic]. I have his letter. He said —

MR. GRIFFITHS: Excuse me.

THE COURT: Just a moment.

Q. MR. CHRISTIE: We won't go into what you said, and unless you are qualified as an expert you will be giving hearsay.

So you got responses that led to further inquiries, right?

A. I had answers which made quite clear that there was a problem, called the problem of the gas chamber. And this problem is the problem of the existence or not of such or such gas chamber, or of all the gas chambers.

Q. All right.

A. Olga Wormser-Migot, for example, say —

MR. GRIFFITHS: Excuse me.

Q. MR. CHRISTIE: Never mind what she said. We will be getting — until such time as you are qualified as an expert you may not give an opinion. Maybe not then. Who knows? Now —

A. Can I say an important date?

Q. Yes. For you it was an important date. Maybe you can explain why without quoting anybody. It was an important date ...

A. Because once more it was said that there was a problem, and even a complicated problem.

Q. You concluded it was a complicated problem, is that right?

A. No. It was written by somebody.

Q. All right. Well, then, we can't {2377|2378} go into that. Try to avoid that kind of thing altogether. Right?

A. Then in 1978 when I first published my findings —

Q. What book did you publish?

A. Well, at that time I published only an article in the Journal "Le Monde".

Q. What's "Le Monde"?

A. "Le Monde" is what is so-called an important journal in France, supposed to be independent, but rather leftist.

Q. All right. So you published —

A. An article called, "The problem of the Gas Chamber", and a long letter, also, and there was quite a disturbance in France about that.

Q. What kind of disturbance was there?

A. Worries with my university.

Q. Yes. And you are still a professor there?

A. I am still a professor, but I do not teach.

Q. Yes. We will go into that later, but what area of your research was the result of what you found in 1974 when you got the questionnaire back?

A. I don't understand your question. Please excuse me.

Q. Well, I was going back to the questionnaire that you sent to all those committee members.

A. Oh, yes.

Q. What did you do after that in {2378|2379} terms of your research?

A. I had to notice that those people didn't give me a clear answer, or tried not to answer, and I must say that before that I had made a kind of competition between Paul Rassinier and the others. I asked the same question to Paul Rassinier and to the others.

Q. Yes.

A. And I collected those answers.

Q. The others being who — the exterminationists?

A. What we call the exterminationists. Among them there was a judge, a prosecutor in Nuremberg. His name is Edgar Faure.

Q. Was Rassinier an exterminationist or did he have other views about the gas chamber?

A. You mean a revisionist?

Q. Yes.

A. He was a revisionist.

Q. Are these the books that Rassinier published and you studied? I am showing you now, "The Operation Vicar", about the role of the Pope.

A. It is about Gerstein.

Q. All right. Did you study that? Is that his book?

A. Yes.

Q. All right. I will not file it as an exhibit but — is this the "Drama of European Jews" by Paul Rassinier? Did you study that?

A. Yes.

Q. "The True Eichmann Process"? {2379|2380}

A. Yes.

Q. And is that his book?

A. Yes.

Q. And "Ulysses Betrayed by his Allies", is that his book?

A. His companion, [sic] so yes.

Q. And "The Song of Ulysses"?

A. "The Lie".

Q. "The Lie of Ulysses"?

A. Yes.

Q. And those are the books that you call the revisionists. Were there further earlier books by revisionists?

A. Yes, by German people.

Q. And who were they?

A. Franz Scheidl, for example.

Q. And is there a historian, Helmut Dewalt? (ph) [Hellmut Diwald]

A. Yes. Later on. He was a professor in the University of Erlangen [Erlangen]. He wrote a very big fat book like the German are used to publish called, "History of the Germans", and in two or three of these pages is said —

THE COURT: Well, it's a book, a fat book, as you say.

THE WITNESS: Yes. One containing two, three books about the question of Auschwitz, yes.

Q. MR. CHRISTIE: All right. Would you categorize him as a revisionist in that respect?

A. Yes.

Q. All right. Now, you published — {2380|2381} you described a publication in "Le Monde" and the outburst that occurred. You haven't gone into detail, but did you publish other things as well?

A. Yes.

Q. When did you publish? Now, the "Le Monde" article was when?

A., This article was — the short article was in December '78. The long letter was on the 16th of January, 1979.

Q. All right. And did you publish a book after that?

A. Yes.

Q. What was the first book you published?

A. I published a book with Serge Thieon called — I will translate it in English — "Historical Truth?" or "Political Truth?". The meaning is, is it a truth or a lie? And the sub-title was the question of the gas chamber and L'Affaire Faurisson — the Faurisson Affair.

Q. And is this the book you described?

A. Yes. This one.

Q. Now, how long was that out before you published another one?

A. This was in 1980, the same year I published a book under my own

name called, "Memoire en Defiance" – Memorandum in Defiance – against those who claimed that I am a falsifier.

Q. And it's, "La Question des Gas Chambres"?

A. The question of the Gas Chamber. {2381|2382}

Q. And did someone write a foreword to this book for you?

A. Yes. Norman Chomsky wrote a letter on my behalf, and he said to my publisher —

Q. Never mind what he said. Did you have permission to use that letter as an introduction to that book?

A. Yes.

Q. Did you do so?

A. We didn't have the permission to publish it as a foreword. We had the permission to publish it anyway.

Q. I see. So it was not a restricted publication? You published it as a foreword to your book.

A. And it doesn't mean that Norm Chomsky shared my views about the Holocaust. It was only for freedom of speech.

Q. Yes. But do you know who Norm Chomsky is?

A. Yes. He is the godson of a Rabbi, and he is a very distinguished linguist and sociologist in the MIT, Massachusetts [sic] Institute of Technology.

Q. Yes. And have you published other works as well?

A. Yes.

Q. Why was it necessary to publish other works?

A. Because in France many things were published about the problem of the gas chamber at that time, and especially a professor called Pierre Vidal-Naquet published a very long article. The title was, in English, {2382|2383} "I was supposed to be like Eichmann".

Q. So did you write a response to Vidal-Naquet?

A. Yes.

Q. Is this the book you wrote as a response?

A. Yes.

Q. And it was published in France?

A. Yes. In 1982.

Q. And both those books, his and yours, are circulated today in France?

A. Yes.

Q. And they are pro and con on this issue?

A. Mm-hmmm.

Q. All right. And I gather that thereafter you published other articles as well.

A. Yes.

Q. How much have you published on this whole subject?

A. I have not counted exactly.

Q. Can you give us an idea?

A. I think that I gave the number of pages somewhere. I cannot remember.

Q. And is it —

A. And I have books in progress.

Q. I see. You have published other things other than —

A. On specific subjects. I mean, about the album of Auschwitz, the Auschwitz Album.

Q. Yes. {2383|2384}

A. And about a book which has been published in Germany. The title means "Gas Masks by the German National-Socialist Regime".

Q. So you have published some articles?

A. Yes.

Q. And you have some works in progress.

A. Yes.

Q. Have you exhausted the study that you have undertaken of all the Holocaust literature?

A. Certainly not.

Q. Could you carry on and describe for the benefit of those who don't know the extent of your studies? What other things have you studied?

A. I consider that, for instance, there is no more curiosity, intellectual curiosity for the question of the gas chamber. For most it's finished, I must say. No intellectual curiosity; but there are many subjects around

this one which are not clear at all, and I agree with Raul Hilberg when he says, for instance, okay, you say that there were no gas chambers, but all those people, where did they disappear? Did they go to China, or what?

Q. Yes.

A. I agree with this question, but I think that we are giving answers who are too automatic, and we should do a very important work, and very easy, with the computers and with all the information that we have, especially in International Tracing Service in Arolsen. {2384|2385}

Q. Have you been there?

A. I have not been there because I knew that it was not possible —

THE COURT: You haven't been there.

Q. MR. CHRISTIE: Have you conducted research there through agents of yours?

A. Yes.

Q. And have you conducted research there for a period of time and obtained documents from there?

A. Yes.

Q. And how long have you been researching there through agents?

A. I had quite good relations with the International Tracing Service in, I should say, perhaps '74, '75, '76.

Q. But after you published what your findings were, then they cut you off.

A. It was finished, yes.

Q. Well, what extent of information have you received from the documents? How many documents have you received from them?

A. I received what they call their activity report, annual activity report.

Q. Have you conducted studies into the area of Anne Frank's Diary?

A. Yes.

Q. What are the researches into that area? What have you done to research that subject?

A. This is a subject that I studied with my students.

Q. With your students. {2385|2386}

A. In university, yes. The question was —

Q. What did you, specifically, do to study the Anne Frank Diaries? Did you go and talk to Otto Frank?

A. Yes, I did that, but before I read the text.

Q. All right. You read the text.

A. I mean the French text, without the Dutch original.

Q. Yes.

A. When I read this French text, as a specialist of text and document criticism I was conduct to some conclusion that I cannot say, eh?

Q. Well, I just want to know what research you undertook. Did you read the Dutch version as well?

A. Yes. After the Dutch version —

Q. And is there a German version?

A. And there is a German version.

Q. Are they all the same?

A. No. Really not. Two books quite different.

Q. And you studied them all.

A. Yes.

Q. In detail.

A. Yes.

Q. And did you then undertake an inquiry by interviewing Otto Frank?

A. Yes. {2386|2387}

Q. How long did you interview Otto Frank?

A. One day five hours, and the other day four hours.

Q. When did you conduct the interviews, in Switzerland?

A. Where?

Q. Yes. Where?

A. In Basil.

Q. You travelled to Basil, Switzerland, to conduct the interviews?

A. Yes.

Q. And therefore you derived conclusions from the interviews?

A. Yes.

Q. Have you done other scientific research into Anne Frank's Diaries?

A. Yes. In Amsterdam itself, in the so-called Anne Frank house. And I

had to do some research in the Centre of Documentation in Amsterdam, and research also into the files of — it's difficult to say — of the City Hall, about the state. I wanted to know —

Q. The plans of the house?

A. I wanted to know how the house was done in 1939, up to 1944.

Q. The physical arrangement of the house?

A. Yes.

Q. And [ ] you undertook those studies as well?

A. Yes. {2387|2388}

Q. Any other studies in respect to the Anne Frank Diary?

A. Yes. I studied books about —

Q. What books?

A. A book from Schnabel. I have the title in French. It would mean, "On the traces of Anne Frank".

Q. Any other research into any other —

A. And I noticed that there were many differences between the French version, German version, and Dutch version.

Q. Any other research into the area of Anne Frank, the Diaries?

A. I don't think so, no.

Q. All right. Have you described all the sources of information that you have read in respect to the subject of the Holocaust generally?

A. No. Certainly not, because in the bibliography — you mean bibliography?

Q. Yes.

A. Because in the bibliography you need to give only the principal works, and the principal work about the Holocaust has been published in 1976 by Yad Vashem [Yad Vashem] in Jerusalem.

Q. Have you studied that?

A. By Jacob Robinson. It's a very important book, a very interesting references of all the possible documents about Holocaust.

Q. Yes. And have you studied that?

A. And it is impossible to work without {2388|2389} this book.

Q. Have you studied this book?

A. Yes.

Q. And in what terms of time, how much time have you spent studying that book and those documents?

A. It is what we call Livre de Cheveq. (?)

Q. And what is that?

A. A book that I have near my bed.

Q. You studied all the time?

A. Yes.

Q. It is a constant reference work?

A. Yes.

Q. Have you read Yehuda Bauer and Hilda —

A. Paxton and Marrus. I have studied also George Uellers [Georges Wellers], Joseph Billig, and many others like that.

Q. Have you read Miklos Nyiszli's "Doctor at Auschwitz"?

A. Yes.

Q. Filip Muller's "Eye Witness Auschwitz — Three Years in the Gas Chamber"?

A. I have read Filip Muller in the three versions, the German version called, in English, "Special Treatment", then the English version called, "Eye Witness Auschwitz — Three years in the Gas Chamber"

Q. Are they all the same?

A. No.

Q. Have you studied Dr. Vrba's book, "I will not Forgive?" (sic) {2389|2390}

A. "I Cannot Forgive".

Q. Yes. Have you studied that?

A. Yes. I had to study, especially, the three people that I think that there are, that their testimonies are the three pillars of the story of the gas chamber. The first one is Dr. Vrba or his companion, Wetzler. That is the War Report.

Q. Yes. Have you studied that?

A. Yes. That is the first one chronologically. Second one, the Gerstein statement. I made many discoveries about Claud Gerstein because we know one or two of his confessions, but there are many more than that.

We could say that —

Q. Where did you get the confessions of Gerstein?

A. I got them from the Archives of the Military Justice.

Q. Where?

A. In Paris.

Q. Was he supposed to be killed, or died in Paris?

A. He was supposed to have committed suicide, and many people do not believe that.

Q. Well, never mind. But —

A. But I think —

Q. He was supposed to have died in —

A. In Cherche-Midi.

Q. So where did you get all the —

A. And the third one, the third one is Hoess, who has been one of the three successive commandants of Auschwitz. {2390|2391}

Q. And where did you study the documents or texts referable [sic] to Hoess?

A. I had to read the book of Martin Brochat [sic], published by Martin Brochat, eleven years after the death of Hoess. We had to wait eleven years to have the German text. Then we have another text, an English text, with additions by Cyrus Russel of Liverpool.

Q. Lord Russel of Liverpool?

A. And I studied other versions that we have not, I translated in English, not books of Auschwitz, but I never saw myself, the manuscripts, and I have no qualifications to study manuscripts. That's not my competence.

Q. Right. So you studied the texts and documents provided?

A. The text published.

Q. The text published.

A. And many, many document PS or NE or NO of the American. There are many, many coming from Hoess.

Q. These are documents. Where are they filed?

A. Yes.

Q. Where are they filed?

A. U.S.A.

Q. And where did you get them?

A. The IMT and —

Q. IMT and NMT?

A. Yes. IMT and NMT.

Q. And you have examined those documents in the original form? {2391|2392}

A. Copies from the National Archives.

Q. Yes. Now, have you studied the works of Herman Langbein and the book —

A. Yes.

Q. — "Six Million Did Die" by the South African Jewish Board of Deputies?

A. From Herman Langbein I read a book called, in English it would be, "Man and Woman in Auschwitz", and I especially read a very long book more than one thousand pages about the Auschwitz trial in 1963, 1965.

Q. Yes. And have you studied the book, "Six Million Did Die" by the South African Jewish Board Executive?

A. Yes.

Q. And did you study all these books to make your analysis of your account?

A. I am obliged to do that, compare constantly, yes.

Q. Compare constantly. Why do you do that?

A. Because I think that we must cross-examine everything, everybody. We must check, and when we have checked, we must double-check, because I do many mistakes, as everybody.

Q. Yes. Have you examined the works of various accounts for the observation of what is known as plagiarism?

A. Yes.

Q. Have you found plagiarism?

A. Yes. For instance from — {2392|2393}

THE COURT: Well, he's found them.

THE WITNESS: I found them, yes.

Q. MR. CHRISTIE: All right. Until we are entitled to ask you your opinion, you cannot say what you found.

A Mm-hmmm

Q. Have you exhausted the studies or descriptions – have you exhausted your description of the studies you have undertaken of the subject of the Holocaust from the exterminationists' point of view?

A. No. Certainly not.

Q. Well, we'd better go on, then, and describe further studies that you have undertaken.

A. I studied – I was in relation with Association of Deportees, for example, with the Association of Deportees of Dachau. So in Dachau, Germany, and the International Committee in Brussels.

Q. Yes. The International Committee of what?

A. Of the former inmates of Dachau.

Q. Yes.

A. The former inmates of Struthof [Struthof], the former inmates of Auschwitz, and of the camp of Upper Silesia.

Q. What did these correspondences enable you to find?

A. Difficult to say like that, if I cannot go into details. I cannot —

THE COURT: He is absolutely right. The witness is quite correct. He studied those documents.

Q. MR. CHRISTIE: Any other studies {2393|2394} you have undertaken, sir, to be qualified in this area of special skill?

A. Oh, yes. Many. I studied, for example, all the reviews published by our Committee of Second World War, and specially something which is not known at all, which is a bulletin.

Q. A bulletin?

A. Confidential bulletin of the Committee of the Second World War in France.

Q. Mm-hmmm.

A. I interrogated people who have been inmates, but I must say very few. I cannot leave you a number because I prefer what is written, you see. Because somebody could tell me, "No, I've not said that." So I need something written. I studied also many things, many documents coming from the OSS.

Q. OSS. What's that?

A. The ancestor of the CIA, about the kind of information that they got during the War about Auschwitz, specially, but about other camps. They were overwhelming with information, and the OSS and —

Q. How did you get access to this information?

A. National Archives, Washington,

Q. And who got it for you – a researcher?

A. A researcher, yes. So I cannot say anything about that?

Q. Not really, no. Have other scientists or researchers in this field recognized your work? {2394|2395}

A. I think —

THE COURT: What does recognition mean?

MR. CHRISTIE: Recognition means when someone announces that you have the resource of information to them, such as Dr. Hilberg said that Mr. Faurisson and others raised questions which caused researchers to increase their effort in a vigorous manner.

THE COURT: All right. Go ahead.

Q. MR. CHRISTIE: Did that happen with Dr. Hilberg?

A. Le Nouvelle Observateur —

Q. When?

A. In June or July 1982, a very long interview, it was when Raul Hilberg was in Paris for the Sorbonne Convention, 29 June to July 1982.

Q. All right. And what research had caused that comment that you had recently published, or made?

A. I don't understand.

Q. What research was he commenting on at the time that you had recently initiated when he mentioned your name? Was it about the gas chamber?

A. It was about the gas chamber, yes.

Q. What was it that you had made known that had brought about that comment?

A. I cannot give an answer because I would have to go into detail.

Q. Well, you can go into detail as long as it is not hearsay. Can you tell us what it was? {2395|2396}

A. No, because it was a deduction from my part.

Q. Very well.

A. He didn't say expressly, "Faurisson has done a good work because he has said this or that." He didn't give any precision.

Q. Do you remember exactly what it was he published or said on that occasion that was attributed to him?

A. No. I have that on a piece of paper.

Q. All right.

A. I can give the text and the translation.

Q. Mm-hmmm. As a result of what you published were you prosecuted in France?

A. Yes.

Q. Under the Civil Code?

A. Civil Code, yes.

Q. Yes. And was that litigation widely followed in the media?

A. I had three trials, three different trials. Must I explain?

Q. Yes. Go ahead.

A. The first, first I have been sued by Mr. Leon Poliakov because in my book I have said that Mr. Poliakov had manipulated and fabricated texts.

Q. Yes. And was that proven or unproven?

A. It's difficult to say. The judgment say that I had no right to say that about Leon {2396|2397} Poliakov because Leon Poliakov had failed to the scientific spirit in some detail.

Q. Had what?

A. He had not been scientific in reproducing, for example, one text of Gerstein. He had changed words and so on, and figures; but the Tribunal said that we had to consider that Mr. Poliakov was animated by a passion to make known the document Gerstein.

Q. Mm-hmmm.

A. That was the first lawsuit.

Q. And have there been other lawsuits at all?

A. Yes. Another one because of a phrase of sixty words that I pronounced on the radio.

Q. What did you say?

A. I said – I can say that?

MR. CHRISTIE: It's what he said. It's not hearsay.

THE COURT: Go ahead.

THE WITNESS: So before those sixty words that I had prepared for years and years, I said, "Be careful not one of those words are inspired by a political ..."

Q. Motive?

A. Reason. Motive.

Q. Then what did you say?

A. And I said very slowly those sixty words.

Q. Can you repeat them?

A. I am going to try to tell them in English. I said to the people, "Be careful. I am not {2397|2398} anti-Jewish. I am not even anti-Zionist, because if I were Jew perhaps I would be Zionist, and if I say something bad about a country, it doesn't mean that I consider that the other countries, when we go into their history, have not dirty things also." So I said, "The alleged Hitler gas chambers and the alleged genocide of the Jews are one single and the same historical lie ..." – I should explain historical lie.

Q. Well, finish the sentence, and then explain.

A. "... of whom the principal beneficiaries are the State of Israel and the International Zionism, and whom the principal victims are the German people, but not their leaders, and the inter Palestinian people." And I said also that I considered as victims the young Jewish generation because they believe there was terrible stories. I think that the War is terrible, but we don't have to add anything to it.

Q. Yes. So then what did occur? There was a lawsuit, is that right, over those words?

A. A lawsuit, yes.

Q. You were accused of being a falsifier of history; is that correct?

A. No, no. I was accused of racial hatred, incitation to racial hatred and defamation. Incitation is very grave, and defamation is less grave. I couldn't attend my trial because during all the 1981 year I have been sick, and I had many troubles, but I know, by —

Q. Never mind. Can you tell us the end result of the trial? {2398|2399}

A. It was terrific.

THE COURT: It was what?

THE WITNESS: It was terrific for me. I was condemned to pay the publication of the judgment on the TV and on the radio, which has never been done in France.

THE COURT: You were condemned to do what, sir?

THE WITNESS: To pay the publication of the judgment on the TV and on Radio Europe, number one, and I made a calculation of cost to me, and it was at that time 3,600,000 francs.

Q. Francs. And a franc is worth one-seventh of a dollar, is that correct?

A. Yes.

Q. Now, you appealed that judgment?

A. Yes.

Q. And what happened on the appeal?

A. On appeal — oh, I was also condemned to three months of custody, I think, suspended.

Q. Suspended sentence.

A. Yes. Of ninety days. And to pay, I don't remember also, many things. And on appeal I came and I was able to talk five minutes, I think. It was to explain my phrase of sixty words, which could look very scandalous, I recognize. And the judge suppressed totally the story of publication on the TV and the radio and newspaper. He suppressed all that, but he kept the ninety days of suspended conviction.

Q. Has that judgment been translated?

A. No. {2399|2400}

Q. All right. Now, was there one other —

A. Yes. The third one was really the most important. May I say why I consider it like more important? It was —

THE COURT: Oh, I don't know. What — was it? Let's hear what it was and I will decide.

THE WITNESS: So I was accused in 1979 by nine organizations of causing them damage, and a damage by what they call a falsification of history.

Q. MR. CHRISTIE: So this is where the issue of falsification of history —

A. It was very important for me, yes. So —

Q. Incidentally, in your experience, was truth a defence to either of the other two charges?

A. Excuse me?

THE COURT: I missed that.

Q. MR. CHRISTIE: Was truth a defence to any of the other two issues?

A. Yes.

Q. Truth was a defence?

A. Yes. But in France I think it is not the same as in Canada. I mean that defamation doesn't mean automatically, in France, that you have lied. You can make a defamation by saying a truth. For instance, in saying something about the private life of somebody, even if it's true, you have not right to say that.

Q. All right. Now, in the —

A. Now I am not very competent in law, eh? {2400|2401}

Q. Well, you've had some experience

A. Yes. So this third trial was very important for me. It lasted four years.

Q. That you were a falsifier of history?

A. Yes.

Q. So how long did it go on?

A. Four years.

Q. And what was the end result in the Court of Appeal in Paris 26 of April, 1983?

A. 26 of April, 1983, to sum up twelve-pages, I should say that the judge said that I was serious, that I was honest, that I had a method, that I was not a liar but they said that I was polemical, nit-picking, that I had a tendency, perhaps, it is very difficult to understand, to rehabilitate

the Nazis.

THE COURT: To do what?

THE WITNESS: To rehabilitate.

THE COURT: To rehabilitate?

THE WITNESS: Yes, the Nazis. And they said that the simple fact of talking about swindle and lie implied that there were swindlers and liars, which could think that they were shown by me as liars and swindlers.

I think this a very important word among those sixty words is historical lie. When I say historical lie, it means that there are very few liars, and the more we go, the more we are victims of the lie.

Q. I see. All right.

A. I don't call the people who have {2401|2402} not my opinion, I don't call them liars. I say once something of this kind about Mr. Leon Poliakov.

Q. All right. Now, in view of all your experience in this area, you have been involved in litigation and you have done the research you've described, why did you conduct your research?

A. It was simply my intellectual curiosity to say the thing, more simply my curiosity. The day I discovered that there was a problem, I wanted to know the solution.

Q. And have you approached the subject with any political preconceptions?

A. No. And during the War I was terribly anti-German and anti-Nazi, and there was no difference for me between Nazi and Germans.

Q. Now, I think I will ask for the judge to make a ruling, and my friend will then be cross-examining you on your expertise.

MR. CHRISTIE: I see it is one o'clock, Your Honour.

THE COURT: I think there will be a little cross-examination before I make my ruling.

MR. CHRISTIE: That is what I suggested.

THE COURT: I thought you said the other way around.

MR. CHRISTIE: I didn't mean to imply that. I didn't know that I'd said that.

THE COURT: We understand one another.

— The jury retires. 1:00 p.m.

— The witness stands down.

— Luncheon adjournment.

—— {2402|2403}

— Upon resuming.

— The witness returns to the stand.

MR. CHRISTIE: I wonder, Your Honour, if I could ask two more questions of the witness.

THE COURT: Yes.

— The jury enters. 2:20 p.m.

THE COURT: Do you have some more questions, Mr. Christie?

MR. CHRISTIE: Yes, Your Honour.

Q. Dr. Faurisson, how much time have you spent researching the question of the gas chamber?

A. I began in 1960, up till 1974. I worked from time to time on this topic, and from 1974 till now constantly except during the year 1981.

Q. Have you been supported by Jews in your research as well?

A. Yes.

Q. Can you name those who have supported you of the Jewish faith?

A. Yes. One name is very well known in France. He is a professor of German. His name is Jean Gabriel Cohn-Bendit. Another one is Gabor Tomas Rittersporn. Another one is — so Rittersporn is a researcher in the National Scientific Research. And Claud Carnoouh, scientific researcher also.

Q. What's this scientific research?

A. Centre de Recherche National Scientific. It's a centre in France resembling field locality. It is attached to the university {2403|2404}

Q. Anybody else?

A. Yes. Jacob Assous.

Q. What's his function?

A. I don't remember. It is not in the teaching matter.

Q. It is not in the teaching profession.

A. No. All those people belong more or less like Serge Thion to a group which is called, "The Old Mole". They are people coming from the left, pacifists, [sic] anti-racists, in fact and in words.

Q. Anti-racists in facts and in words?

A. In fact and in words. By that I mean, Serge Thion wrote a book very well known in France against apartheid. He is a friend of Naom Chomsky. And the most important of them is Pierre Diom is my publisher.

Q. And he is a Jew?

A. No, he is not a Jew.

Q. A member of the group of the old mole. Is that what you mean?

A. Some of them are Jews. That is what I mean. And seven of them decided to be on my side in this trial for falsification of history. They were what we call volunteers internant in the trial for four years.

Q. I see.

A. And in newspaper and elsewhere they said that they were my side, and Claud Carnouh even published a book with the resistance. At the beginning I {2404|2405} was considered as a madman, Nazi, whatever. Now people think that I am leftist, but I am not leftist, not Nazi.

Q. All right. Could you answer questions from my learned friend, please?

THE COURT: Yes, Mr. Griffiths.

#### CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Is it Dr. Faurisson?

A. Yes.

Q. Doctor, my learned friend, Mr. Christie, when he first introduced you, suggested that he was going to be asking that you be qualified as an expert in the Holocaust. And as I understood your testimony, a great deal of, if not most of your researches have been in the field of gas chamber. Is that fair to say?

A. It's the centre.

Q. All right. Do you have any knowledge or have you done any researches on what we have here referred to as the Einsatzgruppen, this group that worked on the Russian front from about 1942 on?

A. Yes. I did some research on this topic. I didn't publish anything, because I think that the book of Reginald Paget about Marshall Manstein, brings an answer, a partial answer to this story of the Einsatzgruppen.

Q. So you read one book.

A. I mean this book, it seems to me that {2405|2406} this book brings a good answer about the story of the Einsatzgruppen. Sir Reginald Paget tried to be matter of fact. He calculated how many people were in those Einsatzgruppen and so on, and I studied documents about that all the same.

Q. You studied documents about them.

A. Yeah.

Q. All right.

A. The Yager [Jäger] Report and so on.

Q. Now, you have your doctorate and were teaching at Lyons in French literature?

A. In French literature and in text and document criticism.

Q. We will come to that, but you were teaching in French literature?

A. Yes.

Q. And have you ever taught history?

A. Taught history?

Q. Yes. In university.

A. No. But in text and document criticism we had very often the occasion of using historical texts. For example – can I give an example?

Q. Yes. Please.

A. For example, what was said about the Germans by the French during the First World War, and about the French by the Germans during the First World War. We studied the books of John Cru called, "Witnesses about Testimony". We studied also about – Naughton, I think, was his middle name. We studied also about historical myths, inventions.

Q. This text and document criticism, {2406|2407} that's a course that

you took at university, allegedly?

A. Yes.

Q. And how many courses did you take in that?

A. I had three hours by week, and it was two hours by week.

Q. Three hours a week?

A. Yes. Because in France the most of the work done by the students is written. We have few lectures.

Q. When did you take that course?

A. It was in 1974.

Q. This is after you had your doctorate, then.

A. Yes.

MR. CHRISTIE: I must object to one thing about this, and that is the misleading use of the word "take". The Doctor taught the course.

MR. GRIFFITHS: I didn't hear him say that.

Q. Did you take a course or taught a course?

A. I taught.

Q. And where was that?

A. In the Université Lyons Deux.

Q. And my question was, what courses did you take?

A. It was a decision taken in '73, '74, and we had in France to re-organize, to organize in every university lectures and teaching, and we had to try to find something specific for every university. So {2407|2408} I was candidate to that, teaching text and document criticism. So I had to submit a dossier to the responsible of my department, and it was submitted to the Scientific Council of the University and it was accepted, and I had a code number. It was accepted in consideration of the kind of publication that I had already done.

Q. Yes. And the publication that you had already done at that time was studies of Rimbaud and various French authors.

A. The French authors, yes.

Q. And the course that you were teaching in text and document criticism, did that also relate to French literature?

A. It could be French literature, journalism, or whatsoever.

Q. All right. And the course that you had approved by the university and taught, my question is did that course apply to French literature?

A. Also, yes.

Q. All right. And in addition to French literature did it relate to historical documents?

A. Yes. Historical documents.

Q. It did relate to that.

A. Yes.

Q. And aside from teaching at Lyons II in this course, did you have any qualifications in the area of text and document criticism?

A. My qualifications are my books. We don't have a title saying this man —

Q. Doctorate of Texts? {2408|2409}

A. Excuse me?

Q. I'm sorry, you have to forgive me because I don't know the French system and I am relying on you to help me. You don't have such a thing as a doctorate of text criticism?

A. No. It doesn't exist, and there is in France only three or four places where text and document criticism is taught – I know especially Paris University.

Q. When was the last time you taught in —

A. The 14th of May, 1979.

Q. And for the last almost six years.

A. I didn't teach any more.

Q. All right. My understanding is correct me if I m wrong – that you are still on the salary – you still receive a salary from the university.

A. I still receive my basic salary, yes.

Q. And that's what you are using to survive on; that's what you live on.

A. Yes. ...

Q. All right. Now, you indicated to Mr. Christie some of the basic reading that you have done and some of the different researches that you have done. And you said that you started off with Rassinier.

A. That's right.

Q. All right. And I gather from something you said that you knew



Rassinier; you had met him.

A. I corresponded with him, but I {2409|2410} never met him.

Q. All right. Were you aware that Rassinier was involved in a lawsuit in 1964?

A. Yes, I know this lawsuit. Yes.

Q. All right. Where it was alleged in an article that Rassinier had made common cause with the Nazis and he sued the author of that article for libel?

A. That's right. For ...

Q. For libel.

A. That's right.

Q. And he lost.

A. And he lost. May I say something about that? No? Yes?

Q. That's my question. If Mr. Christie wants to follow up ...

I understand that you speak French, English and German.

A. I don't speak German, no. I read German.

Q. You read German.

A. Yes. Every time that a text is in English or in German or in Dutch or Spanish, I always ask to somebody to help me to check what I have done, and I double check.

Q. So the documents from the International Military Tribunal and the American Military Tribunal you read in French; is that what I understand?

A. Some of them are in French. The transcript, twenty-first volumes are in French. The two others, the International editions are indexes, and the {2410|2411} eighteen others are sometimes in French, sometimes in English, and sometimes in German.

Q. Dr. Hilberg explained to us that his methodology was to seek corroboration for whatever he did. If he had a fact, he would look for documents that would support that fact or not, and he called that an empirical process.

A. Yes.

Q. As I understand it, your method is to study the text.

A. To study – to give the priority to the text. If I may comment about that, the difference between —

Q. Please.

A. — Dr. Hilberg and myself, I admire very much the work that Dr. Hilberg did, and I told him, but I don't know exactly how to qualify this method. It is a kind of method which was perhaps too typically of a professor. May I make a kind of demonstration? If the text is there, a professor, most of the time, I noticed that since thirty years, instead of attacking the text itself, likes to show that he know many things about a text. He goes on quickly about the context and the context, and always like this. I noticed that when I had already, when I was already twenty years old, when I had a text that I could not understand, for instance from Rimbaud, I went to see those books and I was looking for the explanation of a text that I could not understand, and I saw that those people had written volumes and volumes about an author, and they didn't seem to have really read this author. They knew everything about his {2411|2412} life, about his loves, about his money affairs, about the time, about if he was a novelist, the novel, the story of the novel – always around; but the text itself ... So my work, since a very long time, is to say to the people, please, remember that the text, the context is important, but the text is more and more important. And my method, if I may explain it, my method is to say to my students, "You have there a text. I advise you to consider that this text is from an unknown author. I don't want you to tell me anything about the identity of the author, anything about the time. I want you to try to understand this text, to try to take it like this. Don't express any feeling. Try to be dry. And then you will go to the context, but please not the far context because what is the far context? All of us, we have little brains. We cannot embrace a vast context. So the nearest context is the word coming before and after, and perhaps a little bit further, but we must be very, very careful."

Q. All right.

A. So if I may criticize Mr. Hilberg that I admire, I will say it is typically a professor, and even a German professor.

Q. Would you agree with me, Doctor, that there is a difference between studying literature where the text itself is the item of study, and studying history, which deals with the continuum of documents?

That is my first question. Perhaps you can answer that and then I will go on to my next question.

A. I answer now? {2412|2413}

Q. Yes. Please.

A. No. I think that everything is inscribed in a continuity. For example, the meaning of the words change with the time. So a text is supposed to be historical and another one who is supposed to be literature, another one who is supposed to be poetical, another one who is supposed to be a novel. I say that those categories have something which is rather artificial. In fact, we have words, a document. When it is a written document, words. So we must try to understand those words one after the other. It's the principle – I think that Raul Hilberg should have been very careful when he used a word like "Endwesung". He translated by extermination. And if you see the context, the context means extermination of men. Instead, if you are precise, you try to find the dictionary with this word, you try to see the context itself, and you will see that it means "delousing". And the historians are like every people, like a journalist. I don't think that there is a difference of natural between a journalist and a historian, a novelist, and so on. I don't think so. I know that many of my students did not agree with that. I say, you consider that they are a poem. You have no right to say that. It is because it is set in this position that you say that it is a poem. Myself, I say that it is words with holes between the words. I must say and we must try to understand what is said in it, and then you will say, for me it is poetical, but you also have to say, for me it's not poetical.

Q. Have you ever been qualified as an expert in any court in the world to testify as an {2413|2414} expert on the Holocaust?

A. No. But for the Anne Frank Diary I can tell you what happened.

Q. No, I am not asking about the Anne Frank Diary. I am asking you if you have been qualified as an expert.

A. No. But I know what an expert is. And then the Court of Hamburg decided an expert is of the manuscripts of Anne Frank, and that is how they discovered that it was a literary fraud.

Q. All right. Is this as a result of your testimony, did you say?

A. I think.

Q. Did you testify as an expert at that trial?

A. I gave a long text to the lawyer of the man who was attacked, and he used it.

Q. Did you testify?

A. Personally?

Q. Yes.

A. No.

Q. Thank you. You've told us of many texts that you studied, and you named many different authors, most of whom I would suggest to you are secondary sources, historians who have studied documents. Have you studied the original documents?

A. Original documents?

Q. Yes.

A. Yes.

Q. All right. Since 1960 have you been financing your own research? {2414|2415}

A. Yes, I have been financing my own research.

Q. And has anybody been assisting you in that?

A. I have been assisted for my trial.

Q. No, I am not talking about your trials, but your research.

A. My research, myself, which means my wife and my children, also.

Q. You've mentioned some legal difficulties that you found yourself in, and I believe you mentioned three different trials.

A. Yeah.

Q. And the first was where you were sued by Leon Polkiov [Poliakov].

A. That's right.

Q. And it was a libel suit?

A. Libel suit.

Q. And you had accused him of being a manipulator or fabricator of

documents.

A. The two, manipulator and fabricator.

Q. And you were found guilty of lying.

A. Of libel.

Q. Libel. And you were ordered to pay a fine of 2,000 francs?

A. I don't remember, but I remember that I had to publish, to pay the publication of the judgment, but never Leon Poliakov published this judgment.

Q. All right. And the next case, the next two cases, they arose out of this radio broadcast {2415|2416} that you told us about; is that right?

A. So Poliakov, then the other one, only the radio, the radio broadcast, and the third one, the most important, about *Le Monde*, my article in *Le Monde*, and my letter.

Q. All right. The radio broadcast you told us what the substance of that was. I understand that you were charged criminally with incitement —

A. Yes.

Q. — to racial hatred and violence.

A. The violence — I don't think violence.

Q. Incitement to racial hatred?

A. Incitement to racial hatred and defamation.

Q. And you were convicted of that?

A. Of defamation, not incitement.

Q. And for the defamation you received a sentence of — suspended sentence of three months in jail.

A. That's right.

Q. And a fine, 5,000 francs.

A. Yes.

Q. And the defamation that you were charged with is a defamation against Jews, was it not, against a group?

A. They said against a group, I think. I never used, in this case — very often I say "Jews"; I don't say "Zionists". But in this case I said Zionists and State of Israel. May I comment?

Q. I am going to ask you — I have a {2416|2417} translation here and I would like you to have a look at it and tell me if it's accurate or not, from that trial.

A. May I see?

Q. Please. It's not the transcript.

A. Oh, patterns of prejudice.

Q. It's a report.

A. Yes.

Q. You can tell me whether or not that's accurate.

A. I must read all this. I could read it loud?

Q. Just read it to yourself, first. If it isn't accurate, then the jury shouldn't hear it. The page that I showed you is the end of that report.

A. I suppose that's — I don't know very well this text, but I think it's true, but I would have to check any translation.

Q. All right. Do you have that judgment here with you?

A. No, not here. And I would have to check everything, because I have noticed many mistakes in translations of judgment.

Q. Well, if you dispute the accuracy of that ...

A. No, I cannot say that I dispute. I would be very interested to have the French text and to compare, but I think that — No, I don't want to argue. I think that it might be fidel. It wasn't the first instance that, I suppose, eh?

Q. I believe this was the first instance, and then there was an appeal from that, and {2417|2418} you appealed not successfully, though. You still got the suspended sentence for three months and the fine, but you didn't have to publish on T.V.

A. No, not on T.V. And other things were suppressed also. For instance, not one publication, which is very rare in France, because in France, if you have a judgment, if you are condemned, convicted, you must pay the publication of the judgment.

Q. All right.

A. And I think, I am not sure, that those people went into the Court against that, and that they lose. They lost.

Q. About the publication.

A. About this — about the judgment and appeal.

Q. Well, let's be clear, if I may, Dr. Faurisson. Nobody has ever overturned the Court's finding that you are guilty of incitement to racial hatred.

A. No. Defamation, not incitement. Incitement has been suppressed. This is, I think, the first instance, and in the appeal they suppressed incitement.

Q. And what do you say you were convicted of on appeal?

A. Defamation.

Q. Defamation of whom?

A. Of a group, I suppose.

Q. Yes. The group being Jews.

A. I suppose.

Q. Yes. The third lawsuit arose out {2418|2419} of some articles that you wrote in *Le Monde*.

A. Yes.

Q. And as I understand it, there is a civil suit, not a criminal suit but a civil suit that can be brought in France, and that that civil suit would go to historians' obligation to provide objective information. A historian who couldn't provide objective information could be sued if he wasn't affected by that.

A. No. It's not exactly that. No, I don't think so. If a historian is not serious in his work. Because it was for damage. I was sued for damage.

Q. I understand that is a civil lawsuit.

A. If somebody makes badly work for you, you pay him, he does his work badly, you can sue him. And then, for the first time, I suppose, they said, Faurisson did badly his work, He is a falsifier.

Q. A falsifier of history?

A. Of history. That's what they say, but it does not exist in the French law. You don't have falsification of a story. It does not exist.

Q. All right. You've used that word a number of times, and I want to make sure that I understand it. Falsification.

A. Falsification of history.

Q. And that is the act of falsifying history?

A. Yes. That is what they said.

Q. All right. And in that lawsuit where they were suing you for falsification of history, {2419|2420} they received a judgment from the Court.

A. Yes. But the Court didn't say that there was falsification. Not even the first.

Q. All right. Now, there was a trial court, and then the matter went to appeal.

A. Yes. But without the story of the text there.

Q. Do you have the English text there?

A. Yes.

Q. You have provided me with an appeal decision and this is a translation, I understand that you approve of.

A. Yes.

Q. The people that sued you have an acronym called "Licra".

A. Yes. It means League Against Racism and Anti-Semitism, but there were eight other associations.

Q. And on page 6 of the report you've given me they have the ground for the Court's decision. Were you required to publish this at your own expense, grounds for the Court's decision?

A. Oh, yes. And something interesting happened. They had to publish the publication of page 7 to 10 and I had to pay. Instead of doing that, they published a text completely twisted in a review called, "Historia", and we are suing them because of that. We are suing them because they distorted the publication. They didn't take page 7 to 10. They took pieces of the first judgment to suppress some words. I can't tell you the words suppressed. {2420|2421}

MR. CHRISTIE: . You asked him and you should let him give a full answer.

MR. GRIFFITHS: I am not interrupting him in any way. I am quite happy that he answer. I am suggesting that he read the whole judgment and nothing will be suppressed. It will be an exhibit on this hearing.

MR. CHRISTIE: But you asked him if he was ordered to publish, and he indicated publication was made, and he suggested suppression of part of it, and I would like him to answer the question.

THE COURT: Mr. Christie, the practice in this Court – I don't know what it is in British Columbia – is that if you have an objection you stand up and give it to the judge.

MR. CHRISTIE: I was trying to do that, Your Honour. What I said was, my friend asked about publication. The witness was in the course of giving the answer and my friend, with great care, tried to direct him to another question. I would like him to answer that.

THE COURT: Go ahead, Mr. Griffiths.

MR. CHRISTIE: Is my objection overruled?

MR. GRIFFITHS: I will do it this way.

MR. CHRISTIE: I would like His Honour to rule.

THE COURT: The objection is overruled. There was no interruption, and the shoe is on the other foot, and you can proceed with your cross-examination. Hopefully you are not going to ask the witness to read the whole judgment. I have one here that goes for a number of pages.

MR. GRIFFITHS: I will shorten it if I may, Your Honour.

THE WITNESS: May I perhaps read one page, page 8?

Q. MR. GRIFFITHS: Please.

A. And show what has been cut in?

Q. All right.

A. Page 8:

*"It derives from these various publications and from the plea submitted to Court that Mr. Faurisson's researches have dealt with the existence of gas chambers which, if one were to believe the large number of testimonies, were supposedly used during World War II to systematically put to death some of the persons deported by the German authorities."*

I think that they suppressed the words, "which, if one were to believe the large number of testimonies", something like that. I cannot guarantee, but something of this kind.

*"Limiting ourselves for the time being to the historical problem that Mr. Faurisson wanted to raise with this precise point, it is proper to {2422|2423} state that the accusations of frivolity made against him are lacking in pertinence and are not sufficiently proven. Faurisson's logical approach is indeed to try to demonstrate, by using a line of argumentation of a scientific nature ..."*

And then suddenly, in the margin, the words, "that he thinks is of scientific nature" were added, written, handwritten.

Q. Written by the Court?

A. Yes.

*"... that the existence of the gas chambers such as they have usually been described since 1945 runs into an absolute impossibility which would be sufficient by itself to invalidate all of the existing testimonies, or at least to make them suspect."*

So they suppressed after "runs into an absolute impossibility which would be sufficient by itself to invalidate all of the existing testimonies, or at least to make them suspect."

*"It is not the job of the Court to speak up on the legitimacy of such a method or on the full significance of the arguments set forth by Mr. Faurisson, nor is it any more permissible for the Court, considering the research to which he has devoted himself, to state that Mr. {2423|2424} Faurisson has frivolously or negligently set the testimonies aside, or that he has deliberately chosen to ignore them. Furthermore, this being the case, nobody can convict him of lying when he enumerates the many documents that he claims to have studied and the organizations at which he supposedly did research for more than fourteen years."*

And there's the conclusion of the Court which makes this judgment important:

*"Therefore, the value of the conclusions defended by Mr. Faurisson rests solely with the appraisal of the experts, historians and the public."*

So since this date, 26 of April, 1983, it is official in France that we have the right to deny the existence of the gas chamber and of the genocide.

Q. All right. Now —

A. And I can read, now, the bad part.

Q. Let me read the bad part. You tell me if it's true or not. The judgment goes on: —

A. You mean that I can interrupt you if there is something which is not exact?

THE COURT: Certainly you can tell him.

MR. GRIFFITHS: Certainly. I want the exact translation. The judgment goes on: {2424|2425}

*"But when reading the full content of the paper submitted to Court one gains the impression that Mr. Faurisson takes abusively advantage of his critical work in order to try to justify under its cover, while largely exceeding his target, allegations of a more general nature which have no longer a scientific character and are nothing but polemics, that he has deliberately left the field of historical research and has taken a leap which is not authorized by anything that is contained in his previous writing, namely, when giving a summary of his line of thought in the forum of a slogan, he proclaims that, 'the alleged massacres in gas chambers and the alleged genocide are one and the same lie.'"*

A. May I interrupt you there, please?

Q. Sir.

A. This phrase is not mine. This phrase was in a journal, "Le Methode de Paris", and the judge made the conclusion. I didn't express myself like that. It is a little bit vulgar. I don't say that. I say a historical lie.

THE COURT: You said it was what?

THE WITNESS: A historical lie, which is quite different. {2425|2426}

Q. MR. GRIFFITHS: *"That in addition to denying the existence of the gas chambers, he avails himself of every opportunity to mitigate the criminal nature of the deportations. .... example by furnishing a personal but altogether unfounded explication of those 'special actions' mentioned on fifteen occasions and with horror in the diary of Dr. Kramer."*

A. Once more you have to excuse me to criticize that. Not your reading, eh? But never Kramer expressed his horror on fifteen occasions, and nothing to do with gas chamber.

Q. Well, you say the Court found something different here?

A. Yes. The Court said fifteen because it was mentioned fifteen times, but twelve times without any error whatsoever.

Q. I see. But fifteen times it was mentioned, but only three with horror?

A. Yes. Because of the execution of the women.

Q. *"He undoubtedly protests in his recent plea against the 'falsifications' of his line of thought imparting to him the opinion that 'there were no Jewish victims' of Nazi Germany. His wording does, however, induce the reader, in a more {2426|2427} or less insinuating fashion to believe that while 'gas chambers' and 'genocide' are one and the same thing, there were certainly 'Jewish victims' like that, the massacre of Jews is an exaggeration, nay, even a 'war rumour', for it appears that when reading Mr. Faurisson the deportees of Auschwitz died above all from typhoid and that, moreover, the term 'genocide' would be, strictly speaking, incorrect, if the figure six million Jewish victims is evidently an approximate figure, and that by the way, a written order by Hitler laying down the decision to 'exterminate the Jews' has never been found. Mr. Faurisson, who is shocked about what he refers to as the religion of the Holocaust, has never found a word to express his respect for the victims by reminding his readers of the reality of racial persecutions and mass deportations which caused the death of several millions of people, Jewish or not. So that, in spite of the partial character of his work, his 'revisionism' which he opposes against 'the cause of the exterminationists' could play a role in an attempt of {2427|2428} an overall rehabilitation of the Nazi war criminals."*

A. Has never found a word to express his respect for the victims, etcetera, those words were exactly those ones in a video tape submitted to the Court. There was something like, perhaps, seven, eight lines above that. And I express also my feeling about the resistance and all that in the journal Le Monde.

Q. I guess the trial court and the Court of Appeal were not impressed by your expressions.

A. I don't know. I see that sometimes we read too quickly, everyone of us.

Q. Is that all, or shall I go on, or is there something else?

MR. CHRISTIE: Read it all. I object to this. Unless there is a question

arising out of it, what is the point of reading the judgment?

THE COURT: There may be a point, there may not, Mr. Christie.

MR. CHRISTIE: Well, usually we have questions that associate themselves with the substance of a reading.

THE COURT: Go ahead.

Q. MR. GRIFFITHS: *"The positions adopted by Mr. Faurisson are just as offensive for the survivors of persecutions and deportations as they are insulting for the victims, since the general public is induced to misappreciate the suffering, if not even cast doubt on it. They are, in {2428|2429} addition to this, of a nature as has been justly pointed out by the inferior Court as to provoke passionate reactions of regressivity against those who thereby find themselves implicitly accused of lie and of possible power*

A. And my comment there would be once more, lie, historical lie.

Q. *"Mr. Faurisson's offences has caused the detriment invoked by the associations which are defendants on appeal. The sentences promulgated with the previous judgment will ensure a rightful compensation for it."*

And they, thereby, upheld the decision of the lower court. Is that right?

A. That's right.

Q. And I suggest to you that what they say is that they falsify history, the sections that I just read.

A. No, not for one minute. Excuse me.

Q. All right. I suggest to you that you were accused of falsifying history in a book of memoirs written by Jean Pierre Blanc.

A. Oh, that is quite interesting, because I sued Pierre Blanc. And the conclusion now given by Pierre Blanc, we have a conclusion, written plea, and his lawyer said that I was not called a falsifier, that the word was not concerning my person, {2429|2430} but that somebody else.

Q. Do you know what's happened to this libel suit?

A. To this libel suit? I don't know exactly the result now.

Q. I am going to suggest to you the result came out two weeks ago on January 16th.

A. Saying that ...

Q. Saying that there was no libel, that Jean-Pierre Blanc

A. But there was injury, that's right.

Q. No libel.

A. No libel, but injury. If I sued him for injury, I would have won. Instead I sued him for libel. And the French judge said that he had no right, because in the first judgment it was like that, that he had no right to change the motif. So I come back to the story of falsification of the story.

Q. I think we had better have the judgment here, then.

A. The judgment, I think, says —

Q. No. I mean the judgment of two weeks ago.

A. I don't have this judgment.

Q. I will see what I can do. Do you have any studies or background in the field of toxicology?

A. No, not myself.

Q. Chemistry?

A. Chemist, crematorium, gas chamber themselves, certainly not. Not more than Mr. Hilberg {2430|2431} or any other historian.

Q. All right.

A. And I must say that something which is interesting is that about Holocaust, you have nearly no historians writing about Holocaust. Most of them are coming from elsewhere. Mr. Reitlinger is a specialist of art.

Q. Specialist of ...

A. Of art. Raul Hilberg is a social scientist. Mr. George Villers is a specialist in medicine. I notice that the historians are very prudent. And I can understand that.

Q. Well, now, just a minute. Yehuda Bauer, is he a historian?

A. I don't know.

Q. Leon Poliakov, is he a historian?

A. No. Leon Poliakov, he has no degree in history. He has a degree, I think, in philosophy.

Q. And Martin Gilbert, is he a historian?

A. I don't know.

Q. Lucy Dawidowitz, is she a historian?

A. She is something like a political scientist. No. If you will permit one more, I say, like Dr. Butz, that I wish that the historian by profession would have studied the question. I say that, really.

Q. Well, I just indicated to you quite a few historians, and —

MR. CHRISTIE: I hope the same rules {2431|2432} apply to my learned friend, and I rise to object as to who is a historian and who isn't, when he rises for evidence.

THE COURT: I agree. Have you concluded, Mr. Griffiths?

MR. GRIFFITHS: No, I haven't quite, Your Honour.

THE COURT: Thank you.

Q. Do you have any biases in this matter? Do you bring any biases to it?

A. Prejudices? Biases?

Q. Yes.

A. I hope not. I don't think that I have any biases, no. I am anti-racist.

Q. You are ...

A. Anti-racist.

Q. Anti-racist.

A. Yes. I think that's a pity.

Q. What's a pity?

A. Racism.

Q. I see. You don't think that — do you think it's racist to say, as you did on the radio, the alleged Hitler gas chambers and the alleged gas chambers of the Jews —

A. No. The alleged Hitler gas chamber and the alleged genocide of the Jews.

Q. Okay — are one and the same historical lie?

A. Yes.

Q. Of whom the principle beneficiaries are Israel and Zionists? {2432|2433}

A. The State of Israel and International Zionism, yes. I think that every country is founded on something which is not clean. The United States of America, France also, on massacres. Every country has something like that. Nations are founded like that.

Q. Do you belong to an organization called The Institute of Historical Review?

A. Yes. The Institute of Historical Review.

Q. Are you on the board of directors of that organization?

A. I am on the scientific council. I don't remember the English word.

Q. Okay. And that's in Southern California, I believe?

A. Yes. In Los Angeles.

Q. Is a man by the name of Richard Varrel [Verrall] also on the board?

A. No, I don't think so. I know this name. It's a British writer. He is the author of the booklet, no?

Q. If you don't know, you cannot say.

A. I know there is a Richard Varrel [sic], but it is a name for me.

Q. Okay. And has your research been funded at all by the Institute of Historical Review?

A. Funded? Paid, you mean?

Q. Yes.

A. No.

Q. Thank you. I have no further {2433|2434} questions.

THE WITNESS: One word, please. This institute would have difficulty to pay me, because this Institute has been entirely devastated by an arson the 4th of July, 1983.

MR. GRIFFITHS: Thank you.

#### RE-EXAMINATION BY MR. CHRISTIE:

Q. My friend raised the statement of Rassinier's lawsuit that he says he lost.

A. Yes.

Q. Do you have any more information about that?

A. Yes. He lost his lawsuit as I lost my lawsuits, as many revisionists lost their law-suits, but it was presented at the time like a condemnation of the demonstration of Rassinier, and it was not the case. The Courts

say, yes, it could be interpreted as if Rassinier, somebody who says that Rassinier is more or less on the side of the Nazis; yes, we could consider that because he says that the gas chambers did not exist. I am fighting myself against that since years and years. "Oh, you deny the gas chambers?" And first of all the people think that I deny the concentration camps, and I have trials and trials, lawsuits and lawsuits; but it's now my turn.

Q. The Poliakov judgment raised the issue of whether you had falsified or manipulated texts {2434|2435} or, rather, you accused him of it.

A. Yes.

Q. Do you know whether the Court found that he had or not?

A. The Court said that he had not been fidel.

Q. What is "fidel" – "faithful, accurate"?

A. Accurate. He had not acted like a scientific in certain poems. For instance, finding the Gerstein document that 700 to 800 people were put together in twenty-five square meters. Leon Poliakov changed and put ninety-three, although the manuscript itself is quite clear when Gerstein said in forty-five cubic meters, Poliakov suppressed forty-five cubic meters, because with ninety-three square meters it gave him have a meter. He suppressed it one more. Forty-five cubic meters was suppressed, and at the time, in the text, you have a man with his auberge, his name and his village, but as we know, that this man was not in this place, Leon Poliakov said not visible, and many things like that.

Q. He changed the text to make it —

A. Oh, yes. And it is mechanic, you see.

Q. Did the court agree with your proposition that he had done so?

A. The Court said that on certain points he had done that, but he was animated by such a passion to make this statement known that he could be excused. And the interesting part is that the trial {2435|2436} was not at all about that.

Q. Have you won on judgments, too?

A. Yes.

Q. Are you allowed by the Court's ruling to publicize those?

A. Oh, I see. In 1978 it was written that I had been criticized for that in university, a complete invention, and many others. I sued these people. I won my case. I received one franc of damage, as we say, but the judge added that, this being the case, because of the particular day of the case, the judgment would not be published. So I was insulted, but I had no right to publish. I understand that it is kind of fight, or battle. I am not surprised by all that. Everybody who tries to go in this way must understand that it's a terrible life for himself, for his family, but I think that we must go our way all the same.

Q. My friend brought out the fact that you were not allowed to teach after the 14th of May, 1979. What happened that brought that about?

MR. GRIFFITHS: Excuse me. I didn't bring that out. My friend indicated that he was no longer teaching.

MR. CHRISTIE: The question was raised by my friend. I have it in my notes.

THE COURT: Did you raise it?

MR. GRIFFITHS: I asked him for how long he had been teaching, but I got it from in-chief that he was no longer teaching.

THE COURT: You can ask the question. {2436|2437}

Q. MR. CHRISTIE: What happened to bring that about that you are no longer teaching?

A. It all began on the 16th of November, 1978, when suddenly a French newspaper published something about me. So I had many troubles.

Q. Tell us just some of the troubles that prevented you from teaching.

A. My security couldn't be guaranteed. I was beaten up seriously one time.

Q. Where?

A. In the university.

Q. Where?

A. On the sidewalk. They run after me. They kick me. There were six. All that was done by Jewish association directed by Dr. Mark Aron. They came in the university. They published leaflets with their signature saying that I was a man of hatred and of lie; and I had many inci-

dents of this sort.

Q. Did these things happen in your classes?

A. Sometime I had to, yes, to get away from my classes.

Q. Why?

A. Now – because, for instance, once a guard came and said, "They are coming, a lot of them. So we must try to get away." Because the guard of the university decided that they were there to protect the premises, but not the individuals. So it was difficult for me to have any security.

Q. Are you still a tenured professor at that university? {2437|2438}

A. Yes.

Q. And are you available and ready to teach?

A. Yes. Sure.

Q. Would you like to teach?

A. Yes.

Q. In these defamation actions that you have been discussing with my learned friend, if you had proven that it was the truth, was that an offence?

A. I don't think so, because you can defame somebody —

THE COURT: He doesn't know law, Mr. Christie.

MR. CHRISTIE: Well, it was brought up by my friend and he asked many questions about it.

THE COURT: I don't think you should pursue it. Unless this man is a lawyer, let's not get into what legal defences there are. If you want to go at it another way, you are perfectly entitled to do that.

Q. MR. CHRISTIE: Have you ever lied in any of your publications?

A. Lied in my publications?

Q. Yes.

A. No. Never.

Q. Have you ever been convicted of lying?

A. No. Never. And never of falsification of history.

Q. Those are my questions. Thank you.

THE WITNESS: And I must add something, because fifteen days after the publication of {2438|2439} this judgment of the 26th of April, 1983, Mrs. Simone Veil, she is very well known, she is the President of the European Parliament, said that she was very perturbed by the result of this legal suit against me.

She said we had to prove in a newspaper —

MR. GRIFFITHS: It's all hearsay what Mrs. Veil said, Your Honour.

THE COURT: I have just one question, sir, if I may, perhaps two.

I am a little puzzled. Can you explain to me the difference between a historical lie and an ordinary lie?

THE WITNESS: Yes. An ordinary lie comes in a short time and touch few people. A historical lie can be for centuries and centuries. We can take an example.

If we say that Nero set fire to Rome, this is a fact which is not established at all. We have no right to say that; but the more we say that and the more this historical lie extend itself. And it doesn't mean that the people are liars. They think that it is the truth. I can give other examples.

THE COURT: No. That's fine. The second question I have is this:

Do you recall indicating, I think to Mr. Christie but I could be wrong, that you have spent some time, 1960 to 1974, researching gas chambers, and that you've done that to the present, but there was some time in between – do you recall, –is that —

THE WITNESS: Yes. It means that I was not working all the time on that. Certainly. {2439|2440}

THE COURT: And then you were asked if you had been supported in that research by Jewish people.

THE WITNESS: Yes.

THE COURT: And you mentioned the name of Cohn-Bendit ...

THE WITNESS: Yes.

THE COURT: ... and Gabor Rittersporn, Pierre Guillaume, and Jacob Assous.

THE WITNESS: Yes.

THE COURT: In the Court of Appeal of Paris, the 5th of May, 1983, was Jacob Assous, Jean-Gabriel Cohn-Bendit, Gabor Rittersporn,

were they involved —

THE WITNESS: Yes.

THE COURT: Were they charged with something?

THE WITNESS: No. They were voluntarily internists.

THE COURT: That is what I am looking at.

THE WITNESS: Yes.

THE COURT: What does that all mean?

THE WITNESS: It means that somebody can come on your side, considering that if you are condemned, it has a bad effect on them, on what they write, think, and all that.

THE COURT: I see. So they intervened on your side.

THE WITNESS: They intervened. And everything which was written about this judgment or the {2440|2441} previous one, specially in what we call the Bible of the jurist, the Bible has been published, and all things about those people who were on my side, all has been suppressed.

THE COURT: Gentlemen, any questions arising out of my questions? Mr. Christie?

MR. CHRISTIE: No, sir.

MR. GRIFFITHS: No, Your Honour.

THE COURT: Fifteen minutes.

— The jury retires. 3:32 p.m.

— The witness stands down.

— Short adjournment.

— Upon resuming.

— The witness returns to the stand.

— The jury returns. 3:50 p.m.

THE COURT: Go ahead, Mr. Christie.

MR. CHRISTIE: Your Honour, I would like to have Your Honour qualify the witness as an expert because of his research, and specifically on the Holocaust, because it is my contention that the issue of the gas chambers is the central issue of the Holocaust, and I am prepared to contend, if you want to restrict him to give me his evidence about the gas chambers and the testimony surrounding it, but I say the Holocaust because I think it is the essence of the gas chamber issue, which is the question of the booklet. {2441|2442}

I have as background photocopies of Dr. Faurisson's doctorate. I have given you the information as to his education, which is all in his personal background.

He obtained the highest competitive result in the examination for teachers in France, as well as a doctorate in Human Sciences, and he was qualified and did teach in the areas of text and documents criticism and analysis, which he described, I think, fairly and clearly in his evidence to be the analysis of documents which can include historical documents, literary documents or other documents for their internal consistence and meaning.

He has given you a detailed description of the work he has done to research in the area of the gas chamber issue and why he has done it. His interest was intellectual and curiosity, and he has been, I suggest, involved with research in all aspects of this field which, apparently, is a recognized field as far as Dr. Hilberg is concerned, and it may be said that he takes a different view — than Dr. Hilberg. There is no doubt about that, that he takes a different view. But he is researching in the same field and did conduct {2442|2443} research in a different manner. His manner he described as being one in which he examined the physical evidence for the purposes of considering the consistency of that evidence with the various views of that evidence taken by alleged witnesses.

He analyzed the texts and documents of the IMT and the NMT for the purpose of analyzing the internal consistency of Gerstein, Hoess and other witnesses. He has written extensively on the subject and, as obviously is the case, has been the subject of much controversy. He has paid a high price for his views.

He is certainly not into this line of endeavour for his remuneration, it would appear, but out of intellectual curiosity and honesty which he demonstrated in numerous manners, albeit through numerous battles

in France which appears to be a rather letigious [sic] country.

Now, it is my submission that this witness has done something which most of us have not done. He has researched into this area in depth. He has examined the allegations. He has read the literature. He has formed his own conclusions and he is prepared to give those opinions and defend those conclusions and {2443|2444} be cross-examined on them as he was endeavouring to be qualified.

Now, it's my submission that throughout history the subject of who is an expert and who is not has been flexible and fluid. In other words, there's been expanding categories of what is expert evidence and what is admissible as expert evidence, and it is my submission that not until very recently, at least in this case, has there been an expert in history, at least in giving opinions on allegations of fact based on hearsay.

Dr. Hilberg was so qualified. He, for his good fortune, has never had to be criticized anywhere in court, and is scrupulously above reproach in all his conduct in terms of where he's published. He published one book which, you know, is an extensive book, carefully researched and all sorts —

THE COURT: Are we talking about Dr. Hilberg or are we talking about this witness?

MR. CHRISTIE: I am just comparing the two.

THE COURT: But who published the the book? You said "he". {2444|2445}

MR. CHRISTIE: "He" meant Dr. Hilberg, of course. Now, that was a book based on no first-hand experience — the concentration camps, and the documents that he had read — and he said he analyzed in relation to other documents.

On the subject of who may be an expert, in referring to this matter in McWilliams, page 239, I was inclined to the view that we might defer with some benefit to Carter v. Boehm, Smith's Leading Cases, where it says:

*"... it appears to be admitted that the opinion of witnesses possessing peculiar skill is admissible whenever the subject matter of the inquiry is such that inexperienced persons are unlikely to prove capable of forming a good judgment upon it without assistance, in other words when it so far partakes of the nature of a science as to require a course of previous habit or study."*

Dr. Faurisson has undertaken a previous study which he is prepared to explain and defend, and it is a detailed study. He has expended massive amounts of time and his own money, of course, as {2445|2446} he indicated, to get to the bottom of this question.

It is for the jury, I say, to decide whether they wish to believe him on any point or any other witness, or they may disregard any or all of any other witness as the time may come; but the thing I am trying to do now is to obtain the permission that Your Honour can give that he give his opinion.

I think with respect to this case I might even argue that even if he wasn't an expert, he could demonstrate how he got his opinion, and that he give his opinion, however unqualified it may be, because the accused has relied upon his opinion which was published in his book, which are freely, legally available in the nation of France, and so far, available here in Canada, albeit in French, which the accused reads.

So I am saying that this witness should be qualified to give his opinion as he has demonstrated already and has published books, and the jury can decide whatever weight they wish to give to it.

In Rice v. Sockett, referred to in McWilliams, (1912) 8 D.L.R. 84, Divisional Court judgment, Falconbridge Chief Justice of King's Bench as it then {2446|2447} was said, and cited with approval, that an expert is one "who by experience has acquired special or peculiar knowledge of the subject of which he undertakes to testify, and it does not matter whether such knowledge has been acquired by study of scientific works or by practical observation."

I think, with respect, the witness has shown that he has undertaken both the study of scientific works in respect to Zyklon and other works on the subject, and by practical observation.

In R. v Silverlock, regarded as a judgment of the House of Lords [1894] 2 Q.B. 766, Lord Russell of Killowen said:

*"The question is, is he peritus? Is he skilled? Has he an adequate knowledge? Looking at the matter practically, if a witness is not skilled the judge would tell the jury to disregard his evidence. There is no decision which requires that the evidence of a man who is skilled in comparative handwriting, and who has formed {2447|2448} a reliable opinion from past experience, should be excluded because his experience has not been gained in the way of his business."*

Now, I suppose the criticism may well be made that Dr. Faurisson is not a historian, not a trained historian. Well, that same criticism could be applied to Dr. Hilberg who was, in my understanding, an expert in political science and public international law. They are unrelated, and yet they are slightly related to the International Military Tribunal transcript. However unrelated they may be, however, to the subject of history and the Holocaust, [sic] but he does teach and study on the Holocaust. I don't know if that is a separate subject or maybe it is now. I don't know.

The point being that, apparently, nobody so far who has a reputable historical background has ventured in this field except to agree with Dr. Hilberg. So this is a first time opinion; not really first time in history. But has anyone attempted to be qualified who does not agree holus bolus with what those who say six million did die have said?

The evidence of the witness is that {2448|2449} his is not the first opinion to this effect, however, that is published fairly widely throughout the world, that Rassinier, an inmate of concentration camps as a resistance fighter, was also to the same effect, and became the basis upon which Dr. Faurisson ultimately agreed.

It's my understanding that qualification by the Court to enable the witness to give his opinion doesn't have to establish the credibility of that opinion any more than to say that he possesses a peculiar skill derive, from either experience or training, and that his evidence is designed to help the jury to consider the facts from the benefit of his experience and his training, which is peculiar to the field.

The grounds for admission have been broadly stated by Ainsworth, J., in *Fisher v. The Queen*, (1961) 130 C.C.C. 1 at page 19, a Court of Appeal decision, which was approved by the Supreme Court of Canada at page 24. Then I quote from McWilliams where it says:

*"It is trite to say that a witness may not give his opinion upon matters {2449|2450} calling for special skill or knowledge unless he is an expert in such matters nor will an expert witness be allowed to give his opinion upon matters not within his particular field. Finally, opinion evidence may not be given upon a subject-matter within what may be described as the common stock of knowledge. Subject to these rules, the basic reasoning which runs through the authorities here and in England, seems to be that expert opinion evidence will be admitted where it will be helpful to the jury in their deliberations, and it will be excluded only where the jury can as easily draw the necessary inferences without it. Where the latter is the situation, the intended opinion evidence is superfluous and its admission would only involve an unnecessary addition {2450|2450a} to the testimony placed before the jury."*

Over sixty years ago Thayer, in his *Preliminary Treatise on Evidence at Common Law* wrote:

*"There is ground for saying that, in the main, any rule excluding opinion evidence is limited to cases where, in the judgment of the Court, it will not be helpful to the jury. Whether accepted in terms or not, this view largely governs the administration of the rule."*

(Continued on page 2451) {2450a|2451}

(Continued from page 2450 (a))

My submission pertaining to Dr. Faurisson is that whatever the jury may decide in respect to his evidence, he has certainly conducted more inquiries than an average layman. He has a peculiar skill and knowledge acquired over many years of diligent and conscientious [sic] research. He has been indeed maybe one of the few of us among – few among the school of experts to have had a court decide that he was serious in his work as a result of litigation.

It is certainly true to say that he has been in controversy for many years now since he published the results of his findings, but that, in itself, does not mean that those findings are credible or incredible, nor

does it mean that he is not an expert in the field.

I suggest that it may very well be fair to say that he demonstrates by having been in so many court controversies, a higher degree of understanding {2451|2452} in the field of the necessity of precision than many who have not had the difficulties that he has had.

Generally, it is my submission that opinion evidence excludes hearsay, but of course, it has been already ruled in this case that Dr. Hilberg can base his opinions on hearsay.

The necessity of a witness doing so, of course, rests upon the fact that much of the evidence of an expert must be inevitably derived from secondary sources, and no one suggested that Dr. Hilberg could not do so. No one should suggest that Dr. Faurisson ought not to have done so.

Now, it's my submission that Dr. Faurisson's evidence is essential to the theory of the defence, and it would be my submission unfair to deny the accused the opportunity to call opinion evidence which has been published widely, upon which he could and did rely, otherwise the jury cannot know the basis of the opinion of the accused, and this in a case where the opinion of the accused is supposedly false, and knowingly false, is all the more relevant to how he derives his opinion.

He derived it to a large extent from {2452|2453} the information he received from Dr. Faurisson, and if he is qualified, then Dr. Faurisson can give that opinion evidence as an expert, and the jury can decide between the many experts, if there are more than one, whichever they wish to believe; otherwise it would be seeming rather biased that the opinion of one side of the case can be given blanket condemnations of the book, "Did Six Million Really Die?" being expressed by Dr. Hilberg. And because of the fact that the point of view expressed by the book is so unpopular or so controversial that no one can be called to refute that of the establishment, shall we say, experts, it becomes almost a vicious circle.

If you write a controversial point of view or if you hold an opinion that is counter to the large number of people, you become subject to the type of thing that Dr. Faurisson has been through, and when you do, then your right to testify as to your opinion can become suspect, if that is the way the procedure operates it would seem to be rather a vicious circle and rather unfair.

THE COURT: That last submission is not being of any assistance to me. This is a speech to the jury. Let's get down to the point here. {2453|2454}

MR. CHRISTIE: Well, I've got down —

THE COURT: What specific subjects do you specifically propose to put to this witness if he is qualified as an expert, Mr. Christie?

MR. CHRISTIE: I already indicated that I was hopeful that Your Honour would qualify him in the areas of his research, those areas being his special studies and information he had undertaken to understand the process of the gas chamber.

THE COURT: Yes. I have that. Is there anything else?

MR. CHRISTIE: The process by which it operates, the effects in which the gas chamber demonstrates, for example, the effects of the use of the gas chamber, how it operates, the relationship of the evidence that supports the gas chamber to that derived from a study —

THE COURT: I missed that. Could you do that one again?

MR. CHRISTIE: Yes. The evidence that supports the existence of the gas chamber coming from Hoess and Gerstein in the transcripts of the {2454|2455} International Military Tribunal, and the conflicts that exist between the various stories about the gas chamber published by eye witnesses, such as Dr. Vrba, such as Primo Levy and others that have been writing upon the subject. Not all of the works that Dr. Faurisson has studied have been mentioned in his evidence, but he can give more evidence on that if he is qualified to do so.

I think I have made myself clear that I am endeavouring to qualify Dr. Faurisson to give evidence on the gas chamber, what it is, where it is, how it operates, and upon the sources of evidentiary basis for the belief in the gas chamber such as Gerstein, Hoess, Vrba, the War Refugee Board Report. These are areas that he has studied in. These are areas that he has acquired special skill and knowledge in, and I would like



him to express opinions on this subject.

I realize that Your Honour would want me to specify exactly what areas. I would like to leave this final comment with Your Honour, that the evidence of Dr. Hilberg was generally sort of upon the Holocaust. Now, that term seems rather elastic to me. I was not in {2455|2456} any way disinclined to permit him to testify to the extent of his special skill and knowledge, and I didn't object to the use of the word "Holocaust", but I don't know quite how to be more precise in defining the area than that. I suppose it's what's classically been called the Holocaust, because the issue of gas chambers is the very core of the Holocaust, and at least, that's the opinion of Dr. Faurisson.

Now, Dr. Hilberg may say otherwise, or my friend may say otherwise, but I'd like my client to be able to tell us what he understands the Holocaust to mean, and to discuss it in relation to what he has found.

THE COURT: What is the specific basis upon which, in your submission, this witness can testify regarding the chemical properties of Zyklon-B?

MR. CHRISTIE: Well, he's conducted research into the field, Your Honour. He indicated that he had gone to and examined the process of the American gas chamber system, how it operates, what the results of it are.

You see, I didn't go into the whole {2456|2457} area of what his evidence is because I didn't think it was proper in the realm of qualifying him.

THE COURT: No, it isn't.

MR. CHRISTIE: But I can tell you that he has photographs of the operation of the American gas chamber to demonstrate how dangerous the substance is, and how certain measures have to be taken that, obviously, would have to be taken in a gas chamber for many people when one person is gassed, demonstrating thereby the impossibility of some of the things that are said about gas chambers in the literature, and the gas chamber alleged in Krema I, for instance, which he has photographs of all these things, and he would be able to testify about that as a basis for his opinions.

Those are my submissions.

THE COURT: Thank you. Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

With respect, Your Honour, I would ask that Dr. Faurisson not be qualified as an expert, and particularly in the field that my friend asked him to be qualified, if I have it right, in the use and {2457|2458} operation of gas chambers.

He has no training, no special skills as a toxicologist, the study of how toxic chemicals work on the body, or as a chemist. No indication, from what I understand, from the qualifications, that what was being used in the penitentiary at Maryland was Zyklon-B. In fact, contrary, I understand it was not Zyklon-B.

He is, and this is a good French word that I am sure Dr. Faurisson would appreciate – he is an amateur, somebody who has looked into a matter, and certainly Dr. Faurisson has, but he is not skilled to give expert evidence in that field because of, I would submit, his lack of any formal training in body chemistry that he wishes to tell the jury about. He is not an archeologist, and yet we are going to hear something about what he determined from ruins. And I would suggest that he is not skilled to give that evidence.

In fact, from what I understand, Dr. Faurisson says some of what he observed at Auschwitz were things that were rebuilt and not the original matters that Dr. Vrba, for example, or Mr. Urstein, saw. {2458|2459}

I haven't heard that he is qualified to examine blueprints or diagrams of buildings, and yet that is part of what he will be purporting to do. I understand that, from what my friend has said and Dr. Faurisson said, that he has examined the documents from the International Military Tribunal and the American Military Tribunal, and we certainly heard from Dr. Hilberg that there were a great deal more documentation that was available from those two proceedings – I forget how many linear feet in Alexandria, but certainly an enormous amount of documentation.

I would suggest that there is a bias – I say this with respect – to Dr.

Faurisson's research.

THE COURT: Does that go to weight or does it go to admissibility?

MR. GRIFFITHS: His methodology, I would suggest, goes to admissibility and then to weight, Your Honour.

THE COURT: Why?

MR. GRIFFITHS: I have a case for Your Honour which I believe speaks to that. It's from the Manitoba Court of Appeal, and it's R. v. De Tonnancourt, cited at page 337 of the Western Weekly Reports, Volume 18, {2459|2460} and I pass that up. I have given my friend a copy already. That is a decision, Your Honour, I believe, of Mr. Justice Freedman and it deals in part with expert evidence. It was a murder case where two psychiatrists gave evidence during the course of the proceedings as to the insanity of the accused, and that defence was rejected by the jury. At the bottom of page 341 it is indicated as a ground of appeal that – it is about the second last sentence:

*"This Court is asked to hold that the jury was perverse in rejecting the defence of insanity. After a study of the evidence I hold that not only was there evidence on which the jury could reject this defence, but that its verdict was correct."*

And over, the top of page 342 – I am not going to read it all, Your Honour – there is a quotation from Phipson's Law of Evidence which I would commend to you, and then a quotation from Taylor on Evidence which I would also commend to you, and the conclusion at the last paragraph on that page, the first sentence – and I would suggest the principle I am {2460|2461} speaking to is that the evidence of an expert witness, to be useful, should be moderate, fair and strictly professional. I am suggesting that if the evidence isn't useful, then it should not be heard.

THE COURT: Yes

MR. GRIFFITHS: In the past, Your Honour, Dr. Faurisson has never given expert evidence in this field before.

THE COURT: Should that necessarily restrict him?

MR. GRIFFITHS: No, that does not, Your Honour. It does not, but in the past, Your Honour, his work has been criticized by other courts.

THE COURT: That may be so because it was unpopular, as Mr. Christie says, or perceived to be unpopular in some quarters is a better way of putting it.

MR. GRIFFITHS: With respect, while that may be a ground for criticism, it was not a ground that I see in this case translated before you, and where the report indicates that – and I am reading from page 8 of the judgment, the last paragraph:

*"One gains the impression that Mr. {2461|2462} Faurisson takes abusively advantage of his critical work in order to try to justify under its cover, while largely exceeding his target, allegations of a more general nature which have no longer a scientific character and are nothing but polemics."*

And I would suggest that that is an indication that, as Mr. Justice Friedman would indicate, the expert to be useful should be moderate, fair, and strictly professional. And another Court on another occasion found that Dr. Faurisson was not.

There is, certainly from his own testimony, Dr. Faurisson has indicated that the core, the centre of his research has been around gas chambers, and I would suggest that that really is the weakest area of where he's qualified. He may well be qualified to speak to documents of the International Military Tribunal and the American Military Tribunal that he has read and studied, but not those other matters dealing with gas chambers in which field he has no expertise or special skill.

Those would be my submissions, Your {2462|2463} Honour.

THE COURT: Thank you. Mr. Christie.

MR. CHRISTIE: Just briefly, I don't understand the Tonnecourt case to say that the doctors whose evidence the jury disregarded ought not to have been able to testify. I think the Court of Appeal merely said that they took the view that the jury had properly disregarded the evidence of the experts, because the Court of Appeal felt that the experts' testimony was not of great weight and therefore could be disregarded. I don't think the Court of Appeal went so far as to say, from my reading of the case, that they ought not to have been allowed to testify.



If the jury wants to, after hearing Dr. Faurisson's opinion, to consider him of a biased nature or a liar or a falsifier, then they may do so as they may with any witness, indeed with any expert as well, which being charged as triers of fact they may do.

I would suggest that certainly Dr. Faurisson has been very candid in discussing – that is for the jury to decide, anyway, but my friend's remarks respecting Court proceedings in France I am sure are no better qualified than mine, which are really not {2463|2464} qualified, to say precisely how the Court in France functions or what their conclusions really mean. I have not sought to bring evidence on that point of a professional or legal nature and I don't think that my friend or I should really speculate.

The jury can decide on the basis of having heard whatever has been said about him to what extent they wish to rely on his evidence, and if the Tonnecourt case had said more as to not being qualified as experts, then I will have nothing to say.

Thank you, sir.

THE COURT: Members of the jury, I see it's four thirty. I've got some homework for myself tonight on what I have heard and what you have heard. I will be working on it. You may very well find better ways to pass the time than I will, but that is because we do different jobs and perform different functions.

Nine thirty tomorrow morning.

— The jury retires. 4:30 p.m.

— Whereupon the hearing is adjourned to February 5, 1985.

Certified correct to the best of my skill and ability.

C.S.R. CARMEN OAKE OFFICIAL COURT REPORTER {2464|2465}

## FEBRUARY 5, 1985

MR. GRIFFITHS: Your Honour, I would like to introduce Mr. Richard Menkus at my counsel table. He is a historian. I will not be calling him in reply, but he knows more about history than I do, and is here to assist [sic] me during the testimony.

THE COURT: Thank you.

MR. GRIFFITHS: Thank you, sir.

THE COURT: Bring the jury in, please.

— Jury entered the courtroom at 9:56 a.m.

THE REGISTRAR: Are counsel content the jury are all present?

MR. GRIFFITHS: Content, Your Honour.

— {2465|2466}

## RULING

LOCKE, D.C.J.:

Counsel for the accused has moved the Court to qualify the evidence of Robert Faurisson as expert evidence when he testifies. If the order is made, the witness can then give his opinion with respect to the particular field of expertise in which he is held to be qualified.

The indictment alleges that the accused, Ernst Zundel, published a false statement wilfully knowing its contents to be false when he published it, and intending mischief to the public in the field of racial harmony in the community at large. The Statement is Exhibit 1. It is entitled "Did Six Million Really Die?" The "six million" refers to Jews said to have perished at the hands of Nazi Germany during World War II.

Counsel for the accused wishes to lead from this witness evidence essentially bearing on what I have been informed by defence counsel as being the heart of the defence, namely, whether or not gas chambers were employed during the Second World War, and even before, to exterminate Jews. More specifically, defence counsel proposes to lead from this witness an opinion that gas chambers were not employed by Nazi Germany to kill the Jews or anyone else in World War II. Further, defence counsel proposes to lead from the witness evidence to the {2466|2467} effect that Zyklon-B gas, by its chemical composition, cannot be used to kill people; rather, its use is confined to fumigating clothing and the killing of vermin in buildings.

It was also proposed to lead from the witness, as I understand from the submission, evidence concerning the construction, engineering and

operation of gas chambers generally speaking, and whether any were constructed or used by Nazi Germany between 1933 and 1945 in Europe.

Quite apart from the subject of gas and gas chambers, Mr. Christie seeks to qualify the witness as an expert able to give opinion evidence on the information and thinking contained in literature. Various pieces of literature and various authors were named during the course of the application for this order. Literature was read by Dr. Faurisson concerning allegations that the Nazis in World War II carried on a program of intentional annihilation of Jews in Europe. In that regard, it is sought that this witness be permitted to give his evidence on the trials, testimony and the judgments in the American Nuremberg trials of certain prominent Nazi officials held during the years subsequent to 1945.

In 1972, Dr. Faurisson appears to have been certified with a doctorate in literature and life sciences by the University of Paris, Sorbonne. He swore that he commenced his career in its early stages by teaching Greek, {2467|2468} and French. He then progressed to study French literature as a whole. He abandoned that field of endeavour in 1973 to commence the study of a subject that he called "Text and Document Criticism". [sic] He said that in France, people express feelings and opinions about history text books and novels. As a result, the examination of the true meaning of every word contained within the confines of these texts and other pieces of literature become very important in order to decide and discuss the true meaning and import of these texts and pieces of literature.

His interest in the matter of gas chambers began in 1960. That subject appears to equate Dr. Faurisson with a term that he used, "holocaust". This subject led him to read text in literary works by such persons as Paul Sange, Gerald Reitlinger, Raul Hilberg and others, each espousing one side and opposing that side. The witness became interested in a thesis of Rassinier, who was, it is said, himself held in one of these camps as a detainee. The witness, when he testified in connection with this application, expressed interest in Rassinier's thesis, or one thesis, upon which he wrote, namely, that people who experience suffering invent mere suffering when they later recount their experience.

Dr. Faurisson has read books taking, of course, the opposite position to that of Rassinier. He has studied {2468|2469} the judgments of some American Nuremberg trials, as well as having perused what has been referred to as the Green volumes of the International Archives Tribunal. He has published only some work in writing. He stated that he has had difficulty finding a publisher. He has never been qualified as an expert in any court of law before. He has visited the Auschwitz camp for one day in 1975, and for ten days in 1976 he has visited Maidanek and Dachau. He searched for an original gas chamber. His object was to see if genocidal gas chambers existed. He has made several inquiries by mail to the United States of America concerning American gas chambers and their use. He visited one such chamber in person in the United States in comparatively recent years. He wondered how Zyklon-B could kill anyone, and has read about its uses. He has not taught or engaged in the teaching of students for some years. He gave security problems as one reason for that, personal security problems to him.

He has written a book concerning the subject of gas chambers. He has another in progress on the subject of mass gassing. He has read Dr. Vrba's book titled "I Cannot Forgive". He has read books and documents on Hoess, one-time commander of a concentration camp, Auschwitz, I believe. He, when questioned, has admitted his conviction by a French court and the sentence meted out {2469|2470} concerning statements he made on, generally speaking, the same subjects as those with which this trial deals.

McCormack on Evidence, 2nd edition, page 29, has in part the following to say on the subject of expert testimony, and I quote:

*"An observer is qualified to testify because he has firsthand knowledge of the situation or transaction at issue. The expert has something different to contribute. This is a power to draw inferences from the facts which a jury would not be competent to draw. To warrant the use of expert testimony, then, two elements are required. First, the subject of the inference must be so distinctly related to some science, profession,*

*business or occupation to be beyond the ken of the average layman. Some courts emphasize that the judge has discretion in administering this aspect of the rule, and other courts will admit expert opinion concerning matters about which the jurors may have general knowledge if the expert opinion would still aid their understanding of the fact issue. Second, the witness must have sufficient {2470|2471} skill, knowledge or experience in that field or calling as to make it appear that his opinion or inference will probably aid the trier in his search for truth. The knowledge may in some fields be derived from reading alone, in some from practice alone, or as is more commonly the case, from both. While the court may rule that a certain subject of, inquiry requires that a member of a given profession, as a doctor, an engineer or a chemist, be called, usually a specialist in a particular branch within the profession will not be required."*

That this witness has not been qualified as an expert does not of itself disqualify his being accepted as an expert in this trial. Because Dr. Hilberg testified as an expert when the Crown's case was in progress concerning Exhibit 1, does not automatically qualify Dr. Faurisson as an expert witness also entitled to testify in the capacity of an expert called by the defence.

The fact that Dr. Faurisson has been convicted by a court in France of having said "The alleged massacres in gas chambers and the alleged genocide are one and the same lie" is but one factor that I have and must consider in exercising my judicial discretion. {2471|2472} It is no more than that. That he apparently has not been successful in a recent lawsuit brought against someone in France on a subject similar to the one with which this Court deals, is a matter of weight for the jury to consider and not a question of admissibility [sic] for me to consider.

It seems to me that either the evidence discloses that this witness is possessed of a certain field of knowledge and expertise beyond the ability of the ordinary witness, or it does not. If it appears that he does so possess that expertise, and provided it is relevant to an issue that the jury must ultimately decide, then the witness should be qualified as an expert witness. The jury will decide what weight, as I say, if any, to give to the evidence of any witness who testifies through the whole of the trial.

Before a witness is qualified as an expert, he or she must bring to the Court a properly recognizable, acquired special knowledge. That knowledge must have been acquired through the academic route or the practical route, or both. It must be acquired through actual experience in either or both fields. Mechanics who read books about car repairs are not licenced unless they have worked on cars. Doctors who have read about medicine are not licenced to practice on members of the public their chosen profession {2472|2473} unless they have actually worked with the human body. Teachers who read and receive doctorates in the humanities become expert in the field of literature and human relations, but by so doing they not often become expert in the chemical proclivities of Zyklon-B or the details of the construction of gas chambers. Architects are not qualified to build buildings until they have had practical experience in that field of endeavour. If that were not so, then anyone wishing to become an expert could merely read up on any given subject, digest the ideas of others, and then hold himself or herself out as an expert in that particular subject. That is not the object of our law.

There is no evidence that I heard that Dr. Faurisson has received training or expertise in the chemical composition of gas in general or Zyklon-B in particular. He knows only what someone else said about it. He has received no training as an architect or engineer. It follows that, lacking expertise in those fields, he will not be permitted to give his opinion on gas chamber construction or operation or on the subject of the proclivities and capabilities of Zyklon-B gas or its effect on people.

Others may be called with that expertise. The background of this witness, by way of life and education, {2473|2474} is unscientific in these subjects. His inspection of a gas chamber in the United States after 1945 is irrelevant to the issue the jury must try here. Dr. Faurisson's whole orientation is in the field of literary history. Although not a historian, he has gathered a certain field of expertise on a certain subject. He

has studied documents, judgments and the ideas of authors from the subject of whether the Nazi German government in 1933 to 1945 deliberately embarked on a scheme to annihilate Jews in Europe. That is a subject that is contained within the confines of Exhibit #1, "Did Six Million Really Die?" The use or the non-use of gas chambers, as well as other methods of killing human beings, as is alleged, is contained in that exhibit. These matters have been the subject of comment by an expert, Dr. Hilberg, who was permitted to testify in that regard as an expert witness of the Crown. He gave his opinions in that regard and the jury in due course will weigh and assess those opinions along with all of the other evidence that has been given and will be given at this trial.

Dr. Faurisson is, by background and education, in my view, a person who should be permitted to testify {2474|2475} as an expert witness and to give his opinion on the same subject, and with the same latitude [sic] as was permitted the Crown expert. His opinion will be based on the knowledge that he has acquired from the sources that he has studied. His bias, if one exists, is an issue of weight that the jury will assess in due course. He will, therefore, be permitted to testify along the same lines as Dr. Hilberg, but subject to my ruling with regard to what I have already ruled as subjects upon which he will not be permitted to testify.

—— {2475|2476}

THE COURT: Go ahead, Mr. Christie.

MR. CHRISTIE: Thank you, sir.

May I just ask one point in clarification? In the course of Dr. Faurisson's evidence – I undertake that I will be calling a chemist, but there are some photographs of American gas chambers that I would like to introduce that Dr. Faurisson has taken, not to prove anything other than they are the photographs for the purpose of evidence.

THE COURT: I have no intention of permitting that. I have already said that the photographs he has taken, if they are of American gas chambers, are irrelevant.

MR. CHRISTIE: Well, as I said, I was going to call a chemist to – an expert in chemistry to explain the relevance, Your Honour.

THE COURT: No one said you couldn't do that. In fact, I indicated that you could.

MR. CHRISTIE: Yes. But can I not prove the photographs at this point, just to be photographs, and prove their relevance later?

THE COURT: No.

MR. CHRISTIE: Thank you.

I'd like to call Dr. Faurisson.

THE COURT: Just to be technically and procedurally proper, I think we should swear him again on the trial.

THE REGISTRAR: Yes, Your Honour.

You wish to affirm?

State your name, please.

THE WITNESS: Faurisson, F-a-u-r-i-s-s-o-n, Robert.

**ROBERT FAURISSON, affirmed.**

{2476|2477}

EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. If you could turn to page 24 of the Harwood booklet, I'd like to direct your attention to a sentence.

THE COURT: That is Exhibit I?

MR. CHRISTIE: Yes, sir.

Q. Under the heading "Casualty Figures Reduced", it says – this is dealing with the figures of Dachau casualties, it says:

*"The figures of Dachau casualties are typical of the kind of exaggerations that have since had to be drastically revised. In 1946, a memorial plaque was unveiled at Dachau by Philip Auerbach, the Jewish State-Secretary in the Bavarian government, who was convicted for embezzling money which he claimed as compensation for nonexistent Jews. The plaque read:*

*'This area is being retained as a shrine to the 238,000 individuals who were cremated here.'"*

In relation to that sentence, do you have a photograph of that plaque?

- A. Yes.
- Q. Where did that photograph come from?
- A. This photograph comes from a book called – I translate it in English.
- Q. Is it in French?
- A. German book.
- Q. It's a German book?
- A. "The Tragedy of the Jews" from Eric Kern, {2477|2478} K-e-r-n, 1979, page 225.
- Q. And is that plaque depicted there which says "This area is being retained as a shrine to 238,000 individuals who were cremated here"?
- A. The text says exactly, "This area is being retained as a shrine to the 238,000 individuals who were cremated here. Please don't destroy."
- Q. Yes. Is there a caption that describes where that is located?
- A. Yes. It says that it is in Dachau.
- Q. You've identified the book and the author and the year of publication; is that correct?
- A. Yeah.
- Q. And the page number?
- A. Yeah.
- Q. All right. It goes on to say:
- "Since then, the official casualty figures have been steadily revised downwards, and now stand at only 20,600."*
- Do you have any documentary evidence on the issue of the casualties in Dachau from 1933 to '45?
- A. Five, yes.
- Q. Where does it come from, please? Identify the source.
- A. First, – a book – a booklet published by Monsignor Johan Neuhaeusler, N-e-u-h-a-e-u-s-l-e-r, Bishop of Munich.
- Q. Bishop of Munich, yes.
- A. Fourth edition, 1960, page 4, he says that —
- Q. Is this in German, French or —
- A. The title – it's in French, but we have {2478|2479} it in English and German.
- Q. Yes.
- A. I bought it in Dachau itself.
- Q. You bought it in Dachau itself?
- A. Yes.
- Q. Yes.
- A. The title means, "How Was It In Dachau?"
- Q. Yes.
- A. Interrogation mark.
- Q. Yes.
- A. On page 4 it says that – about the number of people who died in Dachau, the answers to this question is variable, very variable. For example, we have the estimation of Dr. Zeuner, Z-e-u-n-e-r, Mayor of Dachau, 20,600, and this time it is not 238,000, that's much more precise, 238,756. I repeat, please. Two-three-eight-seven-five-six. This by Pastor Neimoeller, N-e-i-m-o-e-l-l-e-r [Niemöller], and also in a journal called "Sunday Express", 10 January 1960: I have not checked that.
- Q. All right. Now, on page 25 of the Harwood booklet there is a photograph which says "Healthy and cheerful inmates released from Dachau" ...
- A. Yes, I see.
- Q. Have you seen that photograph in any other publication?
- A. Yes.
- Q. In what publication?
- A. Precisely in the book.
- Q. Show us the book. Hold it up so the jury can see it. What is the name of the book, please?
- A. I translate it in – it's in French, but we have it in English and German. {2479|2480}
- Q. Yes.
- A. "Dachau concentration camp, 1933 – 1945". It has been published in 1979 by the International Committee of Dachau in Brussels.
- Q. Yes. On what page is the photograph that's located in the Harwood booklet?
- A. It is on page 205. May I show it?
- Q. Yes. I'd like to – show it to His Honour, please, if you may.
- THE COURT: What language is it in?
- THE WITNESS: It's in French.
- THE COURT: This is an English trial. What do you want to show?
- MR. CHRISTIE: I just want to show the photograph.
- Q. What is the photograph described as in the booklet published by the source you've indicated?
- A. Yes, it is the same photograph, apparently, yes.
- Q. Where does that photograph originate, or is it described as originating in the book?
- A. They gave something like 400 photographs —
- THE COURT: Do you want to show the photograph?
- THE WITNESS: Yes.
- MR. CHRISTIE: Yes.
- THE COURT: For what it's worth, you may show the photograph.
- MR. CHRISTIE: Q. Does it describe where this photograph was taken and when in the book?
- A. It implies that it is in Dachau.
- THE COURT: No, no, no. You weren't asked that.
- THE WITNESS: Excuse me?
- THE COURT: As the question again. {2480|2481}
- THE WITNESS: Oh, yes, excuse me.
- MR. CHRISTIE: Q. Where does it say the photograph was taken?
- A. Oh, Dachau, liberation of the concentration camp, Dachau.
- Q. All right. I'd like to —
- A. And Dachau Allach.
- Q. Dachau what?
- A. Dachau, and Dachau is sometime called "Allach", A-l-l-a-c-h. All this part is Dachau.
- THE COURT: Yes, you can go ahead and show that, Mr. Christie.
- MR. CHRISTIE: Thank you. I wonder if the jury could have their exhibits, please, Your Honour
- THE COURT: Yes.
- MR. CHRISTIE: I'll show this photograph. I didn't want to exhibit this, Your Honour, because it's rather rare. I have a photocopy of it. If the witness can identify it as being checked with the original, would that be —
- THE COURT: Have you seen it, Mr. Griffiths?
- MR. GRIFFITHS: No, I haven't.
- MR. CHRISTIE: If I show it to my friend and he can check it and see that it is a photocopy of the original ...
- Q. You've identified the place, the date of publication and the author, is that right?
- THE COURT: I missed the date. What is it?
- THE WITNESS: 1979.
- THE COURT: That is when the photograph was published?
- MR. CHRISTIE: Yes. {2481|2482}
- THE COURT: What is the date that the photograph was taken? The photo shows the liberation of the camp?
- THE WITNESS: Yes.
- THE COURT: Does it say the date?
- THE WITNESS: Not the precise date, but think it's the 29th of April, 1945.
- MR. CHRISTIE: Okay. What I would like to do, Your Honour, is file the photocopy, which my friend acknowledges is a photocopy of the picture number 421, which the witness has identified, as the next exhibit. And then I'd just like to show the jury the one in the book.
- THE COURT: Do you agree with that, Mr. Griffiths?
- MR. GRIFFITHS: Oh, yes, Your Honour. Thank you.
- MR. CHRISTIE: Q. Do you agree, witness, that it shows only half the picture in the Harwood book?
- A. That's right.
- Q. All right. It's cut off in half at the guard tower; is that right?
- A. Yes.
- THE REGISTRAR: Exhibit 33.
- THE COURT: Yes.

— EXHIBIT 33: Photocopy of two photographs taken at Dachau Concentration Camp

MR. CHRISTIE: If anyone wants to handle this and look at it, is it okay if I give it to them, Your Honour, so they could look closely at it?

THE COURT: I think they can all see it by you holding it, Mr. Christie. Did you say 33, Madam Clerk?

THE REGISTRAR: Yes, Your Honour. {2482|2483}

MR. CHRISTIE: Q. Is it correct, witness, that what is in the Harwood booklet is the left-hand half of the picture?

A. Yes.

MR. CHRISTIE: Anyway, the photocopy's an exhibit, Your Honour, so ...

THE COURT: Yes.

MR. CHRISTIE: Q. You can keep your book. Now, did you examine the documents of the trials pertaining to Dachau in order to determine the casualty figures and the months of casualty?

A. Yes.

Q. And have you prepared a graph from those casualty figures?

A. Yes.

Q. Can you substantiate those casualty figures from documents in trials?

A. Yes.

Q. Can you produce those documents?

A. Yes.

MR. CHRISTIE: May the witness do so, Your Honour?

THE COURT: Yes. I don't object to it at the moment. Go ahead.

MR. CHRISTIE: Thank you, sir.

Q. Is this the folder it is? I'm specifically drawing your attention, witness, to the part of the Harwood booklet where it says that several thousand – page 24, under "Human Conditions", "That several thousand camp inmates did die in the chaotic final months of the war brings us to the question of their wartime conditions."

THE COURT: Just a moment. I don't think {2483|2484} anybody can see the witness right at the moment. He's busy.

MR. CHRISTIE: All right.

THE WITNESS: Excuse me. I cannot find the document.

MR. CHRISTIE: If it's not there, perhaps you can tell me where to look, doctor.

THE WITNESS: The Dachau casualties have – may I go perhaps to my —

THE COURT: Yes.

MR. CHRISTIE: Q. There it is, all right. Anything else? Yeah, you'd better take that with you. Thank you.

A. Excuse me.

Q. It's all right. Now, Dr. Faurisson, did you examine the documents to determine if, in the Nuremberg International Military Tribunal there were casualty figures for Dachau presented month by month?

A. Yes, from the National —

Q. What's the exhibit, from the National Archives?

A. From the National Archives, Washington, I have exhibit, Praisler, P-r-a-i-s-l-e-r,

Q. Number?

A. Prosecution exhibit number 35.

Q. What does it say?

A. The reference – must I give the total reference? It gives the figures for – of the death – died in camp Dachau in 1940, '41, '42, '43, '44, and beginning of '45, because Dachau has been liberated the 29th of April, 1945.

Q. Is there any source for the month-by-month figures? {2484|2485}

A. Yes, month-by-month.

Q. And is it in that document?

A. It is in this document.

Q. Have you instructed the preparation of a graph to indicate those monthly figures?

A. Yes.

Q. Have you checked that graph to determine its accuracy?

A. Yes.

Q. Against the exhibit?

A. Yes, I've checked it.

Q. Could you show that graph to the jury – to the judge first.

A. This is 1940.

THE COURT: Yes, I see it.

THE WITNESS: Through 29 April.

THE COURT: You have to speak up so the jury can hear.

THE WITNESS: Excuse me.

THE COURT: Show it to the jury.

MR. CHRISTIE: Q. Now, you can show it to the jury, please.

A. So – I read first this.

Q. Read the printing then, sir.

A. Deaths in camp Dachau from February 18, 1940, to April, 1945. So the source is given there.

Q. Read that all.

A. Prosecution exhibit number 35, National Archives, U.S.A., May 13th, 1945, reference number M-1174, reel frame 54, total including 11 women, 25,613.

Q. All right. You've checked those figures and checked that graph to make sure they compare with the {2485|2486} document?

A. Yes.

Q. Is that right?

A. Mm-hmmm.

MR. CHRISTIE: All right. Thank you. Could the document itself be the next exhibit?

THE COURT: 34.

THE WITNESS: May I —

MR. CHRISTIE: Just a moment.

— EXHIBIT 34: Copy of list of deaths in Dachau, 1940 – 1945

MR. CHRISTIE: The document then is Exhibit 34. And the graph, could that be the next exhibit, 35?

THE COURT: Yes.

MR. CHRISTIE: Thank you.

— EXHIBIT 35: Chart depicting deaths in Dachau, 1940 – 1945

THE WITNESS: I cannot keep the graph for myself?

MR. CHRISTIE: Not if it's an exhibit, sir, so ...

THE WITNESS: Because – okay.

MR. CHRISTIE: It's either an exhibit or it's not, sir, so we have to —

THE WITNESS: Okay. We have the same, the numbers are the same.

MR. CHRISTIE: Right. Then that should be the next exhibit, number 35.

THE COURT: Yes.

MR. CHRISTIE: Q. Could you explain to me, sir, from your knowledge of the International Military Tribunal {2486|2487} documents, such as Dr. Hilberg mentioned, could you indicate the date to us upon which Dr. Hilberg mentioned the existence of a Hitler order to kill the Jews, on that graph?

A. The order is supposed to have been given in June, 1941. There.

Q. Was there a date referred to by Dr. Hilberg as the date upon which Himmler was supposed to have given an order to stop killing the Jews?

A. He said 25th of November, 1945, there. So, there.

Q. '45 or '44?

A. '44, excuse me.

Q. Right.

A. So the order of Hitler to kill the Jews, the alleged order, there. This is, I must say, a typhus and typhoid epidemic in Dachau.

Q. When was that?

A. It was from August, 1942, to February, 1943.

Q. From your knowledge of the defence evidence at the I.M.T., are you aware of any explanation provided there for the high incidence of deaths indicated in the last months of the war?

A. Yes.

Q. Do you have the document to substantiate that?

A. Yes.

Q. What is the document to substantiate that?

A. Can I first say something about that?

Q. If it's relevant and if my friend has no objection, go ahead.

A. I must say that when the Allied came in Dachau, like in Buchenwald and other camps in Belgium, they {2487|2488} found this situation, and I must recognize that we could think that this situation had been all the time like this.

Q. So the Allies could have thought that it existed all the time?

A. Yes, quite normally.

Q. Yes. Could you now identify the document, and that is now Exhibit 35, is it?

A. So this document —

Q. Excuse me just a moment. This is Exhibit 35?

A. 35, yes.

Q. Yes. Do you now have — excuse me — in your possession a document to substantiate your statement that at Nuremberg at the International Military Tribunal the defence tried to explain the conditions in Dachau?

A. Yes.

Q. Who is the author of that evidence?

A. Dr. Konrad Morgen.

Q. Who is he?

A. He was a judge; we call that in French, examining magistrate, juge — juge d'instruction, into the camps.

Q. Yes. And what did his testimony say and when was it tendered?

A. Shall I give the — first the source?

Q. Yes, please identify the source.

A. So, I.M.T., volume 20, page 498 and 499. I'm going to read —

Q. Only those portions referable to the explanation provided for the casualties at the Dachau camp, please.

A. *"To a great extent, the horrible conditions at times prevailing in some {2488|2489} concentration camps did not arise from deliberate planning but developed from circumstances which, in my opinion, must be called force measure."*

Q. What does that mean in English?

A. In the English text, we have the French expression, "force measure".

Q. All right. Read on.

A. *"That is to say, evils for which the local camp leaders were not responsible."*

Q. Mm-hmmm.

A. *"I am thinking of the outbreak of epidemics at irregular intervals. Many concentration camps were visited by typhoid fever, typhus, and other sicknesses in the concentration camps. Although everything humanly possible was done to prevent these epidemics and to combat them, the death rate which resulted was extremely high. Another evil which may be considered as force measure was the fluctuating numbers of new arrivals and the insufficient billets."*

Q. Insuffic[i]ent what?

A. Billets, b-i-l-l-e-t-s.

Q. "Billets"?

A. Billets.

Q. Does it say anything else about that subject, sir?

A. *"Many camps were overcrowded. The prisoners arrived in a weakened condition because, due to air raids, the transports {2489|2490} were under way longer than expected. Towards the end of the war, there was a general collapse of the transportation [sic] system. Supplies could not be carried out to the necessary extent. Chemical and pharmaceutical factories had been systematically bombed, and all the necessary medicines were lacking. To top all, the evacuation from the east further burdened the camps and crowded them in an unbearable manner."*

Q. Now — thank you, doctor. Could that — you've identified the source and the author of that testimony; is that right? Was he a German examining magistrate?

A. Yes.

Q. Now, doctor, you have yourself taken certain slides, with the exception of the —

A. For Dachau, please, if possible.

Q. Yes. How is this related to Belsen, for example, or other camps?

A. Because the situation was the same for those camp. The situation was not the same for Auschwitz, because the German had the time to evacuate the camp on the 18th of January, and the Russian arrive only on the 27th of January, '45. But three, four months after, it was a kind of apocalypse in Germany.

Q. Apocalypse in Germany?

A. Apocalypse. About the people detained in Dachau, my reference is still this book, "The Concentration Camp of Dachau", 1979, on page 212.

*"Number of inmates arrived in Dachau from 1943 to 1945. The total is 206,206 inmates."* {2490|2491}

I repeat: two-o-six point two-o-six.

Q. Two hundred and six thousand?

A. Two hundred six thousand two hundred six.

Q. All right. And how many of those died?

A. So we have noticed that there were variation in the figures. We have noticed 20,600, then we had twenty-five thousand and some, —

Q. Yes.

A. Now, today, in Dachau, they make reference to the International Tracing Service ...

Q. How do they refer to the International Tracing Service now in Dachau?

A. On page 436 they say that to believe the inquiries of the International Tracing Service in Arolsen, there were 31,951 deaths, and they say that it is a minimum.

Q. A minimum. So they say roughly 39,000 people died in Dachau?

A. Thirty-one.

Q. Thirty-one thousand?

A. Nine hundred and fifty-one.

Q. In what period of time?

A. During '33 to '45.

Q. From 1933 to 1945 —

A. Yes.

Q. Thirty-one thousand people, approximately, died in Dachau?

A. So the rate is 15.5 per cent died; 84.5 survived.

Q. And did that include those periods indicated on your graph at the end of the war?

A. Yes, the terrible period of the end of {2491|2492} the camp.

Q. Yes, is included in those figures?

A. Yes.

Q. And in that percentage?

A. Yeah.

Q. All right.

A. And we have also on this page a photo showing the caravels (sic) discovered in Dachau, caravels of people.

THE COURT: The what?

THE WITNESS: Caravels.

THE COURT: Spell it.

MR. GRIFFITHS: "Cadavers", I think, Your Honour.

THE WITNESS: Cadavers.

THE COURT: Bodies.

THE WITNESS: Bodies, yes.

MR. CHRISTIE: Q. Is that the extent of what you have to say in respect to your researches pertaining to Dachau?

A. Yes.

Q. All right. Now, in relation to the text of Exhibit 1 and the work of Paul Rassinier, have you read the Harwood booklet in respect to the paragraph pertaining to Paul Rassinier?

A. Yes.

Q. From the basis of your research of the International Military Tribunal, the N.M.T., and all your sources of inquiry that His Honour has permitted you to testify upon, can you comment on the truth or falsity of that paragraph 10, if you'll just open it up and have a look? {2492|2493}

THE COURT: Paragraph 10.

THE WITNESS: May I have the copy, please?

MR. CHRISTIE: Q. You don't have the exhibit?

A. No, I have not the exhibit.

Q. Here we are. Now, —

THE COURT: Page?

MR. CHRISTIE: I'm sorry,

MR. GRIFFITHS: Twenty-eight.

MR. CHRISTIE: Twenty-eight.

THE COURT: Twenty-eight.

MR. CHRISTIE: Q. Let's deal with the first paragraph. Now, from your research of Paul Rassinier's work, is that paragraph true about his work?

A. The paragraph — the title is, "The Truth At Last"?

Q. Yes.

A. "The Work of Paul Rassinier".

Q. Yes. Have you read that paragraph?

A. Yes.

Q. And is it true, to the best of your knowledge?

A. Yes. I agree with Paul Rassinier.

Q. Is it true what is said here about Paul Rassinier, that he — that he experienced the German concentration camps?

A. Yes.

Q. That he was a socialist intellectual and anti-Nazi?

A. Yes.

Q. That he was disinclined — it says nobody was less inclined, but I ask you whether he was disinclined {2493|2494} to defend Hitler and National Socialism?

A. He was certainly not a Nazi, certainly not.

Q. Do you know whether he indicates in his books why he spoke out on the subject?

A. Yes. I think that Paul Rassinier had a terrible experience, he suffered terribly in Buchenwald and Dachau, and when he came back he wrote a book to try to explain his sufferings and the sufferings of the others.

Q. Yes.

A. But few years after, he was surprised to see that so many people talked about gas chambers, even in Dachau, or — even in Buchenwald.

Q. Has there been evidence produced in tribunals and books written to substantiate gas chambers in Buchenwald?

A. In Buchenwald, testimonies, yes.

Q. What testimony?

A. I should have in my book there of — from a priest, describing quite in detail the so-called gas chamber in Buchenwald. His name was Henocque, H-e-n-o-c-q-u-e.

Q. Is there any official source that now believes or holds that there were gas chambers in Buchenwald?

A. Nobody now.

Q. Was there an allegation raised — well, of course we've seen the film "Nazi Concentration Camps", about Dachau. There was a suggestion of gas chambers there. You've been to Dachau.

You shake your head. You must answer one way or another on the record.

A. Yes, I've been in Dachau, yes.

Q. And you're aware, and you've seen the film {2494|2495} "Nazi Concentration Camps" where it refers to the hanging of clothing outside the shower room, the dummy shower heads, the evidence of gas chambers? Yes, you wish to say something?

A. I have not seen the film, but I have read the text in the I.M.T. volume.

Q. In the I.M.T. volume?

A. Number 30.

Q. Volume 30? And the text of that film is in volume 30?

A. I think, yes.

Q. Now, having been to Dachau, is there any official allegation now that there was any gas chamber at Dachau?

A. Today, you might see a room where you have a poncard (phonetic) — a placard, a mobile placard where it is said in five different languages —

Q. Have you seen this placard?

A. Yes. I've taken photos also.

Q. You have also taken photos?

A. Yes.

Q. What does it say, please?

A. What?

Q. What does it say in English?

A. It says in English, "Gas chamber disguised as shower room — never used."

Q. "Never used."

A. So the problem for me was, how can we say that it was a gas chamber? I asked this question, I wrote to the International Committee of Dachau in Brussels.

I wrote to the Dachau Museum; we had an exchange of correspondence during eighteen month.

Q. Did you ever get an answer? {2495|2496}

A. Never.

Q. Okay. Were there other camps in Germany where allegations were made after the war that there were gas chambers?

A. Yes, Ravensbrück.

Q. Ravensbrück. Have you gone there?

A. No.

Q. Have you researched the literature in support of that allegation?

A. Yes.

Q. What literature have you researched?

A. Especially what Germaine Tillon, T-i-l-l-i-o-n, wrote about Ravensbrück, either in a book, either in the Review of the Second World War.

Q. Yes. Do you recall what the allegations were there?

A. Yes, that there was a gas chamber, but she gives a plan of the camp, she does not indicate where it could have been, and the testimonies are very variable. They put this gas chamber in a place called Uekermunde, or in Ravensbrück itself, but the most troubling is that we had confessions of German officials about that and a German doctor also. I can give the name.

Q. Well, name them then. Who confessed to the existence of these things?

A. Commandant Suhren, S-u-h-r-e-n; Commandant Schwarzhuber, S-c-h-w-r —

Q. Do you want a pen to write it?

A. — a-r-h-u-b-e-r; and Dr. Treite, T-r-e-i-t-e. Germaine Tillon gives the text of that. Olga van Gemo (phonetic), so, I think, and her comments are, It [sic] is strange that Suhren didn't do any difficulty {2496|2497} to confess the existence of this gas chamber, but Schwarzhuber was of bad faith, insisted [sic] — didn't want to recognize, and then finally recognize[d].

Q. Was there ever any evidence produced at the I.M.T. or N.M.T. to support the allegation that there was a gas chamber at Ravensbrück?

A. Yes.

Q. What was that evidence? You've given —

A. I should have my dossier about Ravensbrück and to give all the references in the —

Q. Just give as best you can, where you are.

A. In the I.M.T. volumes we have that gas chamber in Ravensbrück.

Q. Yes.

A. Yes, in — and even we have steam chambers in Treblinka. The official truth about Treblinka is not that there were gas chambers, but steam chambers.

Q. What do you mean by the official truth?

A. I call official truth the document P.S. 3311, and signed by a representative of the United Nations.

Q. Why do you call it the official truth?

A. Because the Article 21 of the Statutes of the International Military Tribunal makes an obligation to ask — to consider as authentic or verace — I don't remember the word — all the reports of the — of the United Nations; et cetera.

Q. How does this now —

THE COURT: I'm a little confused. You were talking about Ravens-

bru[ü]ck.

MR. CHRISTIE: That's right.

THE COURT: Did he go to another camp about steam chambers? {2497|2498}

MR. CHRISTIE: Yes, we did, the camp at Treblinka.

THE COURT: Treblinka.

MR. CHRISTIE: Q. I want to deal specifically with Ravensbru[ü]ck. Are the official historians in agreement now on there being gas chambers at Ravensbru[ü]ck?

A. I don't know any — I do know up till 1983 that there would be anybody to believe any more in the gas chamber of Ravensbru[ü]ck. I can give the name of important people, historian who said no gas chamber in Ravensbru[ü]ck.

Q. Who now says there is no gas chamber in Ravensbru[ü]ck?

A. And I was very surprised to see a book published in Germany last year —

Q. I'd like to know the names of those historians who now say there were no gas chambers in Ravensbru[ü]ck.

A. Martin Broszat.

Q. Who's he?

A. B-r-o-s-z-a-t.

Q. Who is he?

A. He is now director of the Institute of contemporary History in Munich.

Q. Yes, and who else officially says that there was no gas chamber in Ravensbru[ü]ck?

A. Olga von Salmego (phonetic).

Q. Who is she?

A. She is a historian, French historian, who made a thesis about the story of the concentration camps.

Q. All right. Who else says there were no gas chambers in Ravensbru[ü]ck?

A. I would say, anybody who in his book {2498|2499} doesn't — quotes Ravensbru[ü]ck as having a gas chamber.

Q. And who does that include?

A. I think it includes everybody except those people who have published this book in Germany last year.

Q. Who is that?

A. Those people are Hermann Langbein, L-a-n-g-b-e-i-n, Eugen Kogon, K-o-g-o-n.

Q. Yes.

A. And Rueckerl, R-u-e-c-k-e-.

Q. Are those three books or are they one book?

A. One book written by those three people, with twenty-one other people.

Q. And what's the name of the book?

A. I'm going to give the translation in English.

Q. Yes.

A. "Nazi Gas Massing" (sic).

Q. You mean "Mass Gassing"?

A. "Mass Gassings".

Q. Yes.

A. "Nazi Mass Gassings by Poison Gas".

Q. So that there is now, according to you, several reputable sources who say there were no gas chambers at Ravensbru[ü]ck, and this one new book that says there was?

A. Yes. It is a kind of return suddenly. This book has been written to answer to the arguments of the revisionists and especially to the French revisionists. That's what they said. It was published first in German and then in French.

Q. Are there other camps —

A. Can I give — {2499|2500}

Q. Go ahead.

A. — a detail about that? On the 21st of April, 1982, has been created in France an organization of former inmates like Kogon, Langbein, Rueckerl and so on, in French, saying that they were going to try to find proof of the existence of the gas chamber.

Q. So this is an organization with that specific objective?

A. Yes.

Q. All right. Can you name other camps in which the allegation was made after the war of the existence of gas chambers in Germany that it is no longer maintained had gas chambers?

A. Yes, in Oranienburg-Sachsenhausen.

Q. Yes.

A. And we have, for example, a book —

Q. I'd like you to tell me first those who said at the time there were gas chambers and then quickly, those who said there were not, if you can just identify those two?

A. Mm-hmm. So there were trials about the Oranienburg-Sachsenhausen ...

Q. Were confessions made in those trials?

A. Yes, about Oranienburg, yes.

Q. Who confessed to gas chambers in Oranienburg at the trials?

A. A man called Sakowski, S-a-k-o-w-s-k-i.

Q. And what was he?

A. I cannot recall exactly.

Q. Was he a German?

A. He was a German, yes.

Q. Was he a military man? {2500|2501}

A. We have a photo of this man showing how he operated the gas chamber, which is always photographed from the outside.

Q. Mm-hmm.

A. From Mauthausen we have also many, many so-called proof, testimonies, but for Dachau we have an extraordinary amount of testimonies of official truths about the gassing in Dachau. For example, we have a report from — signed by Congress, American Congressmen, there were twelve.

Q. They conducted an inquiry after the war?

A. Yes.

Q. They went there?

A. Went there, and we have this report, saying that the gas chamber was at such-and-such dimension, was operated on such-and-such way. We have many things about that. And the question for the revisionists, since 1960, is always the same. Please, tell us what is the difference between the proof and the testimonies about Dachau, Ravensbru[ü]ck, Mauthausen, Stutthof, whatsoever, and Auschwitz, Majdanek, Treblinka, Sobibor, Belzec.

Q. So that's why —

A. And we cannot have an answer to this question because we don't know why it has been decided by a sort of consensus that we didn't have to believe any more in those gas chamber. Why —

Q. What gas chamber? We didn't have to believe any more in what gas chambers?

A. Ravensbru[ü]ck, Dachau, et cetera.

Q. How do you know that it's officially said that we don't have to believe any more in those gas chambers? If — you know, the jury has to understand why {2501|2502} you say that we no longer have to believe in gas chambers in Ravensbru[ü]ck, Dachau, Buchenwald, et cetera?

A. Because the historian abandoned that.

Q. Abandoned what?

A. Abandoned the claim that there was a gas chamber, that people were gassed, and, for example, we cited yesterday Raul Hilberg, Raul Hilberg says, and that's typical of the way of denying suddenly, he says, "Although no gassings took place in Mauthausen", and he continues like that.

Q. Mm-hmm.

A. So we have only few words, and it is very often the case that the truth or the new facts are enveloped in a phrase, given like that, and we must be very careful.

Q. Have you got another example of that pertaining to Dr. Broszat?

A. Dr. Broszat published in 1960, the 19th of August, 1960, in the newspaper, "Die Zeit".

Q. "Die Zeit", where is that?

A. A German newspaper.

Q. And what did he say there?

A. He sent a letter, and the letter – the title of the letter is not from him, I suppose, but from the newspaper.  
 Q. So they put a caption on his letter?  
 A. A caption.  
 Q. All right.  
 A. The caption, was, “No gassings in Dachau”.  
 Q. Uh-huh.  
 A. The text himself – itself, says —  
 Q. Do you remember it exactly? {2502|2503}  
 A. What?  
 Q. Do you remember it exactly?  
 A. I would prefer to have the text itself here, yes.  
 Q. Do you have it here?  
 A. But – no, I didn’t bring it. I don’t think so, no. But I could bring it.  
 Q. All right. Give us the best recollection you have on it and then we’ll bring the text itself in.  
 A. Yes. He said that there were no mass gassing – his letter is complicated. No gassing at all in Dachau, Bergen-Belsen, Buchenwald, then he used the word “no mass gassing in old Germany”, it means in Germany, its frontier of 1937.  
 Q. Yes.  
 A. And he said only, before all – I don’t understand what means “before all”, in six point of Poland, I think, and he said, “Auschwitz, Birkenau, Sobibor, Belzec, Treblinka, Chelmno,” and I think that he didn’t quote Maidanek.  
 Q. Mm-hmm.  
 A. So I had to ask myself to Mr. Broszat, I wanted an explanation, but I don’t know if I have the right to say that.  
 Q. Well, what did you – what questions did this raise in your mind?  
 A. My question is simply this one. “Since many, many years, could you please tell me where we had gas chamber, called that for gassing or mass gassing, I don’t know very well the difference. This is a list of the camps. Please tell me if there was one or several gas chambers.” And the answer that I had from Martin Broszat, {2503|2504} I have the text of his letter, is that he could not answer to a letter which had questions like traps. I don’t think that my letter was a letter with traps. And he employed exactly those words, “the complicated problem of the gas chambers”, and I think that for many people there is not even a problem, but for the people who have worked on it there is a problem, this problem is complicated, and sometime is so complicated that people prefer not to answer, or they say maybe, maybe not.  
 Q. Mm-hmm. You heard the evidence of —  
 A. Because there is the difficulty between what is called extermination camp, by the Allied, and concentration camps. The use is to say, concentration camp, camp without gas chamber; extermination camp, camp with gas chamber.  
 Q. Mm-hmm.  
 A. I mean, gas chamber to kill people.  
 Q. Right. Now, in the gas chamber question, have people been executed for the allegation of gassings in camps where now no gassings are held by historians to have occurred?  
 A. I cannot say that, because when somebody like Schwar[z]huber tried to committed suicide, or Suhren or others, when they were judged it was not said expressly —  
 Q. “You had gas chambers”?  
 A. They had used gas chamber, but Germaine Tillion, for instance, say, it’s strange that Suhren and Schwar[z]huber and others installed a gas chamber right at the end of the war, February 1945. If they had not done that, they could perhaps have not been convicted to death.  
 Q. Mm-hmm, and they were?  
 A. That’s her opinion. {2504|2505}  
 Q. They were hung?  
 A. Yes.  
 Q. They were hung, right. Now, in your examination of the International Military Tribunal activities and the documents and transcripts, did you have an opportunity to consider the basis of the belief that there were millions of people, six million alleged, gassed during the war in the

camps of Auschwitz, Birkenau, Maidanek, Belzec, Treblinka, Chelmno, Stutthof?  
 MR. GRIFFITHS: Excuse me, Your Honour. My friend can certainly ask that question, but that has formed no part of the Crown’s case, and it’s not in this pamphlet either, that six million people were gassed.  
 MR. CHRISTIE: You mean it’s not part of the Crown’s case to deny the publication?  
 MR. GRIFFITHS: It’s not part of the Crown’s case to say that six million people were gassed.  
 MR. CHRISTIE: Well, we can argue about what the Crown’s case is later, but my position is that when the booklet says, Did six million really die?, and it concludes “No,” then that becomes an issue, and it becomes a relevant issue, because the Crown’s saying “You’re lying by saying six million didn’t die,” and we’re asking the question as to what the evidence is to support that. That’s all.  
 THE COURT: As[k] the question.  
 MR. CHRISTIE: Okay.  
 Q. It’s a general question. Have you examined the I.M.T. transcripts and the N.M.T. transcripts to consider what the evidence is to support the allegation that six million people, six million Jews, died in those eastern camps? {2505|2506}  
 A. If I tried to find evidence?  
 Q. Yes.  
 A. And evidence on which could – real evidence on which this belief in the gas chamber exists?  
 Q. Yes.  
 A. My answer is, after I should say twenty-five years of inquiry, not always on the same tempo, eh? —  
 Q. Yes.  
 A. — is that there is not the slightest proof of the existence of even one gas chamber even, and especially in Auschwitz and Birkenau.  
 Q. Why do you say “especially Auschwitz and Birkenau”?  
 A. Because I have especially studied Auschwitz and Birkenau, which are supposed to “be the heart of all this machinery. We have to believe that there was a genocide, specific crime, and without precedent [sic], a specific weapon, the gas chamber. If the gas chamber do not exist, it’s impossible to sustain any more those fantastic figures like six million.  
 Q. So that’s why you inquired?  
 A. So I said – my method was, we are supposed to believe that in the same building we had a crematorium with furnaces, a gas chamber, an undressing room and so on.  
 Q. Yes.  
 A. So, when we try to find proof of all that, we don’t find anything about the gas chamber. I mean, we have proof of the existence of crematorium, of bathroom.  
 We have even something which – a document which is very important coming from Auschwitz, the locksmith book of Auschwitz where every operation of this kind is described. We know exactly the amount of money that everything cost, {2506|2507} even the trees planted around the crematorium. But we don’t find anything material. We have some witnesses, and when we go and see on the spot our – all the things, we see that those testimonies are not exact, not possibly exact. If I go Auschwitz I, for instance, many tourists visit Auschwitz I, and I said yesterday that I asked a question about the furnaces, that I had shown that there was no chute; my intention was not to say it’s all false furnace, that’s no intention at all. My intention was to say, “If it has been rebuild, you have a plan. I want to see this plan.” So I was the first to obtain – to see the plan of crematorium number I which – with furnaces and gas chamber. I discovered that this place had been first a mortuary, up till July 1943, then transformed and then from April 1944 it was an air shelter with a room for surgical operation, because quite close to the crematorium you had the S.S. hospital. But anybody who has eyes to see could notice that the place called gas chamber in Auschwitz I has been totally changed. You see very well that walls have been broken down. You can see when you have the plans that all that is a fraud. The mortuary was dead end.  
 Q. What do you mean, “dead end”?



A. Dead end, with no opening.

THE COURT: Excuse me.

MR. GRIFFITHS: Excuse me, Your Honour. We are getting into an area where Dr. Faurisson is not qualified to speak. He's talked of plans for the building. He's not an architect.

THE COURT: I agree.

MR. CHRISTIE: Can he not testify, with respect, that he obtained plans? It's not to prove that they are other {2507|2508} than what he obtained. I don't think he's giving an opinion on those.

THE COURT: Mr. Christie, did you understand my ruling?

MR. CHRISTIE: Yes, sir, I certainly did.

THE COURT: Nobody complained – just hear me out – nobody complained when he said he got the plans.

MR. CHRISTIE: Yes.

THE COURT: Please don't lead answers from the witness concerning architectural, engineering or building plans. He's not an expert. It's as simple as that.

MR. CHRISTIE: I wasn't leading the witness at all, really, Your Honour.

THE COURT: He was just headed that way when the objection came, because you are not controlling him. Please control him.

MR. CHRISTIE: Well, I'd like —

THE COURT: It's your responsibility, not mine.

MR. CHRISTIE: Yes, sir, I appreciate that.

Q. Dr. Faurisson, can you tell us about the documentary evidence in support of the extermination claims for the concentration camp of Auschwitz that was tendered at the I.M.T. and what your views of it are?

A. In the I.M.T., it was said that four million people had been killed in Auschwitz. That's the document, U.S.S.R. 008. I know how they made the calculations.

This was the figure that we had to believe at that time. But I know also how the Pravda and the New York Times announced the novel, the big novel about Auschwitz. Auschwitz was liberated on the 27th of January, 1945, {2508|2509} and the first article in the Pravda was on the 1st February, 1945.

Q. Have you seen that article?

A. Yes, I have.

Q. Yes.

A. And this article has a first phrase where appears the words "gas chamber", but it seems very vague, and they insist on the fact that the people in Auschwitz were killed by electricity. There was a conveyor belt; the Jews were put on this, electrocuted, and then got into smelt furnaces. This was written by Boris Polevoi, P-o-l-e-v-o-i, and repercut-ed (phonetic)

Q. "Repercut-ed"?

A. "Repercut-ed"

Q. "Reproduced"?

A. "Reproduced".

Q. Yes.

A. In the American newspaper, and especially by the journalist, Shapiro, S-h-a-p-i-r-o. And when I went in the Archives, National Archives of Suitland, Maryland, U.S.A., I studied especially the case of Otto Moll, M-o-l-l. This man was commending —

Q. He was referred to in the evidence in this case by one witness, wasn't he?

A. What?

Q. Wasn't he referred to in this case by one witness?

A. I don't understand the question, excuse me.

Q. Didn't this witness – this person —

A. Otto Moll.

Q. Otto Moll, wasn't he supposed to have been a person in Auschwitz-Birkenau?

A. Yes. {2509|2510}

Q. And wasn't he referred to by one of the survivors, I think perhaps —

A. Oh, yes, I remember.

Q. Yes.

A. Especially Filip Muller, yes, gave an extraordinary description of this

man. So Otto Moll was in charge of the crematorium, which means not only for the burning of the bodies but also for the collecting of garbage which was burned in the same place.

Q. I have a question pertaining to your earlier evidence, and I'd like to ask you, what is the current position, official history version of this question of electrification or electrocution now? Is that believed as the truth by historians?

THE COURT: Can we get an idea of what "official history" means?

MR. CHRISTIE: The Crown will be giving the official history, I suppose. They seem to maintain they have it.

THE WITNESS: I am ready to

MR. GRIFFITHS: I object to that, Your Honour.

THE COURT: I'm sorry?

MR. GRIFFITHS: I object to the editorial comment.

MR. CHRISTIE: Well, I don't claim to have the official history, but —

THE COURT: Then why ask the question?

MR. CHRISTIE: Because the witness has said there are official historians who say these things.

THE COURT: That's what I'm asking.

MR. CHRISTIE: Can I ask him?

THE COURT: Yes, certainly. {2510|2511}

MR. CHRISTIE: Thank you.

Q. What does Martin Broszat or other historians say about the story of electrocutions now, mass electrocutions?

THE COURT: Let's get to the official part, official historians. The jury would perhaps be interested in what official historians are.

MR. CHRISTIE: I'm not here to argue about that.

THE COURT: You asked the question. If you want to say "historians" and leave out the word "official", then I'm content. If you are going to use "official", let's hear what it means.

MR. CHRISTIE: I thought you were objecting to that word.

THE COURT: I'm not objecting at all. I just want to let the jury know what "official" means, if it means anything.

MR. CHRISTIE: Q. Well, do you have an answer to that question? His Honour wants an answer. —

A. To what is an official historian?

Q. Yes.

A. On this topic, I would say that it is somebody who takes for granted what has been alleged or affirmed in the I.M.T., in the N.M.T., in all those German trials.

Q. Why are they official historians?

A. I see that they take this for granted.

Q. Why?

A. I wonder why. I think we should research about something which an official truth.

Q. Yes.

THE COURT: All right. If there is nothing {2511|2512} more on official historians, then you can go ahead.

MR. CHRISTIE: Thank you.

Q. So you say —

A. And I call, if I may, I —

THE COURT: Certainly.

THE WITNESS: I would call official historians those who, when they publish something about Holocaust, as have no – no trouble whatsoever, as I can have, Dr. Staglich, Dr. Burg, and so many others.

THE COURT: Go ahead, sorry to interrupt.

THE WITNESS: I have no right to teach, you see, for example.

MR. CHRISTIE: Q. Yes.

A. So we go back to Auschwitz?

Q. Yes. That's what I think we should do, because you said the story originally was, people were electrocuted?

A. Yes.

Q. At Auschwitz. Now, in the official histories, that you've defined as those who accept the I.M.T., is there any suggestion of that today?

A. Not today, no. I'm sorry, there's not, not even among those 24 people who have published this book just last year in January, not even. There is a consensus, and I don't see why this story of the electricity

has been abandoned for the gas; why the steam has been abandoned for the gas.

Q. What steam?

A. Steam chambers.

Q. Where?

A. Treblinka.

Q. Where does that information come from? {2512|2513}

A. From P.S. 3311.

Q. All right. Who originated that?

A. A member of the organ (phonetic) – United Nation Commission.

Q. They held that as a fact; is that right?

A. It is in volume, I think 33, of the Nurnberg, I.M.T.

Q. What do you have to say —

A. His name is Dr. Cyprian, C-y-p-r-i-a-n.

Q. What do you have to say about those allegations as to their truth or falsity, made in official records, such as Dr. Cyprian's findings? What do you say about them?

A. It's something without any proof.

Q. What do you call that yourself in your own opinion?

A. I call that a mistake or a lie.

Q. Who was it that said there were steam chambers at Treblinka first?

A. I couldn't say who said that.

Q. What does Dr. Gerstein say about that?

A. No, himself he says gas chamber with mono – no, with dioxide of carbon, I mean, with diesel engines.

Q. Diesel engines?

A. Diesel engines.

Q. And what gas?

A. I am supposed not to be competent on that.

Q. Oh, excuse me. Thank you. You can at least quote what Gerstein says, though.

THE COURT: Certainly, he can.

MR. CHRISTIE: Thank you. {2513|2514}

Q. What does Gerstein say was the gas at Treblinka from the diesel engine?

A. He didn't say what was the gas. He said it was with diesel engines. May I go back to the case of Otto Moll, which is so important?

Q. Yes. Sorry to interrupt. Go ahead.

A. So, I had the chance to discover the dossier of Otto Moll, the dossier of what the American call, I think, the juge avocat general, or avocat juge general. I found this dossier, and I had an idea by this dossier of things that I later on discovered about other people, is that when you open a dossier of those Nazis, —

Q. Yes.

A. you open that and you find the W.R.B. report.

Q. The jury may not know what that means.

A. Oh, the World Refugee Board report.

Q. How does that relate to Dr. Vrba?

A. Is one of —

Q. — the three authors of the report?

A. You have more than that.

Q. Three or four?

A. You have the first report, two people, Vrba, then two other people, then a Polish major, but the important part is Vrba-Wetzler.

Q. Yes.

A. So we have that, and the juge avocate general has that at the beginning.

Q. What's it say at the beginning?

A. "It is beyond denial that Nazi Germany" – I don't quote exactly the words; it's the meaning; — {2514|2515}

"It's beyond denial that Nazi Germany murdered systematically millions of people, Jews or not", something like that.

Q. Mm-hmm. Why is that relevant to the issue of this trial?

A. I don't know. But when I open this dossier I found that. Then the major part of the dossier was constituted by clippings.

Q. Clippings?

A. Clippings of the American newspaper, reproducing the Pravda?

Q. Reproducing the Pravda?

A. Yes.

Q. What was this file used for in prosecution terms?

A. It was because Otto Moll had been arrested in Dachau, and he was judge by the American in Dachau and hanged.

Q. Now, in support of the – your criticism – do you believe that two million Jews or a million Jews or seven hundred thousand or how many Jews do you think were killed – do you believe were killed in Auschwitz-Birdeau?

A. I cannot answer to this question. But know that it would be quite possible, and rather easy, I think, to answer to this question. We should have the answer since thirty, forty years. I can only say what I have said in one of my books. I said that I would publish the reason why I believed that in all the concentration camps during the war from 200,000 people to 350,000 people died, and in Auschwitz around 50,000, which is already a terrible figure. I can give an example to show how it is {2515|2516} terrible.

Q. Well, not to show how it is terrible, but how do you arrive at that figure?

A. I think that what the International Tracing Service has published during years and years is quite close to the right figure, even if they say now we don't believe that those figures are complete, they are more or less counted for Dachau, Buchenwald, not at all for Auschwitz. Myself, I think that it is probably the right figure.

Q. Why?

A. But I know how we could check it. We have a very simple way of checking those figures. We could take the book of Serge Klarsfeld.

Q. Yes. What is that book?

A. "Memorial of the Deportees of the Jews of France"

Q. All right.

THE COURT: I think we will do that after the recess, Mr. Christie.

THE REGISTRAR: Members of the jury, you may retire.

— The jury retired at 11:30 a.m. Proceedings adjourned.

— Proceedings resumed at 12:00 p.m.

THE COURT: Yes. Go ahead, Mr. Christie.

MR. CHRISTIE: Thank you, sir.

Q. I now produce and show to you – thank you – Exhibit number 26, which is an excerpt from the War Refugee Board report. Do you recognize that document?

A. Yes.

Q. That says on the bottom, 1,765,000. Is that right? {2516|2517}

A. Yes.

Q. And it says, "France, 150,000". Is that right?

A. Jews gassed between April 1942 and April 1944?

Q. All right.

A. Twenty-four month.

Q. In twenty-four months, this report said that 150,000 Jews were gassed, between April '42 and April '44; is that right?

A. Jews coming from France.

Q. Jews from France. And do we have any current histories which deal with the deportees from France by French-Jewish authors?

A. Yes.

Q. And who is the author?

A. Serge Klarsfeld, K-l-a-r-s-f-e-l-d.

Q. Do you have his book with you?

A. Yes.

Q. Hold it up so the jury can see. And does that book have thousands of names in it?

A. Yes.

Q. And does the author make statements as to the number of Jews deported from France in that book?

A. Yes.

Q. What does he say?

A. He says that the number of Jews deported from France was around 75,000 – 75,721. He added recently in an American publication of translation of his book called, in English, "Memorial to the Jews Deported From France", published in 1983, on page 20, Roman charac-

ters, he says:

"Total number of deportees. We have established {2517|2518} the total number of Jews deported from France at 75,721. This number is the minimum. The maximum cannot exceed 76,500."

Q. "The maximum cannot exceed 76,500." Is that right?

A. Yes.

Q. All right.

A. The casualty official deportation map in West Germany shows 50,000 to 65,000 Jews deported from France. French authorities claimed more than 100,000. In fact, I think that in Nurnberg, I'm not absolutely sure, the total was 120,000, and I don't know if it was not the total of the Jews killed. I don't remember exactly.

Q. I'm not interested in other figures, but I want it very clear as to what Serge Klarsfeld, after his research, concludes were the number of total deported Jews from France —

A. Yes.

Q. — from all countries, that came to France; is that correct?

A. Yes, Jews from — of French citizenship, —

Q. Yes.

A. — foreigners, apatheid (phonetic).

Q. That means "without country"?

A. "Without country", yes, stateless.

Q. Stateless Jews?

A. Yes.

Q. Foreign Jews and French Jews deported from France?

A. From France.

Q. The total in Klarsfeld's opinion is {2518|2519} 75,721 or 76,500 maximum?

A. Yeah.

Q. That's right?

A. Yes.

Q. Now, does that mean Jews deported to Auschwitz?

A. No.

Q. Does that mean Jews deported from France during the war?

A. Yes.

Q. So that's all Jews deported from France during the war?

A. To all camps.

Q. To all camps?

A. Yes.

Q. All right. Thank you. Now, what's the status of the W.R.B. report? That particular page number 26, what happened to it?

A. So, from France the total was 150,000.

Q. Yes, it says a hundred fifty thousand ...

A. Gassed.

Q. Gassed, in two years?

A. In two years.

Q. Right. Now, that's what it says, but what I mean by the status is, what became of that document at Nuremberg, was it accepted as a fact?

A. Yes, it was the document L022.

Q. L022, an exhibit at Nuremberg?

A. "L" means "London", because it was in London that most of the document pertaining to the concentration camps were sent.

Q. Sent? {2519|2520}

A. And classified.

Q. All right, and classified.

A. It was the — excuse me — it was the only page taken from the W.B. report.

Q. Yes.

A. No other page was taken into consideration.

Q. And that document was received into evidence under L2022 at the I.M.T., International Military Tribunal at Nuremberg?

A. That's right.

Q. What was the significance then of that document being accepted as evidence? Did it become part of the official history?

A. I would call that the official history, but perhaps it is a personal judgment.

Q. All right. Rather than make personal judgments, is there any reference in that document of Klarsfeld's which caused an awareness that some people who were alleged to have died actually were still alive?

A. Yes, and for —

Q. Can you give us an example that is evidence from the book of Serge Klarsfeld?

A. Yes, but to prove it I would need another book, but I am going to say that by memory.

Q. Yes. What book, what author?

A. So all that concerns especially Mrs. Simone Veil.

Q. Yes.

A. V-e-i-l.

Q. Yes. {2520|2521}

A. President of the European Parliament.

Q. Yes.

A. She was born Simone Jacob in Nice, Nica, 13 of April, and she was deported on the 13th of April, 1944.

Q. April 13th, 1944, yes. Where was she deported to?

A. From France.

Q. Where was she deported to?

A. To Auschwitz.

Q. Yes. And what is the record referred to and the transport in which she was deported?

A. So, when we consult the notebooks of Auschwitz, which is a quite official publication —

Q. Yes, who publishes it? Who publishes it?

A. The Polish — National Polish Museum of Auschwitz.

Q. What does it say about that transport?

A. About this convoy, it is said that this convoy from the 13th of April arrived the 16th of April, and that all the women of this convoy were gassed.

Q. And Simone Veil, born Simone Jacobs, is alive?

A. Yes. And we have many other case like that.

Q. What is the observation —

A. I must ...

Q. Go ahead.

A. I must say that Serge Klarsfeld does not really give the figure of the Jews who died. He said in his book that he considers as died every person who had not given his name before the 31st of December, 1945, to the Ministry of the Veterans, which means that if somebody had given his name two or three days after, he {2521|2522} is considered as dead by Serge Klarsfeld.

Q. Right.

A. With an exception, he did a research in Belgium, and he said — now, we must add — I must correct what I've said, because some Belgium Jews were deported from France, et cetera.

Q. So he's made some corrections?

A. He made very important corrections because the Centre of Documentation, Jewish Centre of Documentation in Paris had given many figures about the Jews deported from France, and Klarsfeld had to say that many convoys had been invented. They are not — no real existence, it was a mistake from this Centre, so we have many thousand of people that we don't know if they are — were alive at the end of the war or not, but they were told by the Centre to have been — to have died in Auschwitz, and it was a mistake. Sometimes it was because Centre of Documentation thought that those people had been sent from France for Auschwitz — to Auschwitz, and in fact the people got out of the train in a place called Kosel, K-o-s-e-l, and there are many mistakes of this kind. Because when they see — we have a tremendous amount of leads, we can't check everything, every body. Somebody can disappear but he cannot make disappear the proof of its existence before.

Q. Yes.

A. It's difficult. So we have many correction to do with this book of Klarsfeld, because people who are sent from France, who we suppose it was to Auschwitz and it was elsewhere, and they were considered as dead — gassed, gassed. This is the terrible danger of this reasoning, the way of reasoning, saying those people left and we {2522|2523}

don't know where they are. We must be very careful. We must not conclude that they were gassed, killed. We must try to make a research, and it is easy to make a research. If I had the right to work in the International Tracing Service of Arolsen, I could, I think, very quickly say how many Jews deported from France were alive at the end of the war. But this work has not been done, and it is this kind of work that I would be ready to make with Dr. Hilberg, Raul Hilberg or anybody else.

Q. Could we deal with the testamentary [sic] foundations for the allegation of the numbers killed at Auschwitz now? Specially, the War Refugee Board report and the activities of Vrba, who was a witness here. Can you tell us what you know that —

A. I know that his total is 1,765,000 of Jews gassed during two years.

Q. Are there other conflicting totals with that?

A. Oh, yes, because we have so many different totals.

Q. Tell us about them, giving the names of the persons, the books they published and the differences they give.

A. Excuse me, I am going to do something which would be more easy, perhaps. I would say that we must read an article published in Lemangerie (phonetic), a Jewish word, by George Wellers, W-e-l-l-e-r-s, —

Q. Yes.

A. — very recently. It is a tentative to try ...

Q. A tentative or an attempt? {2523|2524}

A. An attempt to try to determine the right number of Jews gassed or killed.

Q. Yes.

A. So in his article on something like half a page, he gives some example of figures.

Q. Yes.

A. And the figures given by George Wellers, he quotes the sources every time. I cannot remember all those sources.

Q. Yes.

A. It begins at eight million.

Q. Yes.

A. Then suddenly we have five million, four hundred and fifty and so on.

Q. Four million five hundred thousand?

A. Thousand, yes. That's the Russian Commission of Auschwitz who established that.

Q. Is this pertaining to Auschwitz specifically?

A. Oh, yes, excuse me, only Auschwitz.

Q. We are not talking about the total figure?

A. No, no, no, only Auschwitz. And then this Russian Commission said after, "But sometimes gas chamber were not operating, so we must make a reduction." They made a reduction up till four million or more than four million, something like that. We have seven million, we have four million, we have three million and a half.

Q. Who does that come from?

A. From different sources.

Q. Can you name them?

A. Quoted by Wellers.

Q. Yes.

A. I could quote the Russian Commission.

Q. Yes. {2524|2525}

A. I could quote the Polish Commission.

Q. Are those figures different?

A. Yes, a little bit. I think that the Russian said something that more than four million, and the Polish said four million. It was a kind of dispute.

Q. What other figures are provided at International Military Tribunal?

A. Yes, we have the figure given by Rudolph Hoess, himself.

Q. Which is ...

A. Which is three million. He said two million and a half gassed, and five hundred thousand who died by other causes.

Q. Yes. And now we have — do we have other —

A. And we have many confessions of Hoess refuting these figures. I

have even there a book.

Q. Now, I'm interested in the figures, doctor, so I want to concentrate on any other estimate of figures from current historians.

A. Yes, and then after — I cannot quote the source given by George Wellers.

Q. What does Hilberg say?

A. We have one million and seven hundred thousand.

Q. From who?

A. I couldn't say.

Q. What does Hilberg say?

A. Hilberg says sometimes over one million and sometime one million.

Q. Yes. Does anybody give less than that for Auschwitz? {2525|2526}

A. Gerald Reitlinger, R-e-i-t-l-i-e-n-g-e-r, says more than seven hundred thousand gassed.

Q. Mm-hmm.

A. And it's difficult to understand Reitlinger because you have page 501 and page 502. On page 501 it seems that he says between eight hundred thousand and nine hundred thousand, and on page 502 you have more than seven hundred thousand. It's difficult to understand. And it's interesting to study the different version given by Reitlinger.

Q. All right. What do you make of all these confusions from eight million to seven hundred thousand? What's your opinion of all that?

A. I think that those figures are given — are not accurate. Never we are told how those figures have been found.

Q. Now, what other evidence —

A. Or sometimes, George Wellers tried to give explanation, but I must say that I tried to understand I his explanation; I didn't succeed.

Q. What other reasons are we to believe these the story that six million or thereabouts, Jews, were gassed during the war? What other support is there for that belief other than the various testimony of figures you've just given?

A. Oh, we have something very important who happened on the 14th of December, 1945, at the Nurnberg Trial.

Q. What is that?

A. That's very important.

Q. What happened there then?

A. A german [sic] called Wilhelm Hoettl had signed an affidavit, I suppose, and the American prosecutor quoted this affidavit ... {2526|2527}

Q. Yes.

A. ... saying that there had been I think six million, I think it was this — yes, it was six million, that six million Jews died during the war. This was on the morning of the 14th of December — did I say 14th?

Q. You did.

A. Yes, it was in the morning. And the defence lawyer of Anton Brunner, I think, didn't say anything. At the beginning of the session after lunch, this defence lawyer said to the president of the Tribunal, "This morning it has been said that Hoettl has said that six million Jews were — died during the war. I would like this witness to come here," and it is very easy to do it because [he] is in the jail itself of Nurnberg.

Q. Mm-hmm.

A. And then the American prosecutor, I think it was Walsh, W-a-l-s-h,

Q. Yes.

A. ... said that — that's a sum up of my part, I cannot quote exactly, said, "Your Honour, no, we do not intend to affirm anything with that." It has been given like that, like an approximation. I think that the defence lawyer insisted and — to have Hoettl, and the president said — decided. "No, he is not coming."

Q. Was that the basis of the six million figure?

A. I cannot say what is the basis of any common faith, because I don't know why exactly the people believe what they believe.

Q. Was William Hoettl ever accused?

A. Yes, he was accused, but I cannot give any detail about him. {2527|2528}

Q. All right. What of significance is the Hoess statements, H-o-e-s-s?

A. I said, yes, that as we had no material proof, not one, of the existence of a single noticeable gas chamber, all this story of the gas chamber stands on three pillars. The first one is Vrba, the W.R.B. Re-

port and Dr. Vrba.

Q. Yes.

A. The second one is Rudolph Hoess.

Q. Yes.

A. He was one of the three successive commandants of Auschwitz. We must remember that there were two others.

Q. Yes.

A. And the third pillar is Kurt Gerstein. When you take those three people one by one, when you see their testimonies, I don't think that you can give them any credence.

Q. Why not? Let's deal with them one at a time. First of all, let's deal with Gerstein.

A. Gerstein, chronologically, is the last.

Q. Is the last. All right. Which is the first, chronologically, that you'd like to deal with?

A. The W.R.B.

Q. Why should we not believe the W.R.B. report?

A. Because of those figures that we have commented.

Q. Yes.

A. But surely, because of the plans given of the alleged crematorium, alleged gas chamber, they are total impossibilities in that.

Q. Yes. You're not allowed to comment on {2528|2529} those because your expertise —

A. I'm not an architect, so I have no right.

Q. You can't say anything about the plans.

A. I can say only something perhaps. It is that if — I'm not going to give my plans. I was the first to publish that.

Q. I'll —

A. In this book.

Q. In your book, in the book "Verite Historique and Verite Politique", you published some plans at page 320. Are those the plans you're referring to?

A. Yes.

Q. Where did they come from?

A. From the archives of the Auschwitz Museum.

Q. Yes. And were these published for all the world to see by you?

A. Yes.

Q. And were they published and distributed to Ernst Zundel?

A. Yes. Ernst Zundel knew even this plan, I can tell you exactly, in September, 1978, in Los Angeles, he saw this plan.

Q. How do you know? Were you there with him?

A. I was there, he was there, and because of my bad English I remember that I asked him to read my conference. He did it.

THE COURT: This is Mr. Zundel, is it?

THE WITNESS: Mr. Zundel, yes.

THE COURT: You asked Mr. Zundel where?

THE WITNESS: We were in Los Angeles.

THE COURT: In Los Angeles?

THE WITNESS: Los Angeles, excuse me. {2529|2530}

MR. CHRISTIE: Q. At a historical review conference; is that right?

A. Yes.

Q. And you had a paper to present?

A. Yes, I presented the paper, about the technical impossibilities of the gassings.

Q. And you had Mr. Zundel read it because of your English?

A. Yes.

Q. And probably because you were tired? I'm leading you, but ...

A. No.

Q. No, all right. Now, in respect to this W.R.B. report, you say because of the drawings respecting the gas chambers that are in the W.R.B. report and that in relation to the plans you found; is that right?

A. Yeah.

Q. Any other reason why you say we should not believe the W.R.B. report of Dr. Vrba and others?

A. The plan of Auschwitz, the plan of Birkenau, the plan of the crematorium.

Q. What about them?

A. They do not — they are nothing.

Q. What do you mean, they're nothing?

A. When you see the reality of the place ...

Q. Yes.

A. ... it does not stand, that's all. When you see on the same level a gas chamber, then a track to put the people, the bodies in the furnaces, and when you see that in fact this place which was a mortuary was underground, that you had a little lift, and on the — at the other level you had the furnaces ... {2530|2531}

Q. Yes.

A. ... and the furnaces are not at all like they have been drawn by Dr. Vrba, and he said —

Q. What do you conclude from that, doctor?

A. I conclude that it is not exact,

Q. What do you conclude about the author of that, if he says it is exact?

A. I say, "You say something which is not exact."

Q. All right. So is there any other reason why we should not believe the W.R.B. report?

A. Yes, because, for example, you have the report of the Polish major.

Q. Yes, which is part of the W.R.B. report?

A. Yes, I remember that, that there are many things; this Polish major says that the people were gassed by a hydrocyanic bomb.

Q. That, too, is included in the same W.R.B. report?

A. Yes, but we must know that — about the handle — the handling of this gas.

Q. You are not qualified to comment on the handling of the gas.

A. Not about that, no. I want only to say what the witnesses claim.

Q. All right.

A. We have all the explanation possible, absolutely all.

Q. From who?

A. From all the people who have written about that.

Q. Uh-huh, and what is it that creates a problem {2531|2532} with it?

A. The problem is that Sophia Lezinska (phonetic) says, for example, that the gas was coming from the ground, that there was an alarm clock, and that the ground was like that, and the gas emanated. Some other people say that this same gas came by showers. For an acid, it's impossible — oh, excuse me. So, others say that it was thrown by window even in an underground. Others say —

Q. You mean some people say that it's thrown from a window underground?

A. Yes, we have that, yes.

Q. Where is that from?

A. I don't remember. We have that.

Q. Well, you have to — if you're going to quote a source, you should identify it.

A. I would have to find among all those testimony.

Q. In future, if you're going to quote a source, just identify it.

A. So I mustn't say if I cannot say my source?

Q. You should identify the source.

A. Okay.

Q. Now, what other reasons do you say that the W.R.B. report is inaccurate or should not be taken as credible?

A. I think it's sufficient for me.

Q. All right. Now, the other pillar to the belief in the gas chambers at Auschwitz and the 2.5 million people killed was Hoess, eh?

A. Yes.

Q. He says 2.5 million or 3 million?

A. Two point five. {2532|2533}

Q. Million gassed, and three million killed?

A. And other died.

Q. Were there camp records kept and are those available to researchers?

A. Very difficult question. Myself, I found documents that —

Q. Where?

A. In the Auschwitz Museum, for instance.

Q. Yes.

A. Or elsewhere, in Paris in the – in the archives of the Military Justice.

Q. Yes.

A. Plans or document that I thought that they were no more existing. I found them. We cannot know. We can suppose that – we have reason to suppose that the policy of interesting documents, and especially books about the surgical operation in Auschwitz, but we had only one of this book which appear in a trial in England.

Q. Why should we not believe Hoess when he tells us in his confessions that 2.5 million people were gassed, and does he say Jews were gassed or just people were gassed?

A. "People", I think.

Q. People were gassed.

A. I think he said "people".

Q. Why should we not believe that?

A. For material impossibilities

Q. Such as ...

A. I cannot tell you.

Q. You cannot tell us what material impossibilities are?

A. I know them but I'm not qualified to say. {2533|2534}

THE COURT: They have to do with architectural structure?

THE WITNESS: Yes, architectural structures, the time you need for a cremation, the quantity of coke, c-o-k-e, and all that.

MR. CHRISTIE: Q. Uh-huh.

A. Because, you see, those extraordinary slaughter-houses, which normally would have needed so many studies between architects and

—

Q. Yes.

A. — and so on, chemists and all that, no proof whatsoever of that, no budget; that's very important, no budget, and I think that Dr. Hilberg agrees with that.

Q. So you can't, because of your lack of expertise in the areas of chemistry and architecture, tell us the reasons why you disbelieve the Hoess confession?

A. No.

Q. Oh.

A. The right point about the three million, but for other things I can say why.

Q. What can you say is dubious about the Hoess confession?

A. What is dubious is this story that he tells us. In June, 1941, he says that he was called by Himmler, who received – without anybody, and who told him "We have to organize the final solution of the Jewish problem."

Q. Yes.

A. "And you have to do this yourself, try to find a way."

Q. Yes.

A. And it got back, that's what he says in {2534|2535} his memoirs

Q. Yes.

A. It got back to Auschwitz.

THE COURT: Who says, in whose memoirs?

THE WITNESS: Hoess, Rudolph Hoess.

THE COURT: Thank you.

THE WITNESS: And it got back to Auschwitz, and he went for a trip, I think, and one day coming back his ajudent (phonetic), his name is Fritsche, F-r-i-t-s-c-h-e,

MR. CHRISTIE: Q. Yes.

A. ... told him, "I have gassed so many people with Zyklon-B," and Hoess says, "So we found like that the solution." But the thing which is strange is that in the book, in the memoirs, published by Martin Broszat in 1958 in German, we had to wait eleven years to have those memoirs

—

Q. Yes.

A. — in their original language.

Q. Mm-hmm.

A. And in footnote, Martin Broszat says elsewhere that Fritsche was dismissed as a man who was incompetent, a man who is supposed to have invented that.

Q. What do you find dubious about the procedure you have described

that comes from the Hoess memoirs?

A. What I found dubious is the fact that something which is so important was oral.

Q. Why is that dubious?

A. I think it is dubious because you cannot say, it seems to me, "We are going to kill millions of people and there will be no paper, nothing, it will be between us two."

Q. What was your finding as to the usual {2535|2536} practice for carrying out and transmitting orders in the German military practices of the day?

A. I could say that it's very surprising to me how many orders we needed – German needed for anything.

Q. Such as ...

A. Such as for the dogs in Auschwitz.

Q. What about them?

A. How many dogs, what amount of money, et cetera, et cetera.

Q. Was everything committed to writing?

A. I cannot say everything, but ...

Q. Pertaining to dogs, were there orders in writing?

A. Yes, yes.

Q. Pertaining to the deaths of anyone by any cause?

A. Oh, yes.

Q. What happened there?

A. In the case of a natural death, you had something like more than twenty signatures. In the case of a non-natural death, execution or suicide or things like that, you had about thirty signatures.

Q. We don't understand what you mean by "we had about thirty signatures"

A. Oh, yes.

Q. What do you mean by that, so the jury can understand?

A. The German had to sign papers and papers for – I would say everything, but in this case we had so many signatures.

Q. Mm-hmm.

A. My – I can indicate my source. {2536|2537}

Q. Yes, I think you can. Tell us your source.

A. It has been published in a Polish medical review.

Q. Yes.

A. It has been translated into French, English, et cetera, in what we call the Blue Anthology of Auschwitz, which is not very well known. It is not even printed. It is what we call typewritten.

Q. Typewritten?

A. Yeah.

Q. And that comes from Polish authorities?

A. I think that it comes from Dr. – I'm not sure, Feijkl, F-e-i-j-k-l. I'm not sure.

Q. Can you tell us any other reasons from your research why you disbelieve the Hoess confession?

A. Because is extremely vague about the gassings. When he gives for once a little – it is about those people who get into the gas chamber eating or smoking. I remember that Dr. Hilberg commented that page

—

Q. Yes.

A. — that you showed him.

Q. Yes.

A. But it was done a little bit too quickly.

Q. Why?

A. Because Dr. Hilberg thought that this operation of transportation of the corp (sic) was done outside to the pits. The text says to the ovens, which means inside, or to the pits, and all that was supposed to be done by people eating, smoking, which is an impossibility. You cannot touch a corpse —

Q. Never mind, you can't say anything about that.

Do you have any evidence to indicate whether {2537|2538} there was torture involved with the Hoess confession?

THE COURT: That's a leading question if ever heard one.

MR. CHRISTIE: Well, of course, I have to move from one subject to another. You've told me to control the witness. I'm trying to —

THE COURT: I didn't tell you to control the witness by leading the witness. Go ahead and ask the question, Mr. Christie.

MR. CHRISTIE: Q. What do you know about torture in respect to Hoess?

THE COURT: What, if anything, do you know about torture?

THE WITNESS: Yes.

MR. CHRISTIE: Thank you, Your Honour. I'm sorry.

THE WITNESS: I have – there is memoirs in an English edition, "Commandant of Auschwitz", Cleveland, New York, 1960, page 193. I am going to read only what he said, and the interest – interesting point is that the Poles permitted him to write that. How is it that the Poles permitted – permitted Hoess to say that he had been maltreated by the British?

MR. CHRISTIE: Q. Tell us why it's interesting, because maybe we don't understand that.

A. Okay. Why it is interesting?

Q. Yes, why is it interesting in that the Poles permitted him to say he was tortured by the British?

A. It is surprising that the Poles could let him say those things, "I have been maltreated, and I have signed a paper not knowing what was inside this paper." It was the most important paper for the Nurnberg trial. The most important date for the Nurnberg trial is the 15 of {2538|2539} April, 1946, because this day Hoess came and the American prosecutor read his affidavit.

Q. Yes.

A. And Hoess was there saying, "Yes, yes, yes," and sometime he gave also some extended answers, but it's this day that officially his confession has been taken for granted in Nurnberg, and now we see that Hoess, if we have to believe Hoess and what the Poles let him write, he said,

*"I was maltreated by the field security police. I was taken to Heide", H-e-i-d-e, "where I was put in those very barracks from which I had been released earlier. At my first interrogation, evidence was obtained by beating me. I do not know what is in the report, although I signed it."* May I read the footnote? Footnote number 1:

*"A typewritten document of eight pages which Hoess signed at 2:30 a.m. on March 14, 1946. It does not differ substantially from what he later said or wrote in Nurnberg or Krakow."*

And I must admit that.

*"Alcohol and the whip were too much for me. It seems that – It means sometime they used my whip against me, and sometimes when I fainted, more or less, they gave me alcohol."*

I suppose.

*"The whip was my own, which by chance had got into my wife's luggage. It had hardly ever touched my horse, far less the prisoners. Nevertheless, one of my interrogators was {2539|2540} convinced that I had purposefully used it for flogging the prisoners. After some days I was taken to Minden on the Weser," W-e-s-e-r, "the main interrogation centre in the British Zone. There I received further rough treatment at the hands of the English public prosecutor, a major. The commission in the prison accorded with this behaviour." Et cetera.*

Q. Do you have a photograph of the event you've last described?

A. Of the ...

Q. Event you last described involving the English major?

A. Yes.

Q. Where does that photograph come from?

A. So this book is from Torn Bower, B-o-w-e-r. The title is, "Blind Eye-to Murder, Britain, America and the Purging of Nazi Germany, a Pledge Betrayed". It's published by Granada, 1981.

Q. Does it show a picture of Hoess being interrogated, or is there a caption to that?

A. We see Hoess, and a wall behind himself, and a colonel, Gerald Drapper [Draper], of the British War Crimes Group. He is photographed as he finally secured the confession of Rudolph Hoess, the Commandant of Auschwitz, to the murder of three million people.

Q. It's not clear what you were reading there. Were you reading the caption?

A. Yes, excuse me, it was the caption.

Q. So let me just show that, if I may, to the jury. First, show it to His Honour. {2540|2541}

A. And may I say, because there is another photo, may I say something about the other photo?

Q. Well, does it pertain to Hoess?

A. It pertains to Josef Kramer, who received, I think, the same treatment. I have the proof there.

Q. Who was Josef Kramer?

A. Josef Kramer was at the time in Auschwitz, then he was in Stutthof, then he was in Bergen-Belsen.

Q. Who was he?

A. Chief of the camp.

Q. If His Honour will permit us, I would like to show that picture that you've shown to us to the jury.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Could I see it for a moment Your Honour? Is this to go to the truth of the allegation or to somebody's belief in the allegation? If I can ask what the purpose of the —

THE COURT: Mr. Christie?

MR. CHRISTIE: It's to demonstration the type of oppression that was used. The photograph is very clear and the jury can draw their own inferences from it, but it's to support the allegation that he was intimidated and was a wreck. That will be my argument.

MR. GRIFFITHS: Is there any photo credit?

MR. CHRISTIE: Photo credit? No.

THE WITNESS: We can make a photocopy.

MR. GRIFFITHS: No, he wants a photo credit, meaning who took the picture.

THE WITNESS: Excuse me.

MR. GRIFFITHS: I have no objection to the photograph being shown to the jury. If it goes to the belief. If we are talking about the truth of it, then I think we {2541|2542} should know more about the photo.

MR. CHRISTIE: Well, the photo – how do you define the truth of a photo? I mean, —

MR. GRIFFITHS: I mean, when was it taken?

MR. CHRISTIE: As to when it was taken?

MR. GRIFFITHS: Yes, before or after he testified —

MR. CHRISTIE: Well, the caption underneath, which was read, is the identification, the only identification we have. The book, it's published, it's public knowledge.

THE COURT: Do you propose to show a picture in the book to the jury to support or buttress the belief of this witness that the commander of this concentration camp, Hoess, was abused by his captors?

MR. CHRISTIE: Yes.

THE COURT: You may show it.

MR. CHRISTIE: Thank you, sir.

THE COURT: It's to support a belief; it's not for the truth.

THE WITNESS: That's —

THE COURT: You just – please – it's to show – it's not introduced to prove the truth of the contents.

MR. CHRISTIE: No, I understand now, Your Honour.

THE COURT: Then you may show the jury.

MR. CHRISTIE: Thank you, sir. Thank you.

Q. For the benefit of the jury, do you identify the person on the right with his back to the wall as Hoess?

A. Yes.

Q. And the person on the left with his hands on his hips as the person —

A. Supposed to be —

Q. — Colonel Gerald Drapper? {2542|2543}

A. Drapper.

THE COURT: We won't get into how he recognizes them. I don't suppose either one of them were friends of this witness.

MR. CHRISTIE: No.

THE COURT: Perhaps you could show it to the jury and let's get on with it.

MR. CHRISTIE: All right. Can I hand it to them, Your Honour?

THE WITNESS: How about Josef Kramer?

MR. CHRISTIE: Q. Yes. And you were saying something about Josef Kramer, whose picture is underneath, and to your belief about his treatment. He was a commandant of another camp; is that right?

A. Yes. He was commandant of another camp, and the last time at Bergen-Belsen. He has been hanged. I have there a book.

THE COURT: Are we going to talk about Kramer now?

THE WITNESS: Kramer, yes, excuse me.

MR. CHRISTIE: Q. You see, I think we'd better just stick with Commandant Hoess, because that's getting off the track, and His Honour wants to deal with one thing at a time, as we must do with the jury.

Now, have you any other reasons for raising doubts in your own mind and publishing those doubts about the accuracy and truthfulness of Hoess' confession, any other reasons to doubt?

A. I have other reasons, because of the figures given by Hoess, because of —

Q. What about them?

A. Three million. {2543|2544}

Q. What about that, what's dubious about that?

A. I think that this figure is absolutely impossible, and that now we realize it because even Dr. Hilberg says one million.

Q. Yes. So you say because he confessed to three million and we now recognize — or authorities and official historians recognize one million, that that's a reason to believe that he was —

A. Yes, yes.

Q. All right.

A. And the other reason for the manuscript itself, I know that we do not have the drafts of Hoess. I have seen photocopies of his memoirs, written with a pencil, and we don't have the draft. It would be very interesting to have the draft.

Q. Mm-hmm. Any other reasons respecting Hoess?

A. I myself, I think that the material impossibilities are the most important, for myself.

Q. All right, and you are not allowed I to go into them.

A. That's the kind of argument that I think, for myself, important.

Q. All right. Now, let us deal then — because you can't deal with those material —

A. And the story of the gassing of the Russians in Auschwitz I were also —

Q. What about that?

A. That the Russian prisoners were put in the gas chamber and that during this time holes were made into the cement to put Zyklon.

Q. You mean that Hoess said that? {2544|2545}

A. Yes.

Q. When and where?

A. In his memoirs.

Q. He says that Russian prisoners were gassed in Auschwitz I, and while they were there the holes were drilled to put the gas in?

A. Yes.

Q. What do you think about that?

A. I don't believe it.

Q. Anything else you can recall from your research about Hoess that raises doubts about his credibility?

A. I would need to have my dossier there.

Q. All right. There are other things you could remember perhaps from your dossier, is that it?

A. Yes.

Q. All right. Rather than do that at this point, I would like to ...

MR. CHRISTIE: Well, it's five to one. I wonder, Your Honour, if we could break for lunch. I was about to move into the area of Gerstein. Would it be appropriate or should I —

THE COURT: Yes.

MR. CHRISTIE: All right.

THE COURT: Members of the jury, I am going to be otherwise engaged, I hope for a very short few minutes, at 2:15. You are excused till 2:30.

THE REGISTRAR: Members of the jury, you may retire.

— the jury retired at 12:55 p.m. Proceedings adjourned to 2:30 p.m.

(VOLUME XII FOLLOWS)

This is to certify that the foregoing (pages 2465 – 2545 inclusive) is a true and accurate transcript of my notes to the best of my skill and ability.

N. Porteous, C.S.R.

Official Court Reporter {2545|2546}

## VOLUME XII

— Upon the hearing resuming.

MR. CHRISTIE: Your Honour, I wonder if I may speak to you about a matter in the absence of the jury.

I have had, for the last two days, a professional model maker from Ottawa. Now, the reason I wanted to introduce his evidence, he has made from the plans provided from Dr. Faurisson, that he will be able to testify he obtained from the Auschwitz Museum, he made models, scale models of the various crematoria from the plans. Now, this I would not propose to tender for the proof of the truth of either the plans or the models, but to prove the honesty of my client's belief and the level of diligent inquiry into — the type of inquiry he conducted into the feasibility of the stories of the gas chamber there put forward by various eye witnesses.

This is not necessarily to prove the truth or falsity of anything in particular, but to demonstrate the inquiry that my client has undertaken. These inquiries were undertaken a long time ago in terms of obtaining the plans. The models are a more recent {2546|2547} inquiry.

I didn't want to raise the subject in the presence of the jury for obvious reasons, but the models are here, the model-makers are in the witness room, and if I could I would like to introduce that evidence to be analyzed, because Dr. Faurisson and the accused have inquired into the feasibility of certain of the stories that have been published about the gas chambers.

THE COURT: Let me see if I have it. You want to introduce a model of the plan of the concentration camp Auschwitz, I gather.

MR. CHRISTIE: Sorry, not the concentration camp. The original crematoria building.

THE COURT: That a model maker has made from plans of the camp?

MR. CHRISTIE: Yes.

THE COURT: You want to do that to buttress or support the honesty of the belief that what your client was publishing was true.

MR. CHRISTIE: Yes, sir.

THE COURT: The model having been made since this litigation started. {2547|2548}

MR. CHRISTIE: This particular model. There's three of them, yes. The others, there were previous ones.

THE COURT: Mr. Griffiths.

MR. GRIFFITHS: I frankly don't see how that can be evidence of anything, Your Honour, in particular, evidence of the belief of the diligence or honesty and belief of Mr. Zundel. The model wasn't made until after he was arrested or charged. If it was before the arrest, then I might have a different submission.

I'd like to think about that, but if it was made after the arrest, I cannot have a different submission, Your Honour.

I am not sure what a model will tell us unless we have what was existing in Auschwitz as to what was above-ground and what was below ground and what-have-you. So I would object.

THE COURT: Yes. Mr. Christie.

MR. CHRISTIE: Yes, sir. The question that arises is as to why it should be admissible in view of the fact that it has been created after the charge.

My client will be testifying that he {2548|2549} is a person with an ongoing inquiry, that he has an open mind and has willingness to learn both from all other evidence and even in this trial. He has listened to



the evidence, and he is conducting and continuing to conduct inquiry into this subject; it isn't something that he has carved in stone. This is honestly his view. He honestly believed it and still believes it, but he is not a close-minded person. He is trying to understand the theory of the extermination process of the gas chamber, so he made the inquiry.

My friend's question about the great and other circumstances I had hoped to answer by the introduction of photographs taken by Dr. Faurisson at the scene with his own presence there, so he could prove that the scene depicted is the scene of Auschwitz and the crematoria building. I have other photographic evidence to prove that as well. I had hoped to introduce that, because I have the people who took the photographs, and they are available, and I had hoped to say, not to prove the truth or falsity of anything, but that that is a photograph taken at the scene because the eye witness has taken it.

I don't know any better way to show {2549|2550} the jury what there is to consider. That is really why I hoped to introduce this evidence, that it demonstrates my client's serious, sincere inquiry to examine the available evidence, and to test it to see if it makes sense, as an ordinary human being not as an expert, because he is trying to assess the credibility of a complex question as a layman. That's all.

He has to prove to the jury, I suppose, his honest belief; if the jury, as they may, take it that's he's wrong, they have to decide whether he's honest in his belief. And that, I think, involves the level of inquiry that he has undertaken; and one of the most detailed and time-consuming he spent on inquiries that he has undertaken was the commissioning and creation of scale models.

So I realize my friend's concern and all I can say is, this was done to enable the accused to understand the situation as depicted in the various stories that are from eye witnesses.

MR. GRIFFITH5: If I may, Your Honour – I don't want to have a tennis match, but just a couple of comments. First of all, I would not say now, and {2550|2551} never would say there is any obligation on Mr. Zundel to prove anything. This is a criminal trial, and I am not calling for proof, nor can I call for proof of Mr. Zundel.

Secondly, Your Honour, I think the question as to grates – and I am purely basing this on the cross-examination of Dr. Vrba – it may be an important one to the defence if it's based on photographs of what we heard of installations, but the photographs are taken thirty years after the events, and we are going to be asked to take conclusions from that. I would suggest that that evidence would be misleading in the extreme and would be asking the jury to compare apples and oranges.

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: Yes. Just one point my friend raised. The plans do indicate the ground level, and they are original plans. They are made during the War prior to construction. I mean, they come from the Auschwitz Museum.

We are not here to prove their truth or anything, but they do set out all the necessary data for the creation of these models – not that we are trying to prove the truth, but their reasonableness. {2551|2552}

#### REASONS FOR RULING

THE COURT: Counsel for the accused has moved, in the absence of the jury, for leave to lead evidence in the form of a model of what is said to be a gas chamber, as I understand, or the crematorium in a concentration camp known as Auschwitz.

He makes it clear that that model has been recently created by a model maker upon the instructions of the defence.

He seeks to lead it through the witness, Faurisson. His purpose is to buttress or support a belief by the accused in the truthfulness of the publication, Exhibit 1, entitled, "Did Six Million Really Die?"

Mr. Christie has indicated that he intends to call the accused as a witness. There is no obligation, of course, that the defence call any defence at all, to say nothing of calling the accused. If that is the intention, the accused certainly can testify as any other witness in his own defence.

It seems to me that it would be quite inappropriate at this time to admit such evidence through Dr. Faurisson simply because the belief, if any,

in the truthfulness of the publication surely must be a belief {2552|2553} in the publication at the time the publication is made and not in retrospect in preparing for a defence.

Mr. Christie makes it clear that Mr. Zundel's mind is not fixed by way of notions concerning the contents of Exhibit 1. He submits that the accused has been carrying on an ongoing inquiry into the issues that are contained within the pages of Exhibit 1. That may very well be.

There is no evidence to that at this time from the source that is said by the Crown to have had no honest belief in what was published.

For these reasons, at this time, the motion to lead this evidence through this witness is dismissed. It may be renewed at a future time when there is relevant evidence on the record.

It is a model made in contemplation of creating a defence. That, in itself, is natural and normal. Unfortunately for the defence, at this particular stage of the trial the belief must be the belief, as a matter of law, at the time the publication was admittedly made, and not a belief made in retrospect, or an honest belief even now.

The motion is dismissed for those {2553|2554} reasons.

MR. CHRISTIE: Thank you, sir. Then can I proceed?

THE COURT: Yes. Certainly. Is there anything else before the jury comes in?

MR. CHRISTIE: No, sir, unless my friend has. I would like to recommence with Dr. Faurisson.

— {2554|2555}

— The jury enters. 2:50 p.m.

#### ROBERT FAURISSON, previously sworn

##### CONTINUED EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

(?) Q. Can you tell us, sir, what happened as a result of Hoettl's affidavit which was not relied upon in the IMT for anything particularly to the reporting of that event in the public minutes and press of the day?

A. Yes. I think that this figure of six million Jews has been concentrated this day, I mean the 14th of December, 1945.

Q. Why do you think that?

A. Because I see that many times it is referred to this declaration of Hoettl in every book – Hilberg, Reitlinger, and so on. We have a reference to what Hoettl said this day, he maybe said in exactly in his affidavit read by the American prosecutor. The American prosecutor said that it was not important, or something of this kind, but we must say that, all the same, this figure has been kept in memory and reproduced by the medias, by the historians, and they think that with good faith, that this figure has been really established in the Nuremberg trial, which is not the case.

Q. So that is why you mention that.

A. Yes.

Q. All right. We were going to go {2555|2556} into the subject of Gerstein, but was there anything more you wanted to say about Hoess in relation to the credibility of his evidence?

A. Yes. I wanted to rectify something that I said this morning.

Q. What was that?

A. I said this morning that Hoess said that when the Russian prisoners were in the gas chamber, holes were made during this time.

Q. What do you mean by the holes – the holes of Zyklon-B?

A. The holes to put Zyklon-B.

Q. What is exact?

A. The German text said during the unloading of Russian this was made.

Q. What was made?

A. Holes into the cement.

Q. So that is the exact text of what is supposed to have been said?

A. The German word is Entladen.

Q. Now, you have heard Dr. Hilberg's testimony about the reasons why he relied on Gerstein, and I would like to ask you what is your opinion of the statements of Gerstein. What do you have to say about them?

A. My opinion is that we cannot building anything from those statements.

Q. Why?

A. Because they are totally unbelievable.

THE COURT: They are what? {2556|2557}

THE WITNESS: Unbelievable.

MR. CHRISTIE: Why?

A. I am going to give some examples. I am going to talk first about the most well-known of the Gerstein statements.

Q. You mean there is more than one?

A. Yes.

Q. How many?

A. Six.

Q. Carry on.

A. The most well-known is in French. The French is as bad as my English. Document called PS-1553 Gerstein is supposed to have written this statement in Germany when he was prisoner of the French army.

Q. Mm-hmmm.

A. We are told that he gave this statement to the French people, but it seems that they were not interested by his statement. Then he saw a British and an American, kind of two members of a commission of inquiry, and he gave them his statement. So the American people had this statement. In Nuremberg, in the Nuremberg trial, this, statement was not used. When we say that in Nuremberg trial PS 1553 was used, it is a mistake. Only the part of it which was constituted by voice of Zyklon was taken and presented in the Nuremberg trial.

Q. So then why does Hilberg rely on it so often in his book, as we found from his testimony?

MR. GRIFFITHS: I think that's a question for Dr. Hilberg, Your Honour, not Dr. Faurisson. {2557|2558}

THE COURT: You can ask him what comments he has on the number of references in the book.

Q. MR. CHRISTIE: You are the person who counted the number of references in Dr. Hilberg's book as to the Gerstein statement, didn't you? You counted how many times Dr. Hilberg states "Gerstein" in his book?

A. Yes. His name, I think, appears twenty-three times, and this document is quoted ten times. And I think that the people who believe in the gas chambers, they need absolutely something. So I think that they are ready to take anything.

Q. So what's incredible about Gerstein?

A. Gerstein tells us this story. He was a specialist of disinfection, and one day he was asked to go to Belzec. He says – may I quote?

Q. Yes.

A. "On 8 June, 1942, the S.S." – I leave the rank – "Guenther of the RSHA entered my office. He was in plain clothes and I did not know him. He ordered me to get a hundred kilograms of prussic acid and to accompany him to a place which was only known to the driver of the truck."

In all the versions we have 260 kilos.

"We left for the potassium factory near Colling (Prague). Once the truck was loaded, we left for Lublin (Poland). We took with us Professor" — Q. At any point you want to comment on incredibility, stop and go on. {2558|2559}

A. Okay. "We took with us Professor Pfannenstiel [Pfannenstiel] M.D., Ordinary Professor for Hygiene at the University of Narburg [Marburg] on the Lahn. At Lublin, we were received by S.S. Gruppenfuhrer Globocnik. He told us: this is one of the most secret matters there are, even the most secret. Whoever talks of this shall be shot immediately. Yesterday, two talkative ones died. Then he explained to us: at the present moment – 17 August 1942 – there are three installations:

1. Belzec [Belzec] on the Lublin-Lemberg road, in the sector of the Russian demarcation line. Maximum 15,000 persons a day."

And he says, "Seen". He means that he have seen that – fifteen thousand killed by day, maximum.

"2. Sobibor, I do not know exactly where it is located. Not seen. 20,000 persons by day.

3. Treblinka, 120 km NNE of Warsaw. 25,000 persons per day. Seen!

4. Maidanek, near Lublin. Seen in the state of preparation."

So those figures are incredible.

Q. Why?

A. Because if I see what Dr. Hilberg says in "Documents of Destruction", page 205, he says that the number of people allegedly gassed in the three camps were as follows: Belzec about 600,000, Sobibor about 250,000, Treblinka over 700,000. So if we take those figures of Dr. Hilberg, it would mean that those camps killed for Belzec, all of them 600,000 in forty days, Sobibor all of them 250,000 in twelve and a half days, Treblinka all of them over 700,000 in twenty-eight days.

Those camps, the first one, Belzec {2559|2560} was established in 1942. It seemed that he has been in operation for ten months. Sobibor, in 1942, '43, it seem[s] that he has been in operation for seventeen months and a half. Treblinka, 1942, 1943, it seems for fifteen months. Excuse me if I say "it seems", because I have studied the question of Belzec, Sobibor and Treblinka, and really, we have nothing consistent about those camps.

First of all, we have no plan. We, in some books, we have so-called plans. They are said to be done by the memory of a former inmate, and generally it is said that the German accused agreed with those plans. Those plans seems [sic] to show us very little camp.

Raul Hilberg speaks about Treblinka of the square meter compound. So those figures are very surprising. Then:

"Globocnik then said: You will have to handle the sterilization of very huge quantities of clothes ..."

Q. Do you say clothes?

A. Yes. "... clothes and textile collection, which is only arranged in order to conceal the source of these Jewish, Polish, Czech and other clothes. Your other duties will be to change the method of our gas chambers (which are run at the present time with the exhaust gasses of an old Diesel engine) ..."

Q. Old diesel engine?

A. So I wonder now, an old diesel engine could kill so many people by day. "... employing more poisonous material, having a quicker effect, prussic acid." Prussic acid is hydrocyanic acid or Zyklon-B.

"But the Fuhrer and Himmler, who were here on 15 August – the day before yesterday – ordered that {2560|2561} I accompany personally all those who are to see the installations."

I have not made myself an inquiry to see at that time if Hitler and Himmler were on the spot, but we are told by Poliakov, by Mr. Hilberg and all the historians that Hitler was not there. They don't say anything about Himmler. I suppose that if they had to prove that Himmler was there at that time, they would give us this proof. Then he goes on talking about a Doctor Lindner, which never existed, which is probably Dr Linden. And there is a reflection from Hitler to Globocnik, "That is what we are supposed to do."

Q. So this is supposed to be a direct quote from Hitler to Globocnik?

A. Yes.

Q. In the presence of Gerstein?

A. Yes.

Q. What rank is Gerstein?

A. I would say Lieutenant, in your country, perhaps.

Q. So just so we understand this statement, now, I want to make it clear. If I am not misunderstanding you, you are saying that this statement indicates a conversation between Adolf Hitler, somebody called Globocnik, in the presence of Lieutenant Gerstein.

A. And we suppose Professor Pfannenstiel.

Q. Do you know who he was?

A. Yes.

Q. Where was he from?

A. He was a professor of medicine in Marburg.

Q. Where is that? {2561|2562}

A. In Germany.

Q. Is that near Treblinka?

A. No. Treblinka is in Poland.

Q. Is there any source that this professor was ever in Poland?

A. It seems that he has been in Poland, that he has been with Gerstein, but it is a very complicated matter, this matter of the Professor, be-

cause he was sued after the War, and he made his sort of confession saying, "Yes, I agree. Yes, I was there. But Gerstein said so and so, and it is not true."

We don't know what the Professor did really think.

Q. What is your opinion about this statement of Gerstein?

A. My opinion is that Gerstein, perhaps, went to Belzec for disinfection purposes, and that's all.

THE COURT: I'm sorry?

THE WITNESS: For delousing purposes. He was a specialist of delousing.

Q. Did he ever testify?

A. No, he never testified.

Q. Why?

A. Because he committed suicide in France, in Paris. Many people believed that his suicide is not true. I could give names of historians, but myself, I have studied this story of Gerstein, and at the moment, some years ago, I doubted about his suicide, but I believe now that it is possible. I would say after

why. I want to take things which looks impossible. {2562|2563}

Q. All right. There are more: is that right?

A. Yes. Much more, yes.

"Globocnik introduced me to S. S. ... Overmayer from Pirmasens", and by footnotes of German editions we know that this Overmayer, the village of Pirmasens never existed. So sometimes this is published with the – the name is changed and they put Overmayer, and they suppress Pirmasens.

Q. Where is that?

A. The place where the man comes from, is supposed to come from.

Q. I see.

A. And another confession is supposed to be a friend of Gerstein.

Q. Oh. So there are inconsistencies with other confessions on that point?

A. Yes.

Q. And in respect to that point, what is your opinion about the matter?

A. I would be pleased to give my opinion about Gerstein at the end.

Q. All right.

A. Then he says that there were three garage-like rooms on each side, four by five meters large, and 1.9 meters high. And he says that, "Next morning, a few minutes before 7, I was informed in 10 minutes the first train will arrive. And instead, a few minutes later, the first train came in from Lemberg, 45 cars containing 6,700 persons."

It looks to me extraordinary important {2563|2564} convoy. I have never heard myself, I think, about a convoy for more than 3,500. I don't think I have seen something about this kind. And he says, "1,450 of whom were already dead on their arrival."

It is difficult to conceive how he could counted that. "Behind the little barbed wire opening children, yellow, scared half of death, – women, men, The train arrives", etcetera. And he says that a small Jewish boy of four years of age is there giving a little piece of string to everyone to tie one's shoes. It would mean that the little boy of four years would have to do that 5,150 times, I think.

Then they go into the gas chamber. There are 700 to 800 pressured together to twenty-five square meters in forty-five cubic meters – which would mean twenty-eight to thirty two people in a square meter.

The doors are closed. Meanwhile the rest of the transport, all naked, wait.

Q. Naked.

A. Then he talks about the diesel engine. He says that he had to wait. He has a stop watch. He had to wait fifty minutes, seventy minutes, and the diesel engine does not start.

We really wonder how those people could stay fifty minutes, seventy minutes in such a space, twenty-eight to thirty people in a square meter.

Then, the Ukrainian were helping a man, eleven or twelve lashes in the face with the whip. "After two hours and forty-nine minutes" – so he is a man who seems to count very precisely – "as registered by my stop watch the diesel engine starts. Up to that moment {2564|2565} the

people in the four already filled chambers were alive."

Before he said that I think there were six chambers, now we have four chambers. "Four times 750 persons in four times forty-five cubic meters."

That is the place where Leon Poliakov cut the text twice and put instead of twenty-five square meters, ninety-three. And he suppressed forty-five cubic meters. He suppressed forty-five cubic meters the second time.

"Another twenty-five minutes go by. Many of the people, it is true, are dead at that point. One can see this through the little window through which the electric lamp reveals for a moment, the inside of the chamber."

I really wonder how it is physically possible if those people are crushed like that, if you had a window who could resist to the pressure, I don't see how you could count the people as he does.

"One could see through the little window through which the electric lamp reveals for a moment, the inside of the chamber. After 28 minutes only a few are living."

How does he count?

"After thirty-two minutes, finally, all are dead."

How does he know that? Because they are not falling down, those people.

Q. What do you mean, because they are not falling down?

A. They are so crushed. {2565|2566}

Then he goes on saying, "The families can still be recognized, their hands still clasped".

And he talks once more about Overmayer from Pirmasens. Then he said, "The bodies were then thrown into large ditches of about one hundred meters by twenty meters by twelve meters."

That's something.

"The bodies were then thrown into large ditches. After a few days the bodies would swell up and the whole contents of the ditch would rise two to three meters high because of the gasses." "After a few more days the swelling would stop and the bodies would collapse."

But we know that Gerstein was there only for one day. How could he describe what is coming after? And then he goes on saying, "At Belzec and Treblinka nobody bothered to take anything approaching an exact count of the persons killed. The figures announced by the BBC are inaccurate. Actually, about twenty-five million of persons were killed."

And it means in August 1942, twenty-five millions.

Q. Well, this statement was attributed to that date.

A. He says that all that happened the 17th or 18th of August, 1942.

Q. Okay.

A. I think he arrived the 17th, and so that on the 18th, "The next day Captain Wirth's car took us to Treblinka, about 75 miles NNE of Warsaw. The installations of this death center differed scarcely from those {2566|2567} at Belzec, but they were still larger. There were eight gas chambers and whole mountains of clothes and underwear about thirty-five to forty meters high."

Thirty-five to forty meters high would make something like ten to twelve storage.

Q. Storeys?

A. How could we send all those clothes up to thirty-five, forty meters? And there are many things like that. He talks about the son of the Guenther of the Racial Theory, and it is said by the historian that it is not true. He talks about killing eight million people. He says the most disgusting camps were not Oranienburg, Dachau or Belsen, but Auschwitz and Mauthausen-Gussen near Linz. "These are the places in which millions of people disappeared in gas chambers or gas chamber-like cars."

"The method of killing the children was to hold a tampon with prussic acid under their nose."

You can ask it a specialist if it has sense.

"At Oranienburg, I saw how all the prisoners who were there for being pervers (homosexuals) disappeared in one single day." "I plan to write a book about my adventures with the Nazis. I am ready to swear to the absolute truth of all my statements."

And I cannot read the many, many other things from Gerstein, especially the document which is not quoted by Dr. Hilberg which is Document PS 2170, which is even more absurd.

Q. Absurd.

A. Yes. You have the story of people {2567|2568} who are taken by – how do you call that? They are taken to the top of a smelt furnace, and the S.S. is on the top waiting for them and he shot them one by one. You can imagine the state of the S.S. on top of this smelt furnace.

Q. A smelting furnace?

A. A smelting furnace, yes.

Q. That is a story told by Gerstein as well?

A. Yes. And he tells many, many other stories like that.

Q. And this is a source that was referred to by Dr. Hilberg?

A. Dr. Hilberg and everyone who says that the gas chamber existed, because those persons need absolutely testimonies so they have to take what they have. But the best way to do, I noticed that because I have been studying a very long time those Gerstein confessions, I would say, and I noticed that nobody except a man, a person called Peochva (phonetic), a person who believes in gas chamber, give the text entirely.

The technique is this one. The story of Gerstein is given up till the entrance into the gas chambers. Then it is cut. The text is cut. Nothing. And we have what is called the result.

Q. That's presented by what historians have used that technique?

A. Dr. Hilberg.

Q. Yes.

A. Reitlinger.

Q. What about Poliakov?

A. Poliakov, yes, absolutely, but he {2568|2569} proceeded on the other way. He took the story, but he cut all the end of it, and he transform and manipulated the core of the story.

Q. By changing numbers.

A. By changing numbers and by other things he did. And even that is surprising. In the NMT —

Q. The Nuremberg Military Tribunal.

A. Yes. We have in the volume concerns Oswald Pohl. This document is used, but he is not reproduced entirely, and it is a document of somebody who did not live at that time any more.

Q. So he didn't testify. They introduced the document.

A. And the book of Peochva in French is very interesting, because he went and visit the French prosecutor. His name is Dubost.

Q. His name appears in the transcript of the IMT, is that right?

A. Yes. That's right. And he saw him many, many years after the trial. And Charles Dubost told him, "I never understood why the American didn't want me to use this document which was in their files. We have found this document in their files." The woman who find this document is Madeline Jacob. She brought that to Charles Dubost. She said, "It is an extraordinary document." Charles Dubost wanted to use it, and Francis Biddle didn't want. And he never said why.

Q. And what function did Francis Biddle perform?

A. It was one of the judges, I think. {2569|2570}

Q. Okay.

A. I'm not sure.

Q. Is there any other reason why you disbelieve Gerstein?

A. Yes.

Q. What?

A. In his statement Gerstein said something which I think is quite true, because even somebody, [sic] even a liar says the truth sometime. And lie is a way of saying the truth. He says that, immediately after that, he took the train from Warsaw to Berlin, and that during the night they didn't find any place to lay down, and in the corridor he met a Swedish Ambassador, Baron von Otter.

Q. A Swedish ambassador?

A. A Swedish ambassador. And he told him this story. And he said, "You must say that to the world." So we know now, at least since the book of Walter Laqueur, the terrible secret. We know now.

Q. That is the name of his book?

A. "The Terrible Secret" is the name of his book. We know now that never the Swedish ambassador wrote anything to Stockholm. After the War Mr. Poliakov tried to make us understand that all the same, the Swedish, "Yes, I had received something." But we don't find anything. We know that Baron von Otter met one small Gerstein in Berlin one day.

Q. How do we know that?

A. We know by another confession of Gerstein, and by what Baron von Otter said in a French Tribunal, at least. He met him, and it is said in the book of Peochva that he met this man when he was {2570|2571} getting out of his Embassy. And it seems that he said to Gerstein, "Oh, you see, I cannot do very much", etcetera. And after the War Baron von Otter – this is a supposition from my part when I studied all that —

THE COURT: Now, just a moment.

MR. CHRISTIE: You are not expert to draw inferences from their experiences.

THE COURT: They are not allowed to make suppositions. They are allowed to make inferences, but not suppositions, like a guess.

Q. MR. CHRISTIE: In your opinion what happened there from what you studied?

A. Baron von Otter after the War tried to find Gerstein, and he used the intermediary of his colleague in London which was Baron Lagerfeldt.

Q. How do you know this?

A. From the archives of the National French Security.

Q. Yes.

A. And the Baron Lagerfeldt said that Gerstein – I think he said that Gerstein was dead, and he wrote a letter that I have, I have a copy, to Baron von Otter saying, "Don't be disturbed. I have arranged the things. I have not given you a name, but you see, Gerstein is dead now."

And what I say is that Baron von Otter maybe thought after the War, "My God. What this man has told me was the truth."

THE COURT: Now, did you say the Baron may have thought that?

THE WITNESS: The Baron von Otter. {2571|2572} I said maybe he thought that.

THE COURT: Maybe he did. But did he think this? This is the problem with what others may have thought. Experts are experts, but they cannot go into the minds of other people.

MR. CHRISTIE: No. I understand that.

Q. Do you have any reason to say that except as a speculation?

A. Because I noticed this kind of phenomenon many times.

Q. What do you mean, this phenomena?

THE COURT: What is a phenomena? Let's define what that is?

THE WITNESS: Yes. I am going to try and explain it. The man in charge of international amnesty, his name is an Irish. I cannot remember his name. Shane McBride. Shane McBride a few years ago wrote a letter to the journal Le Monde and he said, "See how fantastic catastrophe can happen, may happen, and nobody knows about it. For example, the Jews were exterminated during the War and nobody knew." And he says, "And I must confess that during the War I was in Dublin and I had good relations with the American ambassador, and one day he show me papers saying that Jews were exterminated. I must say that at that time I made an inquiry, a short inquiry, and I didn't believe it, but now I understand that I was wrong."

And I think that those people think that they are right today and that they were wrong in '42. I think myself they were right in '42, wrong after.

Q. MR. CHRISTIE: And why do you say {2572|2573} that they changed their minds after the War?

A. Yes.

Q. Why?

MR. GRIFFITHS: Can he testify as to why they changed their mind, Your Honour?

Q. MR. CHRISTIE: Well, what the Nuremberg Military Tribunal had to say about these things, maybe you can testify about that. What were the judgments of Nuremberg? What did they have to say about that?

A. I think that I thought myself that the judgment of Nuremberg and

other tribunals were just, were exact.

Q. And you still think so?

A. No.

Q. Why?

A. Because I have studied the question and my conclusion is that it is not true. For example, we have to take judicial notice of the fact —

THE COURT: Well, let's not go around taking judicial notice now.

MR. CHRISTIE: No, I don't think you understand the witness at this point.

Q. Did the IMT take judicial notice?

THE COURT: Of what? No. No.

MR. CHRISTIE: It is part of the record, Your Honour.

THE COURT: This witness is not going to be permitted to say who takes judicial notice. You can argue that to the jury. Now, let's just change the vocabulary and keep going.

MR. CHRISTIE: Sorry. {2573|2574}

Q. But in describing the International Military Tribunal are you aware of the process therein of taking judicial notice?

A. Yes. Article 19.

Q. Tell us what that meant.

A. Article 19 or 21, perhaps, 21, an article saying — I have not the English word — but saying that in case of evidence, what we call in France evidence, you have only to take judicial notice and not to bring any proof. So if I read the judgment of Nuremberg, which is in the first volume, and not in the last, I have to believe in things like the soap rumour?

Q. Why?

A. It is written in the judgment, without appeal. At that time I believed that it was true.

Q. So what is your conclusion in respect to Gerstein, and why was he not believed at the time but believed later?

A. I had the text of his interrogatory by a French examining magistrate.

Q. He was examined by a magistrate, and a record was made of the proceedings?

A. Yes.

Q. And what did you derive from that?

A. The man was called Colonel Mattae, and it's very interesting to see how this man, very logic, had to discuss with Gerstein. Gerstein told him the story of the gassings, of the cyanic acid that he didn't use, etcetera, that he had no written order, that when he came back he didn't give any account. Mattae told him, "But that's not German." And he asked him many questions, very {2574|2575} matter of fact, and Mattae, it's evidence, thought this man is lying, and he thought that Gerstein was a culprit, was a Nazi trying to hide something.

Q. How do you know that is what he thought?

A. By the text.

Q. Is it indicated in the text?

A. It is not indicated in the text, but it is so tight. He says at a moment, he says, "You are trying to evade my question. What have you done really?"

Q. Is there any other reason why Gerstein is incredible in your opinion?

A. Because when I put all those six confessions side by side, there are so much extravaganzas, so much difference, so many differences, that it is impossible to believe somebody who tells you the same story on so different ways;

Q. All right. I am now going to try to deal with the subject of the Red Cross, unless there is something further you want to deal with in Gerstein.

THE COURT: We will do that after recess. Fifteen minutes.

— The jury retires. 3:40 p.m.

— The witness retires.

— Short adjournment.

—— {2575|2576}

— Upon resuming.

— The witness returns to the stand.

— The jury returns. 3:58 p.m.

Q. MR. CHRISTIE: In the book, "Did Six Million Really Die" written by

Richard Harwood it is stated that the Red Cross did not find any evidence of extermination camps. What do you say about that? They did not say anything about extermination camps

THE COURT: Page number?

MR. CHRISTIE: I'm afraid I'm summarizing.

THE COURT: Oh, you are summarizing from a portion.

MR. CHRISTIE: Yes. The Red Cross portion. That comes on page 26, 27, and ends at the portion, "Not all were interned". There is some reference to the Red Cross there and I just wanted to capsule a point from that portion of the book.

THE COURT: Go ahead.

Q. MR. CHRISTIE: Dr. Faurisson, have you read Richard Harwood's booklet, "Did Six Million Really Die?"

A. Yes.

Q. I tried to paraphrase by suggesting to you that — and I agree this is leading, I am just trying to get to the point — it indicates that the Red Cross did not say anything in their reports about extermination or death or gas chambers, death camps or gas chambers. Would you agree that that's an accurate indication of what the book says? {2576|2577}

A. No.

Q. Please correct me.

A. It would be correct if he had added, "During the War". I mean, the Red Cross, during the War, never published anything saying that there were gas chambers.

Q. Did they publish anything saying there were extermination camps during the war?

A. I don't think that this expression was used before the end of the War by anybody.

Q. Can you explain why it was used after the end of the War?

A. It was a word, I think, perhaps it appears in the propaganda, War propaganda in '44, perhaps, I don't know. But after the War we had this German expression, Vernichtungslager as if it was something used by Himmler or Hitler.

Q. Where did the word come from?

A. It came after the War, I think, and it meant extermination camp, but never the camps which were called extermination camps.

Q. So if the word had been used, "During the War the Red Cross never reported any extermination camps", would you have said that was correct?

A. Yes.

Q. In other respects have you examined the book of Richard Harwood?

A. Yes.

Q. Have you read it in detail?

A. Yes. {2577|2578}

Q. And what is your opinion on the book?

A. My opinion that it is basically true on three points, very important. One, the Anne Frank Diary is a fake. Two, there was no genocide, specific crime. Three, there was no gas chamber, specific weapon of a specific crime.

Q. And have you published to that effect in France?

A. Have I quoted?

Q. No. Have you published books in France to that effect?

A. Yes.

Q. Is it legal to do so in France?

A. Yes, it is legal in France. We have the right to say that the Anne Frank Diary is a fake since the kind of confirmation given by laboratory of Weisbaden.

Q. When was that?

A. In 1982, I think.

Q. And was that given in your trial?

A. Yes. It was a trial against a man called Ernst Roemer. He had distributed leaflets at the entrance of a theatre giving a piece called, "The Anne Frank Diary".

MR. GRIFFITHS: Excuse me, Your Honour. If I may, Dr. Faurisson. I am not sure what this has to do with the issue before this trial, Your Honour. There is a paragraph or a section of Exhibit No. 1 that claims that Anne Frank's Diary is a hoax, and in support of that claim it cites a

civil action, {2578|2579} apparently, before the Courts in New York State, and I have no objection if Dr. Faurisson wishes to address himself to that civil action or to the allegations that are contained in the pamphlet. If we go beyond that, then I think we have gone beyond the scope of this trial.

THE COURT: What do you say to that?

MR. CHRISTIE: I disagree, Your Honour. If the statement is made that the Anne Frank Diary is a hoax and that can be proven to be true, the evidence in support of it can be given. It doesn't have to come from the booklet itself.

We have led evidence from all sorts of sources to support the book. We have not gone page by page and analyzed the quoted sources, and we shouldn't be precluded from showing other evidence to show that the statements contained are true.

THE COURT: Sorry to interrupt you just for a moment. I wanted to ask the Crown, is the issue of the Diary – I don't recall it being covered when the prosecution evidence was going in. I may be wrong. Is that part of your case?

MR. GRIFFITHS: Well, I didn't call any evidence on it, Your Honour. It is contained in the pamphlet, and if my friend wishes to adduce evidence of those matters contained in the pamphlet, then I have no objection to that, of course, but if we are going, if we are saying, as I understand my friend, that it's a fake but not for the reasons in the pamphlet, then we are off on some other frolic, Your Honour, and we have to – the essence of this trial is the truth or falsehood {2579|2580} of two pamphlets before us, and not other matters.

THE COURT: Does that change your thinking, Mr. Christie?

MR. CHRISTIE: If I can understand from my friend that he is not going to be disputing that part of the book in this trial, I won't pursue it further. If it is his intention to dispute that, I want to call evidence. I only have this one chance.

THE COURT: Sounds fair enough to me. What do you say about that, Mr. Griffiths?

MR. CHRISTIE: I don't want to make it an issue unless —

MR. GRIFFITHS: Your Honour, I would dispute the ground that it is a hoax as set out in this pamphlet – from what I've read in terms of what's in this pamphlet and what I am prepared to deal with. But now we are prepared to bring in other material that is not in this pamphlet. I am not sure how it goes to the truth or falsehood of that pamphlet.

THE COURT: Well, on that narrow basis, Mr. Christie, you can either ask or not ask. It appears to me that since no evidence has been led by the Crown with respect to that specific subject, that that might affect your thinking, but I am not suggesting that it should. You do what you want.

MR. CHRISTIE: I am just not sure how my friend, what he is meaning there, but ...

Q. Your opinion pertaining to the Anne Frank Diary relies on other evidence than is indicated in the book, "Did Six Million Really Die?"

A. Yes. {2580|2581}

Q. But your opinion is what, sir?

A. That it is a literary fraud.

Q. All right. Do you have other basis for your opinion than the case you mentioned? Do you have any personal reasons for saying that?

A. Yes. I have done a long inquiry about it.

Q. Yes. And you mentioned having talked to Otto Frank four interviews?

A. Five hours the first day, four hours the second day, but it was not the principal fact.

Q. All right. I don't intend to pursue that. Now, you said the other thing about the Harwood booklet was the —

A. The genocide did not exist.

Q. Why do you say that?

A. It is an accusation against the German, which is not proved at all.

Q. And that's your reason.

A. And that's my reason.

Q. All right. Pertaining to gas chambers, what does the book say from your understanding of reading it about gas chambers?

A. I don't remember very well the argument of Richard Harwood, but the principal is that, I agree, is the fact that it is a myth, a common belief. I don't know the origin of this common belief, but it is a common belief.

Q. From your examination of the documents supporting it, why do you disbelieve it? {2581|2582} We have discussed Hoess, we have discussed Gerstein. Now, from the documents re the gas chambers why do you disbelieve it?

A. Because if it had existed, we should have thousands of material proof. We have not one proof. May I mention my trial about that? Because I had nine organizations against me trying to bring proof that the gas chamber existed. Can I talk about my case?

So I had the possibility of asking to my lawyers to take my defence on the behalf of freedom of speech, or because a tribunal is not able to pronounce something about a historical fact. Those two possibilities existed for me. But I said, no, I don't want those kinds of vague arguments. "I want you to say that Mr. Faurisson does not believe in the gas chamber because the gas chamber did not exist, so I must convince you of that. Then I would ask you to ask to those associations to bring me only one proof as they could bring me proof of the existence of a gas chamber, of a crematoria, or ectetera [sic]." I asked, only one witness. I was ready to willing to one witness, and I wanted only one proof of my alleged falsification.

I must say that those people went – we know that because it has been published – went in Germany, in Poland, in Israel, to contact everywhere, and they didn't bring anything.

Q. Have you heard proof of the existence of a gas chamber rendered in this court?

A. In this court? {2582|2583}

Q. Yeah.

A. I consider no.

Q. Why?

A. Because of the fact that I cannot repeat there, because I am not – I mean, for material items, material reasons.

Q. What do you mean by material reasons?

A. I know the location. I know how it is, how the place is supposed to be gas chamber and all that, and it is impossible.

Q. Why is it impossible that these witnesses could be right?

A. Yes, in theory they could be right, and perhaps they believe what they say.

Q. Well, why do you say they are not right in fact?

A. Because in fact – but I cannot explain it there, you see.

Q. Why?

A. I would need plans. I would need photos. I would need things like that.

Q. You took photos when you were in Auschwitz?

A. Yes.

Q. And you've made copies of them.

A. Yes.

Q. You can verify that the photos are true copies and depict the scene?

A. Yes.

Q. You obtained plans from Auschwitz? {2583|2584}

A. Yes.

Q. Auschwitz Museum?

A. Yes.

Q. The German plans?

A. The German plans.

Q. For what?

A. I remember that yesterday —

Q. For the crematorium, is that right?

A. I remember yesterday, yes. I am not finished what I wanted to say, when I said that putting my finger on the opening of a furnace, I said there is no soot. It was not to prove that this crematorium, this oven, was built after the War. It could be a rebuilding, an honest one, and it was an honest one, but I said, "It means that you have a plan of the crematorium and the room which is beneath the crematorium that you call gas chamber. And this is how I got plans of the place called gas

chambers.

Q. When you went in the public gas chamber did you see shower heads in Auschwitz or Birkenau?

A. In Auschwitz I we have a gas chamber which is supposed to be rebuilt, but without any shower. And they don't say that there were showers there. They say that there were leads. They took out the leads and they put Zyklon, like that. And for Krema II, III, IV and V we have ruins which are very interesting, because I think that we can study ruins. Archeologists do that, and for forty years it's nothing.

Q. No examination? {2584|2585}

A. Never. Never. No examination.

Q. Has there been any forensic – in all your research has there been any study of a gas chamber in the world?

A. Yes. In Struthof [Struthof], in Alsace. Professor Rene Favre in December 1945 did write a report about the bodies found in the Strasburg Hospital which were supposed to have been gassed in Struthof [sic], fifty-five kilometers from Strasburg, and also to examine what he could scrap from the so-called gas chamber.

Q. Scrapings from the walls of the gas chamber?

A. Around ventilation system.

Q. Yes. Was there any report published as a result of those inquiries?

A. Yes. This report has disappeared from the Archives of the French Justice Militaire, French Military Justice, but we know by a report of three doctors that Rene Favre was a toxicologist, and answered no for the bodies, and no for the scrapes, meaning no poison gas.

Q. And those three doctors' reports are located where?

A. In Paris, 5 Rue Sadilier.

Q. What is that location?

A. Military Justice, gendarmerie and military justice, direction.

Q. What?

A. The direction of the gendarmerie and Military Justice. {2585|2586}

Q. The Director of Gendarmerie and Military Justice.

A. Yes.

Q. Has there ever been anywhere in the world, other than that, to your knowledge, a report of a forensic nature to examine bodies or to examine what was alleged to be a gas chamber to determine if such had been used for that purpose?

A. Not to my knowledge. What is sometimes written is that the Poles made chemical inquiries about hairs and about items discovered, so they say, in the place called crematorium, and they say that they discover in the air and in those things trace of hydrocyanic acid.

Q. Yes.

A. But in the two cases, it has no interest whatsoever, because hair were disinfected by Zyklon-B. It was systematic when they used it in firms.

Q. In what?

A. In firms.

Q. They used hair in firms?

A. In firms, to make pontouf, in French.

Q. So human hair was made in Germany, was used by Germany from prisoners?

A. Yes. And from Europe in France hair was taken every week from any hairdresser room.

Q. Why?

A. It was called recapiration [recycling], and during the War we recapirated anything [sic], even nails and {2586|2587} pieces of string. That's why we see sometimes so many photos of glasses, photos of mounds of shoes, etcetera. It is particularly interesting in Maidanek because in Maidanek you have – I don't remember – they say something like 800,000 of pairs of shoes, meaning that they are shoes from victims.

Q. Yes.

A. If you examine at least some of them, you could see that they are very old shoes, but they are not been used. And if you see —

Q. The documents?

A. The archives, the documents, you can see that Maidanek had a film, an S.S. film fabricates shoes.

Q. So shoes were made at Maidanek?

A. Yes. Yes.

Q. By the S.S. using slave labour?

A. Yes,

Q. And these pictures of shoes are very often portrayed in the literature, is it?

A. Very often.

MR. GRIFFITHS: The answer could come from Dr. Faurisson, rather than Mr. Christie.

MR. CHRISTIE: I appreciate that, and I am aware that that is not the best way, but sometimes language difficulties —

THE COURT: That is why there are interpreters, and that is why you haven't been interrupted in doing it.

Q. MR. CHRISTIE: Now, getting to the Red Cross, you have said that Harwood would have {2587|2588} been totally correct, I gather, if he had said, "During the War the Red Cross found no – reported no gas chambers or extermination camps". Right?

A. Yes.

Q. Now, did the Red Cross conduct an inquiry at Auschwitz during the War?

A. We have a report called, "Visit by an ICRC delegate to the Commandant of Auschwitz Camp, September 1944". The reference is, "The work of the ICRC For Civilian Detainees in German Concentration Camps from 1939 to 1945;" This edition is Geneva 1975, but I have a French edition from 1946 with the same document which was written originally [sic] in French.

Q. All right. So when did the Red Cross visit Auschwitz or Birkenau?

A. So in September 1944 the name of the man who visited, that is not given, but his name is Dr. Russell. I wrote to him, and there is a passage which is interesting about a rumour of gas chamber.

Q. Yes.

A. Can I read it?

THE COURT: Whose passage is it? Who wrote the passage?

THE WITNESS: Dr. Russell. At least, it is an account by the Red Cross.

MR. CHRISTIE: The booklet says so, sir, so I am hoping that the —

THE COURT: Go ahead.

Q. MR. CHRISTIE: Read the passage, {2588|2589} please, Dr. Faurisson, referring to the matter of Auschwitz-Birkenau."

A. On page – not everything?

Q. No. Just the portion – if the Crown wants more ...

A. "Here as at Oranienburg and Ravensbrück the Officers were polite but reticent. Every word was carefully weighed, and we sensed their fear of letting slip the slightest scrap of information."

I think that we should say that it was known because it was a centre of armament, of industry, and those people didn't want that the Swiss people get the information.

THE COURT: Please, just read the passage.

THE WITNESS: "A British prisoner of war commando working in Auschwitz is in contact with these people, the Auschwitz detainees. We have asked the principal spokesman at Teschen", which is fifty kilometers south of Auschwitz, "The principal British spokesman from Teschen spontaneously asked us whether we knew about the shower room" – singular and in quote.

"A rumour was, in fact, going around that the camp was equipped with a very modern shower room where groups of detainees were being gassed. The British spokesman tried to secure confirmation of this through his Auschwitz command, people in contact with Auschwitz. "It was impossible to prove anything whatever. The detainees themselves said nothing."

Then we have a last phrase, but it is not a conclusion of what I read. It is a conclusion {2589|2590} of all the report. And it says, "Once more as we left Auschwitz we have a feeling that there is a well-guarded mystery. We are sure of one thing. As much relief as possible must be sent with the utmost despatch.

We repeat our belief that whatever is sent there is handed over to the detainees."

Q. Now, can I ask you something about that, Dr. Faurisson? When was that written?

A. It was written in September 1944. The visit was in September '44, and it was written, I have the report in September 1944.

Q. Was this document used at the IMT at all?

A. Oh, yes. Yes.

Q. Was it altered in any way in its use?

A. It was altered, yes.

Q. Why was it altered, or how was it altered, rather? The jury can decide why.

A. So I am going to quote document NO 2620.

Q. Just the portion that you've read.

A. Yes. So the title is, "Publication on the Activity of the International Red Cross in Favour of Internees in German Concentration Camps from 1939 to 1945". They say booklet, original language French. This report has been made in June 1945 and this is what I found, what I read. Page 29.

"A detachment of British prisoners of war worked at a mine at Auschwitz – spontaneously, the {2590|2591} chief British man of confidence asked us whether we know about the matter of the shower bath" in quotes. "As a matter of fact, there is a rumour that very up-to-date showers exist at Auschwitz where the prisoners are gassed in large numbers." And we have an exclamation mark and nothing else. We don't have the British spokesman tried to secure information of this through his Auschwitz commando. "It was impossible to prove anything whatever. The detainees themselves said nothing."

Q. So that was supported in the trial documents?

A. Yes. And something else did the same. Mark Hillel was a historian. "Archives of Hope". On page 252 he says – I am going to translate it: "The British spokesman tried to secure confirmation of this through his Auschwitz commando. It was impossible. Once more getting out of Auschwitz we have the impression that a mystery is well guarded."

Q. So those two documents have eliminated part of the Red Cross Report; is that right?

A. Yes.

Q. Why, in your opinion, was that done?

A. It is difficult for me to answer this question. I don't know very well why those texts are cut, but I think it is not honest.

Q. In your reading of the Red Cross material have you ever found a confirmation during the War that there was any knowledge of gas chambers or death camps or extermination processes by the Red Cross {2591|2592} in any part of the German Government's concentration camps?

A. I don't think I have seen anything of this kind. We have a report about Ravensbrück, but made after the liberation of Ravensbrück, and the man said that he had visited Ravensbrück; he had seen Suhren, but at that time it didn't – he visited the camp, but he didn't dare to ask where was the crematorium and the gas chamber. And later on he was in Berlin, I think this man, and he met a woman who had been inmate at Ravensbrück, and he asked her, "But where was the gas chamber?" And she said, "Underneath the big place, central place".

Q. The parade ground?

A. Mm hmmm.

Q. Was that part of the report after the War?

A. After the War, yes.

Q. Yes. And have other historians concluded that there was a gas chamber underneath the parade ground at Ravensbrück?

A. No. We have many variation about the gas chamber of Ravensbrück, but not this one.

Q. That's a novel one, is it?

A. Mm-hmmm.

Q. Has there been proof tendered of the gassing of six million Jews at the Eichmann trial?

A. I think that the Eichmann trial it was said that millions of Jews had been killed, not six millions.

Q. Yes. {2592|2593}

A. And I studied the Eichmann trial by the transcripts that I had in the Jewish Centre of Documentation in Paris.

Q. You studied the transcript?

A. Yes.

Q. Did you conclude as a result that it proved the stories of the gas chambers?

A. I was looking for what Eichmann could have said about that. And I have an excerpt that I can read about that.

THE COURT: An excerpt from what?

THE WITNESS: An excerpt from the transcript.

THE COURT: What transcript?

THE WITNESS: Of the Eichmann trial, 1961.

THE COURT: Mr. Christie, would you just cover it so that we all know what he is reading from? Transcripts of trials include comments of judges, comments of lawyers, rulings and the like. Now, what is he going to read?

MR. CHRISTIE: He just said, Your Honour, he was reading the portion of Eichmann's testimony.

THE COURT: I didn't hear him say that. Would you ask him again, please, so we will know? Ask him.

Q. MR. CHRISTIE: What's this about, Dr. Faurisson, for the jury and the judge?

A. It is a part, a tiny part of the transcript where the man called the Commissioner is {2593|2594} asking to Eichmann, "Did you talk with Hoess about the number of Jews who were exterminated at Auschwitz?"

Q. So it's Eichmann's testimony, is that right?

A. It is Eichmann's answer to this Commissioner.

MR. CHRISTIE: That's what I thought. So can we now give that?

THE COURT: Yes.

Q. MR. CHRISTIE: So this is Eichmann's testimony at his trial, is that right?

A. Yes.

Q. All right. Thank you.

A. "No. Never. He told me that he had built" —

Q. You had better, to get any context, we'd better get the question.

MR. CHRISTIE: Would that be fair, Your Honour?

THE COURT: Yes.

Q. MR. CHRISTIE: Let's get the question that precedes the answer.

A. "Did you talk with Hoess about the number of Jews that were exterminated at Auschwitz?" "Eichmann: No. Never. He told me that he had built new buildings and that he could put to death ten thousand Jews each day. I do remember something like that. I do not know whether I am only imagining that today, but I do not believe I am imagining it. I cannot recall exactly when and how he told me that, and the location where he had told me. Perhaps I read it, and {2594|2595} perhaps I am now imagining that's what I had read, that's what I had read I heard from him."

That is also possible, because we know that Eichmann collaborated, really, with the examining magistrate called Less Avner, and that really they tried to find the truth, and that's why he was given so many books from Poliakov and others. This is said by Professor Vidal ...

Q. Do you believe, then, that that proves the existence of gas chambers?

A. No. I see a man, perhaps, has read too many books about the question. He doesn't know exactly what he has heard, what he has seen, what he has read. He is a bit in the same situation as, I think, unstrung Governor of Poland.

Q. Could you tell us a bit about the situation of these defendants that would cause them to make these statements if they were not true, from the analysis of the trial record?

A. I would say that, when I take the case of the Governor of Poland, we know his reaction is not only by the transcript of the Nuremberg Trial but also by the book of Gilbert, called "The Nuremberg Diary", he was astonished to learn that there were extermination camps in his country, Poland. He said, "Hitler betrayed us." And all of them, Goering, Streicher, all of them during all the trials, were wondering what had happened exactly.

Q. How do you say that, sir? How do you know they were wondering?



People are going to want to know the answer. {2595|2596}

A. We know that by Gilbert who is a psychologist.

Q. Did he publish a book on the subject?

A. Yes. "The Nuremberg Diary".

Q. Is that the source of your —

THE COURT: Was he a psychologist?

THE WITNESS: A psychologist.

MR. CHRISTIE: Yes, sir. This is a public document published by Mr. Gilbert, a psychologist.

THE WITNESS: Yes. So Gilbert was inform himself that millions of Jews had been executed, millions of Jews had been gassed, and those, some twenty Germans, were there in a kind of room asking themselves, "What's that?" Because Goering and Kaltenbrunner must have known. It is impossible that Kaltenbrunner didn't know. And all of them were wondering what had happened really. All of them thought, except perhaps Goering and Streicher, thought that Hitler had did something absolutely disgusting, and strongly said, "This is a blame for Germany for one thousand years." He believed in that. He believed in what Hoess said on the 15th of February, 1945. They didn't think that it could have been invented, exaggerated, except once more Goering was intelligent and Streicher was not very intelligent, but the two of them, the same reflection, they said, "Technically impossible". At the moment, not at the beginning. "Technically impossible".

Q. What do you mean, at the moment {2596|2597} not at the beginning?

A. At the beginning when they had heard Hoess, they thought, "It's terrible".

Q. When you say, "they thought", is that information from Gilbert?

A. Yes, from Gilbert.

Q. And did they express anything about Nuremberg in the matter?

A. Yes. About that Goering said once, "Technically impossible", and I think that Streicher said it twice. And not about six million, if I remember; only about three million. He said, "Technically impossible." They thought that if this thing had happened in the heart of Europe, they would have known.

Q. And did they make their position known on the record about that?

A. As I told you, Heinz ... became a Christian, plenty of repentance, and so didn't say anything about this subject, but it seemed that they believed it. But Gilbert says that somebody, like is it Seyss-Inquart or another one — at the beginning believed that those horrible things happened, and then, suddenly, doubted. I think that they would know very well where they were about all these stories. And I think it is very difficult for somebody who has not studied the question of the gas chambers to go and demonstrate that it is impossible.

We have a trial, the trial of the two architects of the crematorium of Auschwitz. It was in Vienna, Austria, in 1972. The names were Dejaco, and Hirtle. I tried to have the transcript. It was not possible {2597|2598} for me, so I had to read newspaper about that. And I saw that Dejaco said to the tribunal, "Yes, we have built that, sure, but we didn't know that it was to be used as a gas chamber". Because this man was architect for that any place could be used as a gas chamber. You need to study the question to see how difficult it is. So those people thought like everybody, like myself after the War, that nothing was as easy as to use gas. They said, one does not need any special technique, so it's possible.

Q. In your observation study of the accounts of eye witnesses have you found plagiarism?

A. Yes. In the case, for example, of Filip Mueller, by taking a text from Nyiszli — in fact, not Nyiszli.

Q. Well, you have to explain that. The jury doesn't know, His [sic] Honour doesn't know and most people don't know. What do you mean it wasn't[?]

A. It was a man called Kremer, a French Jew from Toulouse, by the inquiry on the question by Paul Rassinier.

Q. So you are saying there was a book written by whom?

A. Tyberg [Tibère] Kremer.

Q. Yes. And it was called?

A. In English, I think you call it, "Doctor in Auschwitz".

Q. And the alleged author of it was?

A. Miklos Nyiszli.

Q. And he was a doctor in Auschwitz? {2598|2599}

A. Yes.

Q. Tell us what the book was about.

A. I was interested specially in the part concerning the gas chamber.

Q. All right.

A. So I compared that with what Filip Mueller wrote, what was written in the manuscript that Pohl said that they had discovered around the crematorium of Birkenau. I compared those texts and I saw that they were copies of copies.

Q. How did you come to that conclusion?

A. Because we had the same stereotype, and in different situations, for example in the manuscript miraculously discovered in Auschwitz.

Q. When?

A. We have — some of them in 1946, '47, and another one, I think, later on. We have the story of those people in the gas chamber, and a Polish girl is making a speech to the people who are there, and the Poles go on their knees and they pray, and then they sing the National Polish Anthem, and the Jews sing the Hatisva — and the doctor made a mistake. He said, "and the International", because there were communists there, also. The story says that the sound of those two songs were confused to give the International. This is the first story. The second story —

Q. Where is that story first found?

A. It was found in Auschwitz and published by the notebooks of Auschwitz, I think, in 1972, published in 1972. {2599|2600}

Q. And then where is it published after that?

A. It was published in Filip Mueller's book, but this time, I can't remember very well, but I think it is the Czechoslovakian, the Jewish, and there is no International. And we have also fragments who are the same from a book to another.

Q. Can you tell us about those books?

A. I mean the same, Filip Mueller and Nyiszli.

Q. And Dr. Vrba, you read his book?

A. Mm-hmmm.

Q. Does it refer to Filip Muller?

A. Yes.

Q. What about Filip Mueller does his book rely on?

A. He mentioned Filip Mueller and he has also a very short story, if I remember, about a national anthem. I don't remember. Perhaps Czechoslovak, and the Jewish anthem, it seems to me.

Q. Is it possible these are different accounts of the same event?

A. It seems — no, because when we look closely to it, the places are different, and you see the simple difference of the hymns.

Q. Yes.

A. Czechoslovak, Polish.

Q. And this is supposed to occur where?

A. In the gas chamber or near the {2600|2601} gas chamber. Sometimes it is quite nearly in the gas chamber. Sometimes you don't see very well if you are in the gas chamber or before the gas chamber.

Q. Yes. Now, in your study of the subject of the Holocaust and the subject of the literature supporting the story of the gas chamber, have you studied the book of Arthur Butz [Butz] called, "The Hoax of the Twentieth Century?"

A. Yes.

Q. Have you read it thoroughly?

A. Yes.

Q. What would you say about this book?

A. I would have been pleased to write this book.

Q. Why?

A. I find it very accurate. I call him — no, I don't want to qualify, but I have a very big respect for Dr. Butz, something I can judge for what I have done myself, certain aspects of World War that I have not studied. What I admire, for example, is that this man already said in 1975 it is impossible that the Allied didn't know what was in Auschwitz, be-

cause – and you think that he is looking his idea, because he is very synthetic in his manner. He says in Auschwitz, in Monowitz we have industrial centres, very important.

Q. Was that true?

A. Yes, that was true. Trying to make synthetic fuel, synthetic rubber. So he said, certainly there are photographs taken by aerial {2601|2602} reconnaissance. He said that. He wrote that in 1975 —

Q. Was that true? Are there aerial photographs?

A. And four years after we had this publication by Brujioni and Poirier about some of these photos showing Auschwitz and —

Q. Have you, yourself, obtained aerial photos of Auschwitz?

A. Yes.

Q. Where did you get them from?

A. From the National Archives.

Q. And did you examine the source of those photographs to the National Archives?

A. I asked to see the first copy of the negative.

Q. Yes.

A. That's what I had, but I didn't have the negative.

Q. Who publishes that series of aerial photographs?

A. I don't remember the name of the agency.

Q. The CIA?

A. Those two people were from the CIA, but was it published by the CIA? I don't remember.

Q. And have you relied upon that aerial reconnais[s]ance material for your part of your opinion?

A. Certainly. It is one of the most important facts. I would say that the most important fact during those recent years are the publication of some of the aerial reconnaissance photo and of the {2602|2603} Auschwitz Album.

Q. Why do you say that the aerial photographs are important to this question?

A. Because we have perfect photos of Krema II, Krema III, Krema IV and Krema V, and we can see that we have nothing about what is said in the story. You see, those crematorium [sic] were a landscape well-drawn. If you had thousands of people there it would have been in a terrible state. I must say, also, that I have read reports about the aerial reconnaissance photo, and I noticed that the American were very interested by everything which was smoke, steam or fire.

Q. Why?

A. Because they needed to know if a bombing had a good or a bad result, if locomotives were going or not.

Q. If what?

A. Locomotives.

Q. Locomotives, yes.

A. If plans were functioning or not.

Q. Plans?

A. Plans, factories.

Q. [A.] Factories, yes. And I think that every time, when they saw smoke or steam, it is easy to see that. We could see by the photo.

Q. Have you examined those photos?

A. Yes.

Q. What month and date was the first photo taken in that series?

A. In the series published – I {2603|2604} don't remember if it is April or June '44.

Q. April or June.

A. But we have a splendid photo of the 25th of August, 1944.

Q. Does it indicate two roads going in and coming out of the camp?

A. Yes.

MR. GRIFFITHS: Excuse me, are you a photo interpreter? Is this witness qualified as a photo interpreter?

THE COURT: We will cover that in the morning. Nine thirty.

— The jury retires. 4:55 p.m.

— The witness retires.

— Whereupon the hearing is adjourned to February 6, 1985, at 9:30 a.m.

—— {2604|2605}

## FEBRUARY 6, 1985

— Upon the hearing resuming.

— The jury enters. 9:45 a.m.

## ROBERT FAURISSON, previously sworn

### CONTINUED EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. Dr. Faurisson, you mentioned the exchange that took place on the 14th of December, 1945, between Major Walsh, the President, in respect to the affidavit of Hoettl. Do you recall that?

A. Yes.

Q. I now produce and show to you an excerpt of the transcript of that occasion. Does that accurately set forth the exchange you were describing?

A. Yes. But remember that Major Walsh was not the President. He was the American prosecutor.

Q. Yes. That's right.

MR. CHRISTIE: Could that be an exhibit, please, Your Honour?

THE COURT: Have you seen it, Mr. Griffiths?

MR. GRIFFITHS: Not recently, but I am familiar with it, Your Honour. I am content.

MR. CHRISTIE: Thank you.

Q. What is the importance of that occasion, Dr. Faurisson?

A. The importance of what Hoettl said {2605|2606} is that it was the first official tape of the story of the six million Jews. He said in his affidavit that at the end of August, 1944, he saw Eichmann, and that Eichmann told him that six million Jews had been exterminated.

Q. Well, just so that I understand that, the affidavit was Hoettl's. Hoettl was quoting Eichmann and you said yesterday that Hoettl wasn't called at that time.

A. He wasn't called, although the defence lawyer of one of the German accused asks to the President if Hoettl could come, because he was right there in the Nuremberg jail. Major Walsh said, "We don't want to insist about that, but" —

Q. What do you mean, "We don't want to insist about that"?

A. About this affidavit of Hoettl and this figure of six million. But the second step was —

Q. The second step in what, sir?

A. In the official story of the six million. I mean, said by the IMT, International Military Tribunal, was what Sir Shawcross said in his final speech. He said that the extermination of the two-thirds of the Jews of Europe, more than six million. He said more than six million, according to the statistics of the murderers themselves.

Q. Was there any other statistic other than that referred to in December 14, 1945, to support that statement?

A. The statement of six million?

Q. Yes. {2606|2607}

A. No.

Q. So that was the affidavit reference of Hoettl to support that statement.

A. Yes.

Q. Thank you.

A. There was another statement with another figure by Dieter Wisliceny. That's something else.

THE COURT: The jury might want to know who Sir Hartley Shawcross was. I know, but they might not.

MR. CHRISTIE: Might I put it to the witness?

Q. He was the British prosecutor?

A. Yes.

Q. And it was addressed to the International Military Tribunal?

A. Yes.

Q. And what was the effect in the official historical views of the day as a result of that?

A. I can only say that since this time this figure has been repeated and repeated and repeated, and the result is that when you ask a Frenchman how many Frenchmen died during the War, a Frenchman usually doesn't know how many Frenchmen died, but the same thing, I suppose, for the British, the American, the Canadians, but everybody

knows that six million Jews died. It's not because the information is right, accurate. It is because it is repeated and repeated and repeated. {2607|2608}

Q. In the course of your investigations you attended to take photographs of American gas chambers. You said that.

A. Yes. That's right.

Q. Not that you are an expert or saying anything in the way of opinion about that. Did you communicate that in the form of a paper published to a historical review convention?

A. Yes.

Q. In Los Angeles in 1979?

A. Yes. It was in '79. Yesterday I said '78. It was a mistake. It was September '79, the first convention.

Q. At that time did you have any communication about that paper with Ernst Zundel?

A. Yes.

Q. Did you have him do something in respect to that paper?

A. He read my paper.

Q. Why?

A. Because my English was too bad.

Q. That paper was the result of your research at the time; is that correct?

A. Yes.

Q. I now produce and show to you a paper called, "The Mechanics of Gassing" by Dr. Robert Faurisson, published in the Journal of Historical Review in the first issue of the first volume in 1979.

Do you recognize that article?

A. Yes.

Q. Was that the paper communicated to {2608|2609} and delivered to Ernst Zundel for the purpose of reading in that convention?

A. Yes.

MR. CHRISTIE: Could I file that as an exhibit, please?

THE COURT: No

MR. CHRISTIE: Your Honour, I am requesting that I file that on the ground that the accused acquired knowledge from this paper, and it was acquired before the time when he was alleged to have committed this offence of publishing false news, that he depended on it.

THE COURT: That evidence is before the jury. That is not the best evidence. The evidence is before the jury itself. The answer is no.

MR. CHRISTIE: The witness can identify this. I am simply putting on record this request that this paper which was shown by Dr. Faurisson as a result of his research, he had a right to and did, in fact – I want to introduce it so he can later identify it. I undertake, before the Court right here and now, to call the accused at a later point to identify this as a paper that he read and from which he derived his information.

THE COURT: Your undertaking is not enforceable. Any undertaking on your part is meaningless. The answer is no. That's it.

MR. CHRISTIE: May I introduce it for identification for a later date?

THE COURT: You can introduce it for identification only. {2609|2610}

MR. CHRISTIE: Could that be the next exhibit for identification?

THE REGISTRAR: Exhibit "R".

— EXHIBIT "R" (For Identification) Excerpt from article, "The Mechanics of Gassing" by Dr. R. Faurisson.

Q. MR. CHRISTIE: Did you take photographs at the time of your inquiry into the American gas chamber?

A. Yes. Eight photographs.

Q. Why did you do that?

A. Because I need to have a physical representation of an American gas chamber and to compare that with other gas chambers supposed to have been used to kill victims of the German people.

Q. And —

THE COURT: Just a moment.

MR. GRIFFITHS: May the jury be excused for a moment, please, Your Honour.

THE COURT: Yes. Excuse us, members of the jury.

— The jury retires. 9:55 a.m.

THE COURT: Yes, Mr. Griffiths.

MR. GRIFFITHS: Your Honour, I have patiently sat here for five weeks while the rules of evidence have been trampled on by my friend. {2610|2611}

THE COURT: Yes. So have I.

MR. GRIFFITHS: Your Honour has made a ruling very clearly yesterday about what Dr. Faurisson can and cannot say about gas chambers. The photographs were specifically referred to yesterday and we keep coming back to it today. I think it's improper, it's unfair to the prosecution. The defence isn't the only person entitled to fairness in this trial.

THE COURT: Mr. Christie.

MR. CHRISTIE: First of all, Your Honour, the witness has the right to introduce photographs produced by him if they are relevant. Your Honour yesterday made a ruling about relevance. Your Honour yesterday also made a ruling about the qualifications of the expert. I recognize the words Your Honour spoke. I listened as carefully as I could. You said he was entitled to be qualified in the same sense that Dr. Hilberg was.

Now, you said he was not an expert in gas chambers, that he was not an expert in Zyklon-B. I understand that. But that doesn't mean he can't have firsthand physical observations of which he has the right to, as any other witness, introduce the physical {2611|2612} evidence. Now, it is not my intention to ask him any thing to do with a professional opinion or any expert opinion about the photographs.

THE COURT: Well, then, how is it relevant?

MR. CHRISTIE: First of all it's relevant because the jury exercises what is known as common sense. They can look at photographs of an American gas chamber and see the physical construction of it. They can also look at photographs of what is purported to be the gas chamber in Auschwitz which is physically present today, put forward by the authorities as the place of gassing. I can then argue that, looking at those two items with common sense, they can derive the conclusion that they are not one and the same creature, that there are different requirements for gassing than could possibly occur in those places represented as gas chambers.

I can also call other evidence, which I intend to do. Your Honour says my undertaking is meaningless. I don't believe that to be the case. If as any other officer, undertake to the Court to do something — {2612|2613}

THE COURT: And if your client changes instructions? Don't be ridiculous, Mr. Christie.

MR. CHRISTIE: Your Honour, many, many times I have been indicated by Courts that I have given an undertaking to call evidence to link in the case, then I will link the evidence. If I am not prepared to give the undertaking, I will not. Every day counsel make undertakings.

THE COURT: Not with respect to accused they do not, not in this jurisdiction.

MR. CHRISTIE: As Your Honour wishes in that respect. I have no desire to argue with Your Honour; but when Your Honour makes rulings as to evidence, I inquire into the subject of just what the Courts generally do in terms of relevance, and I would like to refer to McWilliams, where it says that the first and general principle of admissibility is relevancy. And an earlier statement made by Park in Wright vs. ... He said, one great principle in law is that all facts which are relevant to this issue may be proved. The courts so far as they can, reading from another judgment of Baron Pollock (ph) are disposed to receive into evidence whatever can throw light on the {2613|2614} matters in issue and advance the search for truth.

Now, the issue raised by the defence is that there is no truth to the allegation of gas chambers. That is the issue raised by the book, "Did Six Million Really Die?" It is the central issue to the case. However much my friend may say the Holocaust means something else, the book doesn't talk about the Holocaust in those words. It talks about six million gas chambers and Zyklon-B as the means of execution.

THE COURT: Where?

MR. CHRISTIE: The front page speaks about six million.

THE COURT: Six million gas chambers, is that what you say? Now,

where does it mention six million gas chambers? I will repeat your very words.

MR. CHRISTIE: The book talks about six million and gas chambers. I didn't say it talks about six million and gas chambers in the same sentence. It is the thesis that the gas chambers are the problem with the six million, that without the gas chambers you don't have the six million. The book doesn't deny deaths in Dachau and deaths in Belsen.

THE COURT: Go ahead. {2614|2615}

MR. CHRISTIE: My point is that you cannot say that it is irrelevant to the defence. How can Your Honour decide that it is irrelevant to the defence that gas chambers are not possible, that there is a false statement about gas chambers in much of the represented literature of the day? How can Your Honour decide that it is impossible for us to make relevant that those things that are gas chambers, that are scientifically used for such purposes, are totally inconsistent with the uses alleged to large buildings which have no sealed entrances, which have glass windows, which have – we can prove all this through the photographs and the people who have been there physically.

You will not allow us to introduce those photographs. You will not allow us to introduce photographs of the American gas chambers which show the complexity and the danger of gassing people, not to the victim. Of course people can be readily gassed, but to the people surrounding, that is what makes the gas chamber story ridiculous in the theory of the defence.

I am not asking Your Honour to accept the theory. I am not asking Your Honour to rule upon {2615|2616} the theory [theory]. I am asking Your Honour to let us prove the theory, [sic] that's all.

If the jury considers the theory [sic] ridiculous, they will give us their verdict, but all I am asking for is the right to put before the Court the evidence which the defence alleges disproves the existence of gas chambers.

Page 28 says, "The imposture of gas chambers", in quotes. It refers to Rassinier who denies the gas chambers. It quotes Rassinier extensively. It says that gas chambers are impossible. It quotes it says, "Six million falsehood rejected in relation to gas chambers." It quotes from the book of Thies Christopherson who denies gas chambers. It refers to the problem repeatedly of this central fact that without the gas chamber you can't substantiate the six million story.

Nobody, not even in the Crown case does it say that Mauthausen, Buchenwald or Dachau substantiates that. And the booklet says that you can't substantiate the six million figure or close to it without gas chambers, and the booklet says that gas chambers by the evidence put forward by the IMT, the {2616|2617} NMT and the physical evidence today is not credible.

That's why it becomes relevant, to prove that the research done by Dr. Faurisson in some gas chambers should be available to the jury to consider whether those things that are said today to represent gas chambers can really be considered gas chambers. That's all.

Now, I don't think I am asking for anything extraordinary when I ask for the right of a witness who is an eye witness to a physical structure to show us what he saw. If I cannot demonstrate to the jury through the physical evidence that he saw that the theory of, the Crown is wrong, well, then, I know the consequences; but to prevent the defence from even showing the evidence that they have means that this trial becomes like fighting with one arm tied behind their back. We can't prove that what we say is true. We can't even prove that the evidence of what we say proves our case.

Now, I respect deeply and highly Your Honour's ruling on all these matters, but I don't understand the ruling to go so far as to say that his common sense, ordinary eye witness account cannot be {2617|2618} given. I recognize he is not an expert and cannot say what the physical evidence means. I can and I will try, if Your Honour doesn't accept my undertaking, tell you that I certainly have every intention of calling other experts to link that to the defence, and if I couldn't, if I couldn't link more than the physical evidence of the photographs of Dr. Faurisson, I will call the accused and he will say, "I used common sense, I used a layman's mind and I looked at this physical representation of an Ameri-

can gas chamber and then I looked at the pictures presented all over the world of what gas chambers are supposed to be and came to the common sense conclusion, using my brain, that these two things are incompatible."

Now, he is entitled to use that common sense and ordinary brain to draw those conclusions. Then, if the conclusions are considered unreasonable or dishonest, the jury will convict him; but if he can't even prove the basis of those things that he considered to establish his honest opinion, then what can we do? Can we just have, as Dr. Hilberg did, someone stand up and say, "This is the way it is and that's all false" and not produce a single thing to prove it? Are we {2618|2619} bound to do that, too? Are we bound to not produce evidence, physical evidence?

That is remarkable, in my opinion, and it is not consistent with the general principle that if the accused can demonstrate some relevance in a logical theoretical [sic] way – not that Your Honour has to believe it or agree with it: certainly not. But how can courts prevent the accused from bringing in the very things he relies on to prove his case and prevent him from even putting that before the jury?

That, I don't regard, I don't understand Your Honour's ruling to mean that, because he is not an expert, that he can't use common sense, he can't take photographs, he can't introduce them and he can't – he's been to Auschwitz. He has taken photographs there. I want to introduce those, photographs of what, photographs of the ruins of the crematorium, photographs of the representations by the official sources there.

There are models made by the officials there, Your Honour, of which we have photographs, which put forward the theory of the Crown. It's not our theory. But the witness would like to introduce those {2619|2620} to show that it doesn't make common sense.

Now, if we are not allowed to use common sense here, then I'd better understand right away, I had better understand that the accused is not allowed to look at the evidence in the world and draw common sense inferences, if that is the way we are supposed to be bound; and if those are the rules of evidence we are supposed to have trampled on, then I don't see how I can introduce any common sense logical evidence at all.

Is that what my friend contends for? We are not asking that this witness give evidence on gas chambers, Zyklon-B or anything other than what Your Honour has said, and I don't recall Dr. Hilberg avoiding talking about Zyklon-B. I remember him saying Zyklon-A and Zyklon-B was Zyklon-B. He gave expert evidence about railroad schedules. What does he know about railroad schedules?

It's a very difficult case. We are dealing with a lot of new issues. I am not critical of anyone that there isn't more precision in some of the rulings. I don't know how we could be more precise. It's a very obscure issue as a whole; but I am only {2620|2621} asking that if Dr. Hilberg can go that far – I don't ask that my witness be qualified to give an opinion on these so-called technical matters, but at least we should be allowed to show the physical evidence that he, himself, has seen, and thereby show that my client, using his ordinary common sense, drew inferences – the jury will weigh their value – to the effect that these represented gas chambers were false.

The accused will be able to allege, as he has by his plea, denied the falseness of this document; he will be able to show that common sense and logic, from ordinary, physical evidence derived by and through other sources – because it's a state of mind that's at stake not the physical act itself – that he could conclude that, with reason, he could believe that gas chambers did not exist as they are represented in the literature, as they are represented at IMT, and as they are represented, apparently, by Dr. Hilberg who produces no physical evidence.

It's a very important point, in my submission, that we should have the right to prove what is relevant to our defence without Your Honour deciding that issue before the jury gets a chance to hear our {2621|2622} evidence.

Thank you.

(Page 2623 follows) {2622|2623}

#### REASONS FOR RULING

THE COURT: Counsel for the accused, in the examination of his witness, Dr. Faurisson, in the presence of the jury, has asked the witness whether or not he took eight photographs of gas chambers in the United States of America.

The evidence is clear that this witness took those photographs about thirty or forty years after the conclusion of World War II.

Counsel for the accused submits that he is entitled to ask this witness this question, and to produce the photographs that the witness took so that a comparison can be made by this witness between the construction characteristics of American gas chambers currently in use in the United States to punish criminals, and gas chambers said to have existed during World War II in Nazi Germany.

In a very free-wheeling course of submissions covering a great deal of ground, containing many complaints that defence is not being permitted to have full answer and defence, containing veiled innuendos that I am not conducting a fair trial if I don't bow to Mr. Christie's demand that this evidence be admitted, I observed once that yesterday I thought I made it abundantly clear that, with no little misgivings, I {2623|2624} ruled that this witness could testify as an expert in the field of literature that he says he read concerning whether or not six million Jews; or three million Jews, or two hundred thousand Jews died as a result of World War II while they were in prison camps and the like.

I made it very clear that this witness was not an expert in gas chambers, their construction their propensities, proclivities and characteristics, and that he could not testify in that regard.

I made it equally clear that he was not an expert in certain fields the details of which need not mention here. His evidence was restricted, clearly, to the field upon which Mr. Christie has been questioning him for the last day and for the last little while since this Court opened at nine forty-five this morning.

Mr. Christie now purports to put to the witness photographs of gas chambers that this witness, apparently, took in the United States. Mr. Christie is going to try to do indirectly what I said he could not do directly. I make it clear that the defence, if it wishes to call evidence concerning matters that are {2624|2625} relevant to the issues as the jury must decide, may do so. There is no relevancy that I can see between the construction of an American gas chamber in the nineteen seventies or the nineteen eighties with what was said to have existed in that regard controlled by the Nazis during World War II.

In any event, if I am wrong with respect to that, I am certainly not wrong in regard to the non-expertise of this evidence emanating from this witness.

Mr. Christie has indicated that he undertakes to call the accused. That, in my respectful view, is a worthless undertaking.

I rule, therefore, that this witness cannot be asked questions further about his taking photographs of American gas chambers. If other evidence is to be called, let it be called, but let it be called as competent evidence and let it be called from any witness who is an expert in that field.

Dr. Faurisson is not an expert in gas chambers. If I am wrong I can be quickly corrected elsewhere. I make it very clear that those questions will not be further asked, nor will any photographs be {2625|2626} produced of American gas chambers.

Mr. Christie seems to be complaining that I may not allow the witness to be shown pictures that are said to have been taken by him of one or more prison camps still in existence. They are apparently museums and show places in Europe.

That is not part of my ruling at all. If Mr. Christie wants to show him pictures that the witness took of those camps, then I will deal with that when the time comes. I will not deal with it now. That is the ruling.

THE COURT: Are there any questions?

MR. CHRISTIE: No. I understand, Your Honour.

THE COURT: Then let's get on with the trial. Bring back the jury.

MR. CHRISTIE: Before we do, Your Honour, because I don't want to have to go through the process of having my friend exclude the jury any more than Your Honour does, may I just put on record in respect to the last ruling that the defence would have undertaken {2626|2627} the proof of the fact that the gas chambers in question were established in the nineteen twenties and not in 1970.

THE COURT: That will be hearsay. He is not competent to say that.

MR. CHRISTIE: I understand that. I wanted just to ask another question so that I might get Your Honour's ruling now rather than interrupt the proceedings.

There are a number of slides which I had proposed to show of the physical evidence of the Auschwitz Concentration Camp at Birkenau. Unfortunately they are not isolated, at the moment, but will be, if Your Honour permits me to do this, from the other evidence that Your Honour has just ruled upon; but I would like Your Honour's ruling on whether the witness may, at some stage this morning, show the slides that he took of the Crematorium I and II and the surroundings of Auschwitz-Birkenau as they pertain to the allegation that this is where four million or 2.5 million or 1.765 million or one million or seven hundred thousand Jews were gassed.

Now, I'd like to know where I stand on {2627|2628} that, Your Honour.

THE COURT: I couldn't possibly assist you at the moment because I haven't seen the slides. In addition to that, I don't suppose that the Crown has seen the slides. I just come to these trials totally disabused of what they are all about. This is the first time I have heard about it.

I cannot rule in a vacuum, and I don't suppose that Crown can make a decision in a vacuum, either. Surely, if you want to do that, if it is relevant and if it is not otherwise inadmissible, then it can certainly be done, but one would think that you might want to show your opposition what you intend to do so that time can be saved. It might very well go on consent. I don't know. But I can't rule now until I see them or until somebody sees them so that I can get a total picture from both sides as to what it is all about. It is very simple.

MR. CHRISTIE: I wanted to put on record my application.

THE COURT: It's on record.

MR. CHRISTIE: I don't have another opportunity to do this. I want to get through, if {2628|2629} possible, Dr. Faurisson's evidence this morning.

THE COURT: Do you have the slides there?

MR. CHRISTIE: They are here.

THE COURT: Do you want to show them to the Crown?

MR. CHRISTIE: I will be glad to.

THE COURT: He may want to see them first, otherwise he may want the jury out to have a voir dire on them. That is to be avoided if at all possible.

MR. CHRISTIE: Yes, sir.

THE COURT: Is there anything else before we call the jury back?

Mr. Christie, you might have a look at the last exhibit. All I can see is, "The Mechanics of Gassing," about four times, four pages, and then three pages going through another Mechanics of Gassing. So we've got two pages number 27 and four pages marked "The Mechanics of Gassing". That's hardly a coherent exhibit. You might show that to the Crown, it is a lettered exhibit, but it does not make any sense to me on its face. {2629|2630}

MR. CHRISTIE: That exhibit is not put together in the proper order. I can have a look, maybe.

— The jury returns. 10:20 a.m.

THE COURT: Go ahead, Mr. Christie.

Q. MR. CHRISTIE: In relation to Exhibit marked "R" for identification, is the same exhibit contained in the first volume of the journal of the Historical Review?

A. The number of pages, please?

Q. The number of the page isn't indicated there.

A. Yes.

Q. That is the same article?

A. Yes.

MR. CHRISTIE: Could I file the journal, then, itself rather than —

THE COURT: We will fix the exhibit up later. It is already in as an exhibit for identification only, so that it can be worked out later.  
Go ahead with your questions.

Q. MR. CHRISTIE: You heard Dr. Vrba say – well, Dr. Vrba said that Dr. Butz and Dr. Staglich [Stäglich], he referred to them as Neo-Nazis.  
A. Yes.  
Q. Do you know those two men?  
A. Yes. {2630|2631}  
Q. Do you know them personally?  
A. Yes.  
Q. How long have you known Dr. Butz, for example?  
A. I met him for the first time in 1976, perhaps, in Paris.  
Q. Is he a neo-Nazi?  
A. No.  
Q. What's he do for a living?  
A. He is a Professor of Computer Science in the University of Northwestern University, Illinois.  
Q. Do you know Dr. Staglich personally?  
A. Yes.  
Q. Could you tell us something about him, as to what he did or does?  
A. He wrote a book called, in English, "The Myth of Auschwitz".  
Q. Yes.  
A. And the graphic documentation is mine, because when I came back from Auschwitz I sent in some photos, as those that are sent to Ernst Zundel.  
Q. Yes. And those were photos you took at Auschwitz.  
A. Yes.  
Q. Could you tell us something about Dr. Staglich, his occupation or —  
A. Dr. Staglich [sic] was a magistrate, and in 1973, '74, he had trouble because of his non-belief in the gas chamber and the genocide. He was judged {2631|2632} by a court, a special court for the judge themselves, I think. The prosecutor asked that his career would be interrupted and no money for his retreat.  
Q. For his retirement.  
A. Yes.  
Q. Is he a judge now?  
A. No more. No more.  
Q. Is he retired now?  
A. He is retired now, but the tribunal decided to take one fifth of his rent during five years. That was the first sanction.  
THE COURT: One fifth of his —  
THE WITNESS: His pension during five years. That was the first sanction. He wrote a little booklet about his experience of Auschwitz, his proper experience of Auschwitz and where he was a soldier. He was not an S.S. He was in the flak.  
Q. Anti-aircraft?  
A. Yes.  
Q. And then, does his work – what is his work in relation to yours? Is it agreed or disagreed, what is it about?  
A. He completely agrees with me. I agree with him.  
Q. And has anything happened with respect to his academic qualification?  
A. Yes. First his book has been forbidden in Germany.  
Q. Yes. Is it forbidden in France?  
A. Not in France.  
Q. Is it forbidden in Canada? {2632|2633}  
A. I don't know. I don't think so.  
Q. No. And what else happened to him?  
A. The police came at his house and take even the printed matter. Then the President of the University of Göttingen [Göttingen], from whom he had from this university as a doctorate in law, the President of the University decided to take out his title of Doctor in Law that he had, I think, in 1953.  
Q. Yes.  
A. So he introduced a kind of suit, and he used for that a law from Hitler Germany of 1938 or 1939.  
Q. To take away his doctorate?

A. To take away his doctorate of law.  
Q. I want to understand this clearly. The application to take away his doctorate was brought in nineteen what?  
A. I think in 1980. But it is not finished, not decided yet.  
Q. But it is brought under a law of 1938?  
A. '38 or '39, from Hitler.  
Q. Yes. Do you know him personally?  
A. Yes.  
Q. Is he a neo-Nazi?  
A. No.  
Q. Other than the Butz book which identified the hoax of the twentieth century and the book of Staglich, are there any other authorities that support your views? {2633|2634}  
A. Yes. We have in Germany even a Jew called Burg – his real name is Ginsburg – and he wrote some books purporting about Jews, particularly a book translated into English, "Maidanek Forever?" And he had many troubles himself. For instance, one day he was going to the grave of his wife with flowers and he was attacked, beaten up. He is an old man.  
Q. Do you have any knowledge of the maps of Auschwitz put forward in various publications? Do you know those maps?  
A. Yes.  
Q. Have any of them been altered in any of the publications that support the Holocaust?  
A. Yes.  
Q. Could you tell us in what publications the maps have been altered in their published form?  
A. Yes. In the Auschwitz Album, not the first American edition, not the second American edition, but the French edition.  
Q. Yes. By whom was that put out?  
A. Serge Klarsfeld.  
Q. Do you have a photograph of the contents of those books that you discussed, the Auschwitz Album, the map and the other maps?  
A. Yes.  
Q. What map do you regard as authoritative and accurately descriptive of the outline and topography of Birkenau?  
A. This one which has been put in exhibit. {2634|2635}  
Q. The one in exhibit?  
A. Yes.  
Q. Now, could I see that? And where does that come from, the map that you regard as authoritative?  
A. From the Auschwitz Museum. The title is "KL", which means concentration camp, "Auschwitz" It is in Polish, English, French, German and Russian. It has been published in 1980.  
Q. All right. That's the map that you regard as authoritative.  
A. Yes. It's like all the other maps published by the Poles. Somebody else did some transformation.  
Q. There is a map in there. I don't know what number it is, really. Does your knowledge of the topography come to some extent —  
THE COURT: I would like to see that exhibit, please.  
Q. MR. CHRISTIE: Does your knowledge of those maps come from having been there?  
A. Yes. And I have studied in the Auschwitz Museum the original card of Auschwitz which was presented to me by Mr. Iwas[z]ko as the responsible of the archives in the Auschwitz Museum.  
Q. Okay. I now produce and show to you Exhibit No. 21, and I'll ask you to tell me how that map is altered in the publication you described by Serge Klarsfeld.  
A. So Serge Klarsfeld published the {2635|2636} Auschwitz Album. The title in French is, "L'Album d'Auschwitz", and he had a card which does not figure in the American editions.  
THE COURT: We have the American edition, I think, here.  
THE WITNESS: Yes. You have it.  
THE COURT: Why are we going through this?  
MR. CHRISTIE: To demonstrate that certain people have altered the evidence.  
THE COURT: But not the one that's here.

MR. CHRISTIE: No.

THE COURT: That's all right. Go ahead. So long as we understand one another.

Q. MR. CHRISTIE: Just tell us how it was altered, Dr. Faurisson, and what the significance of the alteration is.

A. Very-simple. It's on page 42.

Q. Of what book?

A. Of the book of Klarsfeld, the French edition of the Auschwitz Album.

Q. And what has he done?

A. There is a road going between Krema II and Krema III. He cut it just after Krema II and Krema III. Then there is a road, we can see it on the Polish map. This road goes to the sauna, big sauna, and it has been cut once more by Klarsfeld. So it is cut, if I may ...

Q. You can show it on the map, perhaps, to the jury. {2636|2637}

A. I am going to show it. He cut it there and he cut it there. So they showed photos of people in the Auschwitz Album, and they did quite a good job, I think, because they found where all those photos had been taken. And they said those people are there and there and there. And they showed us people in front of Krema III, and by the map you can understand that those people couldn't go further.

Q. By what map?

A. By the map what's been doctored by Klarsfeld.

Q. In the map that's been doctored by Klarsfeld.

A. Yes. Because in this map they put numbers for some of those photos. For instance, No. 15. You go and see No. 15. Those people are there between Crematorium II and III, and the caption says that those people are there. They are going to be cremated, because it's a dead end.

Q. Is it really a dead end?

A. It's not really a dead end. It's false.

Q. All right. I now produce and show to you an enlarged plan, or two enlarged plans. Do you recognize these two plans?

A. Yes.

Q. All right.

A. The first plan is the plan in exhibit.

Q. All right.

A. The real plan. {2637|2638}

Q. Could you define it by the plan on the right and the plan on the left, if you hold the map?

A. I think it better to hold it like this instead so the map on the top is the real map, which is an exhibit. And the false map is there on the bottom.

Q. Where did you get that map from?

A. From Klarsfeld.

Q. In his book?

A. I mean from the book of Klarsfeld. And there I put this on my comments, my personal comments. My comments are, "Cut here" and "Cut here". And there is something else, but I must show it very precisely, I think, because you are too far to see that.

MR. CHRISTIE: I would like to exhibit that if I may, Your Honour.

THE WITNESS: It has been cut here.

MR. CHRISTIE: Never mind, Doctor. The judge has got to rule on this and he is thinking about it. So don't carry on.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Well, Your Honour, the jury has seen it. I have no objection. I question really the relevance of the maps the doctor calls the proper maps are here before us already in evidence, and I don't know how that goes to the truth or falsity of anything in the pamphlet, but if my friend wants to put it in, I don't object.

MR. CHRISTIE: I could explain that if I were to argue the point. {2638|2639}

THE COURT: No. We don't want you to argue the point at this time. You will have a full opportunity to do that at the proper time.

Yes, all right.

MR. CHRISTIE: Thank you. That will be the exhibit. number, please.

THE REGISTRAR: Exhibit No. 37.

— EXHIBIT NO. 37: Photocopy, "Plan de Birkenau"

THE WITNESS: Serge Klarsfeld, if I may add something about this

map —

THE COURT: I think you should answer counsel's questions. If he wants you to do that, he will ask you.

Q. MR. CHRISTIE: Did you contribute to the understanding of Ernst Zundel pertaining to gas chambers in 1979 and '80?

A. Yes.

Q. Did you give him the benefit of what your experience had been?

A. Yes. And I always found him very greedy.

Q. What do you mean, greedy?

A. Asking always new photos, new information.

Q. Why was that greedy?

A. Because I have no time to send photos and information like that all over the world.

Q. I see. How often did he ask you for information about the gas chambers in 1979 and '80? {2639|2640}

A. Constantly in September '79, and then when you wrote to me in 1980, when he phoned to me, etcetera. Many times.

Q. And did you give him all the information that you had acquired?

A. No. I cannot. I had no time.

Q. Mm-hmmm. Now, I want —

A. And sometimes he gives me some idea, because he is a good photographer, and he gave me some good ideas for a short demonstration. For example, yesterday the death rate in Dachau, where we could see that Hitler was supposed to give an order of killing the Jews in June '41 and the death rates is the same. It does not increase. And then Himmler is supposed to have given an order, some say in September '44, others in October. Dr. Hilberg says 25th of November. I don't know where he found that. But if we see those dates, we see that the death rate at the right moment when Himmler was supposed to have said, "Stop killing the Jews it's going like this."

Q. Now, you have said that there are, in your opinion, some false confessions by people like Gerstein and Hoess.

A. Yes.

Q. Would you give us your opinion from the basis of your research as to why you believe such false confessions were made?

A. Why they were made —

THE COURT: Did we not cover all that yesterday, Mr. Christie?

MR. CHRISTIE: No, we didn't. I {2640|2641} never asked that question about what is his basis for the belief in the false confession. Not the particular ones, but the surrounding circumstances is what I am trying to get at.

THE COURT: Oh, so this is not going to be about torture again.

MR. CHRISTIE: No. Well, it could be, but it is not about Hoess particularly. It is not about Gerstein particularly, but about the surrounding circumstances of the IMT. I'm sorry if I weren't more explicit.

Q. What surrounding circumstances of the International Military Tribunal and the Nuremberg Military Tribunal of the United States do you believe brought about false confessions?

A. The fright of being sent to Poland or to Russia. That was very important, especially in the case of Sauckel, because even his wife and his ten children were to be sent to Russia. There many, many facts to explain that, but I would stress one thing, that in a certain manner I experienced it myself. I am not being tortured. I don't know what is torture, and I think that many people talk about torture. They do not know what it is, but I have experienced it as pressure, and I know very well by myself how those people could have been under pressure.

Myself, I have never wear any German uniform. I am not an S.S. I've killed nobody. I am a professor and I have a life impossible, although I am paid and I don't work. I can give you an example of the impossibility of my life. {2641|2642}

When I see that there, in this tribunal, it has been said that I have been convicted of falsifying history, even the lower court says falsification of history, that's not our matter, and the Court of Appeal said, but I had the logic, that I had the method, that I was not negligent, that I was not ignoring systematically such thing, that I was not a liar, and the consequence was so now, 26 of April, 1983, in France we have the right, the expert, the historian and the public to say that genocide and gas

chamber did not exist, how could it be possible if I was condemned for falsifying history? I read that yesterday in the Toronto Star, and day after day – you see, I experienced that during years. My wife was called wife of a falsifier. And I want to tell you why, because my name begins by “Fau”, Faurisson, and falsifier in French begins with “Fau”. And if I not heard that, read that, Faurisson falsifier, and when you hear people accused of fantastic crimes, your conclusion – if a German in front of me in 1945, and if this man had been like Joseph Konrad saying, “I didn’t know no gas chamber”, I would have said, “You are going to confess because there were gas chamber”. So day after day, in France, I have been called “fauteur” [faussaire], and except for one man, Mr. Pierre Bloch, in his monthly, my name appear[ed] five hundred times. I never sued him. I couldn’t. I have no money to do that. And then he call[ed] me “fauteur”. So I sued him. Mr. Griffiths, you remember that. I sued him. I said, “You call me fauteur”, and his lawyers said in the paper that they have to give to the judge. They said, no, no, Mr. Bloch {2642|2643} does not call Mr. Faurisson fauteur. Mr. Faurisson has badly read the text. And this is what the court decided. The court decided that, yes, Mr. Bloch had treated me of fauteur. But I couldn’t sue him for slander. I had made a mistake. I should have sued him for injury. In a French court, I don’t know for the Canadian Courts, but the French courts you cannot change. If you sue somebody for slander the tribunal cannot say it is not slander. It is injury. And then Mr. Bloch says, “Victory”. The same thing for Rassinier. Rassinier had an impossible life. His wife the same thing. My children, the son of Rassinier, impossible also. My son wanted to be judge. He had to resign. A Nazi is a man. A communist is a man. A Jew is a man, and I am a man, but if you have the principle that a Nazi is not a man, that you can say about him anything, everything, read the newspaper, the newspaper of yesterday, see those impossible stories – baby boiled in the fat of their parents, Mengele having in his place eyes of different colours pinned on the wall – anything.

So if your principle is that a Nazi is not a man, and I am ashamed to say that in 1945 it was my belief, I thought that there were categories like that of people, that we are criminal by naissance —

Q. By ...

A. By birth, and myself, I could be criminal by accident, but certainly not like a Nazi. And the French soldiers in Algeria, in Indochina, I think they made many slaughters.

THE COURT: Mr. Christie, would you {2643|2644} like to ask some more questions now?

MR. CHRISTIE: I don’t think it’s irrelevant what the witness is saying, but if Your Honour directs me.

Q. I will ask you to get what you said and relate it to the position of the Nazi accused and the charges against him. And how does that relate to false confessions?

A. Because in this state you are already to make any confession. Excuse me, Your Honour, if I talk about my experience. I can tell you that in 1979, when there was this explosion in France, when thousands of people were in the street saying that I was a fauteur, they did that about myself fauteur; when they do that you are ready to recant, and I assure you that we have people coming – excuse me. That’s personal experience, and when I read the story of Johann Paul Kramer, Doctor in Auschwitz and those people confessed, I understand that perfectly.

So when you have somebody who comes on your side, it could be Mr. Pierre Bloch or a judge of the International Military Tribunal, or a prosecutor, he comes and he says, “Now, so on. Give a signature.” For Hoess, they didn’t even ask to Hoess that he invented the gas chamber, but quite usually, I was for a trip like that and when I come back there was a gas chamber. It was not me. You have the same story for Ravensbrück [Ravensbrück]. You have the same story for Mauthausen. The story comes after. So they say, “Go on. Confess. You will have something. You will be free. You can leave.” Instead of that, the people who are on your {2644|2645} side, they say, “You are courageous, but now you must be heroic”, and you don’t want those people. You are ready to fall on your knees in front of the others, because the others, they are powerful. Your friends, they are nothing. And Frisch,

who was one of the accused in Nuremberg, he was the Chief of the Radio Propaganda —

Q. He was an accused at the IMT?

A. Yes. He wrote something interesting about his experience, and he said, “When you confess, it’s not by fear. It’s by hope.” He was in the hands of the Russians, and the Russians didn’t really torture him, but they knew how to do, slowly, slowly, they take day after day and everybody would confess, especially if the confession can be absolutely vague, “There was a gas chamber. I don’t know very well where”, etcetera. And the same thing for the story of the atrocity, medical atrocity. If I may say that, there is a book which must be read, and it is, how do you say it, food for thought.

Q. Food for thought.

A. Yes. This book is an English book published in 1964, I think. It is the story of Dr. Dering. I think that it is really, we are in the heart of the story of confession and false accusation, if I may say something about the story of Dr. Dering, who has been a judge in England.

Q. How does it relate to the coercion aspect of the matter?

A. Dr. Dering was a surgeon in Auschwitz. {2645|2646}

THE COURT: Let’s – all right. Go ahead,

MR. CHRISTIE: I am familiar with the story. I am not ignorant of the story.

THE COURT: I didn’t suggest for one minute you were. I want to make sure it is relevant. Yes, if he wants to say that ...

THE WITNESS: Dr. Dering was a surgeon in Auschwitz. One day a Jewish novelist, Leon Uris, wrote a book, I think it was “Exodus”, and at the beginning of his book he said, “Dr. Dering, who in Auschwitz did practise 17,000 surgical operations without anaesthesia, on women”, Dr. Dering, after the War, was doctor in Somaliland, British Somaliland, then he went to the suburbs of London. When he read that, he decided to sue Leon Uris for slander. Not injury, slander. And then we have this book about this trial, and this book has been written by two defence lawyers absolutely convinced of the existence of the gas chamber, absolutely convinced that four million Jews had been killed in Auschwitz and so on.

Okay. At the beginning Leon Uris was asked, “Do you say, really, 17,000 women without anaesthesia?” That was the first. Next step, he said, “No. 17,000 men and women without anaesthesia.” Suddenly, a great number. But the judge said, “What is it, a great number, 130?” Because the Poles sent to London the register of the surgical operation in Auschwitz, and you had everything. When the Germans did those things, they put it in Latin and you had the signature of Derring [sic]. So 130. Next step, with {2646|2647} anaesthesia, and with a special anaesthesia which only half your body was anaesthetised. And then, then the British discovered [sic] that probably the Poles had doctored the document by the two lawyers, it is said probably.

Q. In this book you are talking about?

A. Yes. In this book which is partial. And I must say that Dr. Derring evidently spoke about gas chamber, but it was like, you see, you need the gas chamber, the German need the gas chamber to say, you see, when I was doing that to those people they were not sent to the gas chamber. Even the Nazi they need that now. And from 130 you wouldn’t figure that, but suddenly we got to five, and then I think that they finished with two women. They gave only the first name, something like Martha, Bertha. Then what happened to Dr. Derring? The jury decided that there was slander. So he received one farthing. It’s English money. One farthing. And I didn’t know this manner of the British justice, but the judge retired, recessed, came back and decided that Dr. Dering would have to pay, and Dr. Dering said, “I washed my honour, but I am ruined”, and he died a fauser after. But what did Leon Uris do? Leon Uris wrote a novel. He sold this novel for \$250,000 to make a film about it. The title is, “Queen’s Bench VII”. And what is awful is that he couldn’t call the Dr. Dering. He gave him another name. And he even invented the son of Dering and you could see in the film the son of Dering looking at his father and thinking, “Now, my father was a criminal”. And that’s what could happen to {2647|2648} my son, my daughter of people like me.



Q. Now, in Germany, Dr. Faurisson, many tribunals have condemned soldiers for having been in so-called extermination camps such as the Auschwitz Trial. Are you familiar with the Auschwitz trial?

A. Yes.

Q. Have you studied the transcript of it?

A. No. I couldn't get the transcript so that is how I studied this trial, which is very interesting. 1963, 1965, eighteen months.

Q. Yes. What have you studied to —

A. So I have studied the book, a very thick book of Herman[n] Langbein.

Q. Called?

A. "Der Auschwitz" in English, "The Auschwitz Trial". Herman Langbein was himself in Auschwitz and he is the big responsible of the International Association of the inmates, former inmates of Auschwitz. So it is a book quite, in one sense — I read another book from a defence lawyer called, "La Ternser" [Latenser], a terrific book also, called in English, "The other side of the Auschwitz Trial".

Q. Yes.

A. And I want to precise right now that "La Ternser", I know that, believed in those gas chambers as many of those people. And a book was quoted by Mr. Griffiths. I think it is the book of Bert Newmann [Bernd Naumann], I think, called also something like the Auschwitz Trial.

Q. Was there ever any indication of what {2648|2649} was it they considered a gas chamber?

A. If I read those three books, if I read the clippings of this time, because I have all documentation of Paul Rassinier about it, Paul Rassinier had the right to ask to attend this trial, but when he took the train, he was stopped at the frontier and sent back to France.

Q. Yes.

A. So I had those clippings. I see by the photos also, the tribunal and all that, that never the question of the gas chamber has been examined. It was, the gas chamber was there like a sacred cow. Nobody would touch it. And in the courtroom you had a plan. The plan, like this one, our plan, and you had a little drawing, Krema II, Krema III, Krema IV, Krema V, but what was in Krema II, Krema III, Krema IV, Krema V? The question, if I see the book by Langbein and so on, the question has not been asked at all. And I can understand that because this is what the gentlemen decided, and that is —

Q. Have you read the judgment?

A. Oh, yes. I have it.

Q. Have you studied it in detail?

A. Yes. In detail.

Q. All right. What does the judgment conclude?

A. I must say the method, first on what was based the judgment. That's what is typical of the German trials. They said, "We are not interested to know who was doing anything in those gas chambers, who poured the Zyklon or whatsoever, because not one man {2649|2650} has been condemned for that. No. There were gas chambers. People were gassed, but they were coming from the ramp, after the detraining, on the ramp. So we want to know who was on the ramp. If somebody has been on the ramp it means that he has been co-responsible"

Q. Co-responsible, yes.

A. Co-responsible of so many murders and this is how the calculation was made. The judge said, "On such or such date, Dr. Lucas", for example, "has been on the ramp. On those four days arrive four trains. Each train, we can suppose, was of one thousand people, and we can suppose that 750 people were gassed. So he is responsible of four times 750 people."

It remind the witchcraft trials when the judge was saying, this is a quarter of proof. This is a quarter of proof. This is one half a proof. It makes one proof. And the Germans, you see, always higher bid. You ask them something, the East Germany is repeating what their liberator of the East want them to say. And West Germany, the same thing with the West. But they do always more.

For instance, the people, the free people who were acquitted in Nuremberg, Goering was condemned and so on, but three people were

acquitted. So the American people said, "You are free." They said, "We don't want to get out because the Germans will attack us." But they were told, "You can go. You are free." So they were tkaen [sic], they were judged and they were condemned.

Q. You mean people have been tried {2650|2651} in one court —

A. By the International Military Tribunal. They were acquitted. I can give the name, but it is too difficult for the recall to spell the name.

Q. Have people been tried more than once for the same offence?

A. Oh, yes. Quite commonly. Dr. Kramer spent something like eighty days in the summer of 1942 in Auschwitz. It was at the right time of this fantastic typhus and typhoid epidemic and malaria. He had to replace a doctor who was sick, and the doctor of the camp died from typhus. Many Germans —

Q. Who was that?

A. Dr. Pupopiersch [Popiersch]. And many people died. The wife of the man called Ceaser [Caesar] died from typhus also in 1942. Many Germans died. So he came to this place and he was, we call that in French an old bachelor, and he was used to have a diary. So in his diary he tells all about Auschwitz. And fifteen times you have the word Sonderaktion [Sonderaktion]. So he give them his diary thinking he wouldn't have any trouble with it, and the Poles condemned him to ten years of jail, or perhaps more, but he was liberated after ten years, but he confessed that those Sonderaktion were gassings, and to maintain this myth you can see the diary of John Paul Kramer very often quoted with words taken off by Poliakov, for instance. When, you say that a Sonderaktion was outside, it was difficult to make the people believe that it was a gassing, so the word outside was taken off. And many things like that. So this man was con-{2651|2652}demned. Then, ten years after he was liberated, he came back to Germany. He was a professor, a very imminent professor of anatomy, and when he came back he said nothing had the right to talk in this trial except hatred. He protested against all that, and he said, "I want to go back to my work." Like myself I do, eh?

Q. Mm-hmmm.

A. So at that time people in Germany protested against his protestation and he went to trial. He was condemned. To ten years, and they say ten years he had already done ten years, so finished, but they suppressed his right to teach, his rent, I think.

Q. Rent, you mean —

A. Pension, I mean.

Q. Yes.

A. And any civil rights. And this poor man was, after that, he was something like eighty years old. He was taken to the Auschwitz trial, that I talk about in Frankfurt, 1963, 1965, and this old man was asked, "We have that in Langbein, so what about the gassings in Auschwitz?" And it's a pity that I have not the text.

Q. Do you remember?

A. The text of Langbein. He said, "Oh, the German soldier, we are pleased because when those trains arrive, they had more schnapps and cigarettes and things like that." And he did not deny that the gasings had existed. He didn't touch that. And he went away, but the most pathetic thing that I have {2652|2653} perhaps ever read in my life is what this poor Johann Paul Kramer [Kremer] said in his own trial in Munster, in Germany, when he came back. He said, "I am totally innocent, but I am taken in a dilemma. I am taking in dilemma and only God could solve that."

Q. In the Auschwitz trial was there any forensic investigation of any gas chamber?

A. No.

Q. Was there any investigation of any process of gassing?

A. They tried in a trial against Gerrard [Gerhard] Peters who was the manager of the firm who was responsible for the Zyklon-B. They tried. I see that they tried to understand how — I think it was the first time. They tried to understand how Zyklon could have been used to kill people, I have only the judgment, which is rather long, and it is nearly comic, you see. Sometime you have also comedy, because they I are there. The judge says, "We had this kind of explanation by somebody, some ex-

pert." Another one said that. But it is impossible. And the ending sentences, the tribunal is satisfied to think that the explanations, I don't remember what, so I cannot call that a real inquiry, eh?

Q. Was there ever, in the Auschwitz trial, to the best of your knowledge, the presentation of any drawing, diagram, model or other practical demonstration of the gas chamber?

A. No. The gas chamber, we must understand, that is a sacred cow. Never touch it.

Q. Could you give us examples in your {2653|2654} investigation of false testimony in respect to the Dachau gas chamber? You are referring to your book.

A. I am referring to my book called, "Memoire en defence". Memorandum in defence against those who accused me of falsifying a story. From about page 212 I gave, I think, fifteen and even more after, fifteen examples of perfect proof of the existence of gassings in Dachau.

Q. Yes. Do they describe actual gassings at Dachau?

A. Even you had this film talking about.

Q. That's right.

A. Okay? You had that.

Q. With the clothes hanging on the wall and the dummy shower heads in the film.

A. Yes.

Q. All right. Could you pick just one example that you know of from your research of a false statement that —

A. I want to give a little idea. Already the 14th of May, 1945, you had this investigation commission of the Congress of the United States, and they give the description., They say, twenty feet by twenty feet by ten feet. Sealed door. I don't know the technical term in English for the admission of gas. The peephole, etcetera. It is in Volume 36 of the IMT, page 621, 622. The code is L-159.

Q. That's the exhibit number?

A. The exhibit, yes. So those senator[s] of [or] representatives, I don't call them liars. I {2654|2655} have the photo of those people. They are looking to the ceiling of what is supposed to have been a gas chamber. I think that it is true. I would have thought at the time that it was true. They are not liars. It is the common belief. They are very respectable. And specially something which is terrible about that is that we have many, many testimonies of priests. It does not mean that the priests are more liars than others. Not at all. It means that when you want to pick up a testimony, you are not going to pick up the testimony of a poor man, but of a man supposed to have respect for the truth.

So you have many testimonies of scientific people, priests, doctors, even the Bishop of Claremont Fernad [Clermont Ferrand] told about the priest, Polish priest, gassed in Dachau.

Q. Were they true?

A. It was false. So I could give those examples, and they were quite official. You have a report of the OSS section of the Seventh Army.

Q. Dr. Faurisson, the jury might think that there was gassings in Dachau. Now, why do you say that we should not believe there were gassings in Dachau with all those testimonies?

A. Because it is recognized now by every historian, it is recognized by the Dachau Museum. They say it is a gas chamber, the beginning of the building has been in 1942, but in 1945 it was not achieved because of the boycott of the inmates.

Q. I see.

A. That's the story. So I wrote to {2655|2656} those people. I think —

Q. You've gone through that.

A. Okay.

Q. But I want you to give an example, if you have one, of a statement made by someone who said that they saw a gassing there, and then I'd like you to tell us where it was false.

THE COURT: We will take an adjournment for fifteen minutes.

— The jury retires. 11:15 a.m.

— The witness stands down.

— Discussion concerning Exhibit "R" — to be sorted out after recess.

— Upon resuming.

THE COURT: Now, about the photographs.

MR. CHRISTIE: I think my friend and I have discussed the possible solution. I think we should be a half an hour more, and then we can have somebody set up the slide projector, watch it from twelve thirty to ten to one, and Your Honour can advise me what, if anything, I can do, and then the jury can be excused as soon as this part of my examination is finished. Perhaps that would be the end of it, depending on whatever came of the matter. And then we probably would be through by one.

THE COURT: Yes. All right. Bring in the jury, please.

— {2656|2657}

— The jury enters. 11:35 a.m.

— The witness returns to the stand.

THE COURT: Go ahead, Mr. Christie.

Q. MR. CHIRSITE [sic]: Dr. Faurisson, you are going to give an example of a fabricated story about Dachau. Is there a published story?

A. Yes.

Q. Was it published in a book?

A. Yes.

Q. Could you give the name of the book and the author, please?

A. Yes. The name of the book, translated into English, is, "So it was", 1940, 1945. The name of the author is Fernand Grenier.

Q. Could you just read the passage that you say is a fabrication respecting the gas chamber allegation in Dachau?

A. Published in 1970. "Beside the constantly working four furnaces of the crematorium which never stopped, there was a chamber, a room with showers on the ceiling with spray nozzles. The previous year, in 1944, 120 children aged eight to fourteen had been given a towel and a piece of soap. They entered the chamber joyfully. The doors were closed. From the shower head came asphyxiating gas. Ten minutes later death had claimed those innocents, and the crematorium furnaces reduced them to cinders in one hour.

Q. How many falsehoods are there in that portion quoted?

A. So most gassing had happened in Dachau, and in this short story you have many lies. For {2657|2658} example, first, beside the constantly working four furnaces of the crematorium which never stopped, this is a material impossibility. There was a room with showers on the ceiling, invented the showers on the ceiling. With spray nozzles, he invented that. The previous year, in 1944, he invented the date, but a thing which is strange is that he does not give, as usual, to look sincere the month and even the day.

Q. Yes.

A. 120 children, he invented the children. He invented the figure of 102. Age eight to fourteen, he invented those ages. Had been given a towel and a piece of soap, he invented the towel and the piece of soap, which is quite recurrent in all those stories. It is a stereotype. They enter the chamber joyfully, he invented that they enter. He invented this joy. The doors were closed, he invented that the doors were closed. Doors, plural, for a gas chamber, which is strange. From the shower heads came asphyxiating gas, he invented that. Ten minutes later, new invention. Death had claimed those innocents and the crematorium furnaces reduced them to cinders in one hour, 120 children in four four [sic] furnaces in one hour, quite impossible.

So I think that we are used to read all those stories. We so well-used to read those stories that our brain does not function any more.

Q. Why do you say that story is false?

A. Because there were no gassings in Dachau.

Q. Why do you say that? {2658|2659}

A. I say that because this accusation of the Germany having doing that is now suppressed.

Q. What do you mean by suppressed? That is a difficult word.

A. Nobody now says that there were gassings in Dachau, and it is said that there were no gassings.

Q. Right.

A. By Dachau Museum, by the Association of the Former Inmates of Dachau.

Q. All right.

A. But I must say that in nineteen, perhaps, forty-seven, this inquiry of

the Congressmen, American Congressmen has been used against Oswald Pohl by Judge Musmanno [Musmanno]—

Q. In an official trial?

A. In an official trial. The reference is NMT, Case No. 4, Volume 5, page 1133.

Q. And what happened to Pohl?

A. He was hanged.

Q. Thank you. Well, how many satellite camps are there in Auschwitz-Birkenau?

A. Auschwitz and Birkenau, and you have thirty-eight other satellite camps.

Q. Thank you. Are there any consistencies, or is there any consistency in all the published accounts of the survivors that you have read in your studies?

A. No. No consistency.

Q. Are there currently new inconsistencies that you are discovering in the accounts as they {2659|2660} arrive in the various publications of our time?

A. Oh, I must say that every week I receive a new story. I can give an example?

Q. Could you give us an example of the current and the newest one that you have heard and your opinion of it? Just a portion referable [sic] to gas chambers. Identify the source and —

A. I give the source. Alberta Report. Weekly News Magazine. From January 21, 1985. the title is "Auschwitz". Author, Eva Brewster.

Q. Is she supposed to be an eye witness?

A. She is supposed to be so, remembers the death camp.

Q. She remembers the death camp and describes it in an article?

A. Yes. On page 36 she says, Mrs. Brewster realizes how upon passing the gas chambers of whose purpose they were still ignorant, an S.S. guard slyly remarked, "This is our most productive factory, working day and night shifts." The following day she is learned their purpose. "The factories," Mrs. Brewster testifies, 'were gas chambers where all transports were given a piece of soap and a towel and driven into huge rooms with innumerable shower heads in the ceiling. When the doors closed gas instead of water was pumped in. After a few minutes the bodies were dropped through trapdoors into a crematorium and burned."

Q. Dropped through trapdoors into a crematorium and burned. {2660|2661}

A. Yes.

Q. All right. Have you heard that eye witness account before recounted by any other survivor?

A. I think that I have never found a trapdoor into the crematorium.

Q. That's a new one, is it?

A. Yes. It's a new detail.

Q. Okay. Do you regard that as a credible [sic] detail?

A. Not at all, especially when we know the plans and so on.

Q. Mm-hmmm. The plans of what are you speaking?

A. Of Auschwitz, of the crematorium.

Q. Thank you.

A. Even if we had to believe that Mr. Vrba said the truth, even with his plan you cannot explain that.

Q. Even with the evidence that he's led in this trial.

A. Yes.

Q. Mm-hmmm. What is the final solution, and where do you go to find the definition of that? We've heard Dr. Hilberg give us his definition of that term. What do you understand it to mean?

A. The final solution is a territorial final solution.

Q. Why do you say that?

A. The word was used by Heydrich already in 1940. {2661|2662}

THE COURT: Who?

THE WITNESS: Heydrich. In 1940. And then when we have the Luther memorandum of 21 August, 1942.

Q. MR. CHRISTIE: Saying?

A. We see that he repeats what Heydrich said.

Q. Who was Heydrich?

A. I could say, to simplify the thing, Chief of the Police, but under Himmler.

Q. Yes.

A. And Luther, in his memorandum, he was in the Ministry, Undersecretary in the Ministry of Interior, he said at that time, August 1942, and I recall you that Hitler was supposed to have given an order in June '41 to kill the Jews ...

Q. Yes.

A. ... said about those transfer of Jews that they had to be sent east and further east, as soon as the military situation could permit that. So final solution, the people had that, but it doesn't mean that the final solution is to kill. When you say that you try to find a final solution to the problem of unemployment, it doesn't mean that you want to kill the people unemployed; or I don't know. The final solution of the Palestinian problem doesn't mean that anybody wants to kill the Palestinians.

Q. Most authors today have said that that means to kill the Jews; is that right?

A. Yes.

Q. Have you considered the sources of {2662|2663} that belief?

A. I think that up till, perhaps, last year, even the specialist thought that what we call the Wansee [Wannsee] Conference, 20 of January, 1942, that the Wansee Conference had decided the extermination of the Jews.

Q. Yes.

A. If you read the text, you don't I see that. And now, since the Convention of Stuttgart, from the 3rd to the 5th May, 1984, perhaps, yes, since this convention it is recognized.

Q. By whom? People don't know that convention, Doctor. You do, they don't. Tell us what it was.

A. I mean that the account that we had of this convention —

Q. Who was at that convention? Do you know?

A. Dr. Hilberg and historians and German historians and so on.

Q. Do you have the description for those —

A. Yes, I have that. Even in press clippings. And I think also in patterns of prejudice, I think.

Q. Publications of the results of that conference, is that what you mean?

A. Yes. Yes.

Q. Do you understand what those people are in relation to yourself historically? What do you call them? {2663|2664}

A. Those people are people believe in extermination, but since few years there is a kind of academic dispute.

Q. Among who?

A. Between what they call themselves intentionalists and functionalists.

Q. What's the difference?

A. Difficult, because it is more or less metaphysical. And when we have metaphysics, it is a bad sign. It means that —

THE COURT: I'm sorry, I missed that last one.

THE WITNESS: I mean when we have metaphysic conception into history, like intentionalism and functionalism, I say that it is a bad sign, something not clear.

Q. Something is not clear?

A. Something is not clear.

Q. Could you define the difference between the functionalist schooling of the exterminationist view and the —

A. Yes. Many definitions have been given of that.

Q. Wasn't this discussed by Dr. Hilberg in a publication recently?

A. Yes, he wrote about that, yes. Now, intentionalists are the people who believe that there was an intention to exterminate the Jews, that an order was given, an order that nobody has found, but an order must have been given. Those are called intentionalists. It is the case of Raul Hilberg. {2664|2665}

Q. He believes in the order, is that what you are saying?

A. Yes. He cannot show us an order, but he says an order must have existed.

Q. Yes.

A. And the other, the functionalists are the people who say that my kind

of automatism the German bureaucracy improvised an extermination of the Jews.

Q. Mm-hmmm. Who is in the latter school?

A. Now, Martin Broszat, Director of the Institute of History of Munich.

Q. And is this a government-sponsored body in Munich?

A. Yes.

Q. By what government?

A. Bavaria. They are paid by Bavarian government.

Q. So that dispute is going on over the issue of what?

A. How it happen[ed] what they call the extermination of the Jews. They say there was an extermination, there were gas chambers, but how did that happen? It is the how which interests those people.

Q. What interests you?

A. What interests me is, if this thing existed, because many times in the life we say, how is it possible that such thing happen? But did such thing happen? It would be the first question to ask. {2665|2666}

Q. Right. Now, I am not going to ask to introduce this directly into evidence, but did you obtain from the Auschwitz Museum a plan of the crematoria?

A. Yes. Many.

Q. Do you have that?

A. Yes.

MR. CHRISTIE: And I'd only ask that it be, perhaps, marked as an exhibit for identification, Your Honour, if I might.

Q. Have you received that plan and do you have that plan with you?

A. Yes.

Q. All right. Is that a plan of the crematoria?

A. I suppose, yes. But I don't think that —

Q. What I am going to do is, in view of the fact that the hour is now lunchtime and I have something to ask His Honour ...

MR. CHRISTIE: If we might, then, perhaps, if Your Honour could excuse the jury till after we deal with this and probably after lunch, and then maybe I could deal with this, then.

THE COURT: Members of the jury, there is a matter that was discussed in your absence that I should hear about in your absence.

You are excused now till two o'clock.

— The jury retires.

—— {2666|2667}

MR. CHRISTIE: Your Honour, as you can see, just another detail arose that I thought I should ask in the absence of the jury in view of what Your Honour has said.

I would like to introduce the plans obtained by my client through Dr. Faurisson. He obtained them from Dr. Faurisson. Dr. Faurisson obtained them from the Auschwitz Museum. I want to introduce them to be able to later show how my client, in his research, can demonstrate the truth of his position having constructed, as I said earlier, models, scale models that I can prove are accurate to scale to the plan from these —

MR. GRIFFITHS: I may be able to cut this short. I have no objection if Dr. Faurisson received the plans from Auschwitz. I have no objection to that, Your Honour.

THE COURT: Neither do I.

MR. CHRISTIE: Then if that's the case, maybe I could mark that now, Your Honour, or maybe in the presence of the jury later. I've got to show my friend what I am talking about. Maybe he already knows more than I think he does. {2667|2668}

MR. GRIFFITHS: I'd be astonished if I did.

MR. CHRISTIE: I meant no affront by that. But I hadn't shown these to my friend before. I will show them to the witness, if I may.

MR. GRIFFITHS: I have seen a smaller version of this plan before, Your Honour, and I have no objection.

THE COURT: It is a plan of what, gentlemen?

MR. CHRISTIE: It is a plan of the crematorium buildings, Your Honour. This is Crematorium II, and there is also other Crematoria buildings.

If I may, I'd like to ask the witness on the record just a couple of identification questions.

Q. MR. CHRISTIE: Dr. Faurisson, I am going to lead you and suggest to you that this is the plan that you obtained from the Asuchwitz [sic] Museum, and it purports to be, to the best of your knowledge, the crematorium plan of Krema II. Is that right, sir?

A. That's right. It could be also Krema III, because it's built on the same type. {2668|2669}

Q. The same plan was used for both those two buildings?

A. In mirror. They were in mirror.

Q. Mirror images of each other.

MR. CHRISTIE: I would like to mark that, perhaps, the next lettered exhibit.

THE WITNESS: Not exhibit, no. I keep those plans. I don't want to give them as exhibit.

MR. CHRISTIE: All right.

THE WITNESS: No, no.

Q. MR. CHRISTIE: Well, you have identified those, have you, sir?

A. Yes.

MR. CHRISTIE: Well, if they go in just for identification —

THE WITNESS: I can give the reference.

MR. GRIFFITHS: If I can be of any assistance to Mr. Christie, I have seen this in a book. I have the book, Your Honour, and I would be happy to provide a photocopy of the book, but it is not as large as this.

THE WITNESS: Excuse me, can I ask you, Mr. Griffiths, if it is the book of Filip Muller [Müller]?

MR. GRIFFITHS: No, it is the book of Langbein from 1983 —

THE WITNESS: Which one?

MR. GRIFFITHS: You have referred to it a number of times, Dr. Faurisson. It deals with various documents having to do with gassing, Langbein and twenty-one others, published last year. {2669|2670}

THE WITNESS: Yes, I see.

MR. GRIFFITHS: It is in a book.

THE WITNESS: But I think that the dimensions are not given.

MR. GRIFFITHS: It's clearly smaller than this, but even the dimensions are not given.

THE WITNESS: That is a very important point.

MR. CHRISTIE: Excuse me for interrupting this conversation, but what I propose to do, and I agree and I appreciate my friend is trying to help, what I propose to do with my friend's consent, perhaps, is to introduce these for identification, at which time, as at such time they may be useful to the accused, he may say that he has seen these, and if he ordered the production of the model from them and then they would not be introduced to prove the truth of their contents, but merely that the models were made from the plans that this witness has identified as having obtained from Auschwitz Museum.

THE COURT: It sounds reasonable with me except for the fact that the witness does not want to let them out of his hands. I imagine you have access to a printing plant that could make copies of this so that there could be no problem there.

MR. CHRISTIE: I think we can solve that.

THE WITNESS: May I say something? A copy would be bad. For this plan you cannot have a good copy of this plan. It's not possible.

MR. CHRISTIE: All right. I think we {2670|2671} can solve this problem by copies, since the Crown apparently doesn't dispute the authenticity as described by the witness of the plans.

THE COURT: What other problems do you have?

MR. CHRISTIE: None that I am aware of on this issue.

THE COURT: What is the next issue?

MR. CHRISTIE: Then I'd like to show the slides and ask Your Honour if I might show them to the jury. So if we could set up the projector . . .

Your Honour, for the benefit of this short interlude, I have prepared a description of each of them.

THE COURT: Now, these are slides 1 to 8 of the American gas chamber?

MR. CHRISTIE: Yes. I thought we could go through them very quickly. Can I start with them?

— Slides being shown to the Court on projector.

MR. CHRISTIE: This, as it says on {2671|2672} the document, Your Honour, is a photograph of an American gas chamber at Baltimore, Maryland. Another photograph of the door. That's a photograph of the chair for the execution of the person. And the door to the gas chamber. Another shot of the door to the gas chamber. The venting system for the gas chamber, and the scrubber for the hydrocyanic acid after the execution is complete. That's indicated on the slide as an area where the medical personnel conduct their examination; That's a further photograph of that.

This is photograph No. 10 on the list. It says, a sample of Zyklon-B containers. This is from a textbook on the use of Zyklon-B which shows how it is used for various other purposes than delousing ships, fumigating ships, fumigating other things from a German text.

This is the fumigation of a building – preparation for the fumigation of a building.

This is slide 15. They're all numbered Your Honour as on the list. I will read off the list, if I may.

That's the gas chamber of a modern delousing plant, the doors that we intend to show, in {2672|2673} 1942, Your Honour, from texts of that year. These are examples of fumigating processes.

THE COURT: Just a moment. What did you say from 1942?

MR. CHRISTIE: Slide 15 is from a textbook and identified on the list, and page 32, photo 17, gas chamber of a modern delousing plant from the text on Zyklon by G. Peters indicated previously.

Slide 16 is from that book as well, the gassing – no. This is slide 17.

THE COURT: I missed 16.

MR. CHRISTIE: I will go back, sir.

That's sixteen, showing the compartment for gassing a van in a chocolate plant. That's from the same book.

Then this is 17, for the delousing or fumigation of a train. This is from the same book.

Slide 18, a Zyklon Booklet, 1972, front cover, showing various uses of the Zyklon.

Slide 19, Zyklon tins with gas-impregnated material, granules and discoids. The discoids the book describes as being used in conjunction with the use of the gas.

Slide 20 depicts the gas, use of hydro-~~{2673|2674}~~gen cyanide for gassing foxes in burrows.

Slide 21 depicts the gassing of a ship, feeding Zyklon discs into the hold. In Germany port regulations prescribe personal supervision by public health authorities.

Slide 22 is an aerial photograph from Washington taken in 1944. A description is not listed, Your Honour.

Slide 23 is another aerial photograph of Auschwitz I and its extension, workshops, etcetera.

Slide 24 is the aerial photos of Auschwitz II or Birkenau showing the road continuing between Kremas II and III on the left. It's rather dark; unfortunately the light being on it is hard to see that, but it is quite clear if the lights were darker. It shows Kanada and a sauna, taken June 26, 1944.

Slide 25 is an aerial photo of August 25, 1944, showing Kremas II and III on either side of the railroad tracks, and in the description of Professor Hilberg at the preliminary, he says the people are going in the direction of the crematoria in this depiction. {2674|2675}

Perhaps, Doctor, you could point that out just for the record. That is described by Dr. Hilberg in his testimony at the preliminary, but we haven't – and the crematoria are on either side, as described by —

THE COURT: What about his testimony at the time?

MR. CHRISTIE: He referred to aerial photographs as being a source for the belief in gassings, but he didn't – because we couldn't show the slide, I didn't put it to him.

THE COURT: All right. Go ahead.

MR. CHRISTIE: Yes, sir. Slide 26 is obscure, but it is a plan of Auschwitz I from the archives. It is already in evidence.

Slide 27 is Auschwitz Camp, a street. From the Museum Archives. It shows the large brick buildings in Auschwitz I.

THE COURT: What Museum Archives?

MR. CHRISTIE: Auschwitz Museum Archives. That was slide 27.

Slide 28 is Birkenau liberation day, 27th of January, 1945, from the Auschwitz Museum Archives. Depicts the people leaving the camp. The {2675|2676} same as slide 27, it is obscure, but you could see the faces if it were clear.

Same with slide 30. This is from the Auschwitz Museum Archives, 27th of January, 1945.

Slide 31 is From Auschwitz-Birkenau. People liberated. From the Museum Archives.

Slide 32 is a photo from the museum archives in Auschwitz of the Monowitz factories.

Slide 33 is another shot of the Monowitz factories of June 1944 taken from the Durrfeld file in the National Archives in Washington.

Slide 34 is Auschwitz I, Krema I, which is the outside view taken as a photograph by Robert Faurisson, 1976.

Slide 35 is Auschwitz I, Krema I, chimney. A photograph taken by Robert Faurisson 1976.

MR. GRIFFITHS: Excuse me. You are saying Krema I. I assume this is the crematorium in Birkenau.

MR. CHRISTIE: No. Auschwitz I, Krema I. That is why the first Krema mentioned in Birkenau is called Krema II, III, IV and V. In both camps. We are looking now at the chimney which is slide 35. {2676|2677}

Slide 36 is again Auschwitz I, Krema I. Door closed. This is the entrance door to what is called of the gas chamber. Photo by Faurisson, 1976.

Next slide, door open.

Next slide furnaces inside that building. Again, Faurisson 1976.

Slide 39, Corpse carrier which puts the corpse into the furnace.

Slide 40 is a furnace opening showing the side referable [sic] to the number of bodies that could be cremated at one time.

Slide 41 is the rear of a furnace with the coke and ashes.

Slide 42 is the east door, again the entrance door to what is known as the gas chamber.

Slide 43 is a view of the gas chamber, easterly direction.

Slide 44 is another view of the gas chamber to the entrance to the crematoria. The entrance to the crematoria is on the right, as you can see on the slide. And all these are taken by Robert Faurisson.

Slide 45 again is the west view. That is the west view looking towards the entrance door. {2677|2678}

Slide 46 is Plan No. 1 until July 3 from the Auschwitz Museum Archives of Krema I which we were just looking at. That is the plan of the same building until 1943. Plan No. 2 ...

Do you want to say something, sorry, Doctor?

THE WITNESS: I don't know. Am I allowed to say something?

MR. CHRISTIE: Go ahead.

THE WITNESS: I need the previous one. The place is called Leichenkeller, which means mortuary. It is dead end. There is a washroom. There is a place called the exposition of the coffin. There we have the ovens. There the place for the coke.

MR. CHRISTIE: Coal, the fuel.

THE WITNESS: Coke. The fuel, yes. This is for the urns, the urns for ashes, and this for the coke.

MR. CHRISTIE: All right. Are you reading off the descriptions on the plan?

THE WITNESS: Yes. I translate those German words.

MR. CHRISTIE: They are depicted on {2678|2679} the plan in German, right?

THE WITNESS: Yes.

MR. CHRISTIE: The witness has just described the process. That was slide 46.

Looking now at slide 47 is the second plan of the same building from April 1944 from the Museum Archives from Auschwitz. This is Auschwitz I, Krema I, and it will show some alterations on the original plan.

THE WITNESS: It has been, the place has been transformed to be an air shelter with surgical operation rooms for the S.S. hospital, which is at something like fifteen, twenty meters there. They open the door there with a little vestibule. Then you have different rooms, like in an air

shelter, with this disposition, [sic] a long wall, a short wall, a long wall, in zigzag. Then the operating room, the surgical operation room. All that is suppressed, not used.

MR. CHRISTIE: So the crematorium was no longer used.

THE WITNESS: We should, today, visit this.

MR. CHRISTIE: Okay. 48 is an {2679|2680} opening on the roof with twisted iron, and another photograph by Faurisson in 1976 showing the entrance to which the Zyklon is supposed to have been brought.

49 is another photograph taken by Dr. Faurisson. I think you are in the picture, Doctor, lifting the lid on the entrance to the alleged gas chamber.

50 is the shot of the opening in the roof taken again by Faurisson.

51 is a slide of a photograph in the Auschwitz Museum showing the orchestra in Birkenau referred —

THE WITNESS: No. In Auschwitz.

MR. CHRISTIE: In Auschwitz, excuse me, referred to by Fania Fenelon. Am I mistaken, Doctor?

THE WITNESS: Yes, Fania Fenelon is in Birkenau, of women, forty-three women.

MR. CHRISTIE: 52 is Birkenau, the fumigation chamber. A shot by Faurisson.

This, Doctor, I gather, was for fumigating clothes, is that right?

THE WITNESS: Yes. {2680|2681}

MR. CHRISTIE: You can note the door similar to the door in the gas chamber in Maryland. This is another shot of the same fumigation chamber taken in the opposite direction from the other side. We would be showing the clothes hangers that were rolled into these chambers.

Slide 54 is a slide of the map from *Hefte von Auschwitz*, a book showing the Sportsplatz not indicated.

Slide 55 shows the Sportplatz indicated with "SP" as a designation being pointed to by Dr. Faurisson at this moment.

Slide 56 is another plan. All of this comes from the Auschwitz Museum Archives. This is a plan showing the location of the two crematoria, II, III, IV and V.

This is 57, the plan of crematorias. No, excuse me. Plan showing crematorias II and III in more detail showing the road going in and out of the camp.

Slide 58 is the arrival view of the entrance door to Auschwitz-Birkenau.

This is taken from the Museum Archives in Auschwitz. This is Birkenau, {2681|2682} rather.

Slide 59 shows the arrival. The chimneys of Kremas II and III are shown on the photograph at the far end of where the train is going.

Slide 60 is taken from the crematoria with a woman with a scarf, and the crematoria in the background is Crematoria III.

THE WITNESS: And Crematorium II is there.

MR. CHRISTIE: This photograph is taken from the entrance of Crematoria II. Slide 61 is Crematorias II and III, nearly —

THE WITNESS: II or III.

MR. CHRISTIE: II or III, because the plan is the same taken from the Auschwitz Museum, nearly finished construction.

Photo 62 is in Pavillion No. 4. This, we have an enlarged photograph of this model from the crematoria from the Museum in Auschwitz that I hoped to introduce because it shows what Dr. Faurisson says is an impossibility in the story.

THE COURT: That is a picture of what — a model? {2682|2683}

MR. CHRISTIE: Yes.

THE COURT: Is that the model you had made?

MR. CHRISTIE: No. That is a model of the Auschwitz Museum of Birkenau.

THE WITNESS: Auschwitz I.

MR. CHRISTIE: Sorry. And this is what the authorities say people went first to take their clothes off. And then there is Leichenkeller I where people were supposed to have been gassed. So if I can go back one, Leichenkeller No. 1 being shown there and Leichenkeller No. 2 at the other end of the building where the people are supposed to have taken their clothes off.

Now, this is slide 62, in Pavillion 4, the model of Crema II, same photo-

graph by Faurisson.

63 is the same model from the same place, a photograph taken by Faurisson showing the alleged gassing procedure. Here the underground mortuary No. 2 is shown as an undressing room.

THE WITNESS: No.

MR. CHRISTIE: I'm sorry. This is the next slide over. So here underground mortuary No. 1 {2683|2684} is shown.

This is 64, as an alleged gas chamber, and it shows piles of corpses inside the Leichenkeller No. I of Crema II. And Dr. Faurisson is pointing out the lift. There's one lift on the plan. And then he is pointing out now the ovens on the next floor up. The plans indicate that the Leichenkellers I and II where the gas chamber is supposed to have been were underground.

Now, 65 is a plan of Crema II showing the furnaces, the center smoke channels. This is taken from the Museum Archives in Auschwitz I. These are the furnaces allegedly in the crematoria in Birkenau.

Slide 66 shows Crematorium II cross-section, which is just from the plans that we have. The door of the underground mortuary is indicated by Dr. Faurisson in his demonstration, and that's from the Museum Archives.

Slide 67 is from Birkenau, Crematorium II and I. Chimney, smoke channel. From the Archives. Showing that from the furnace to the chimney is a long — well, the dimensions are on it, and of the chimney.

Slide 68, Crema II or III, engineers and workmen. This is an exhibit from the trial of {2684|2685} Dejaco and Hirtl [Ertl] from the Museum Archives.

THE WITNESS: No. The architects were Dejaco and Hirtl. It comes from the files of the Auschwitz Museum.

MR. CHRISTIE: Thank you.

Slide 69 shows Kremas II or III, the five furnaces now finished, from the Museum Archives.

Slide 70 shows Crema IV, people strolling around Crema IV, from the Museum Archives.

THE WITNESS: And the gas chambers are supposed to be there.

MR. CHRISTIE: That is supposed to be the gas chamber on the left of Crema IV.

Slide 71 is liberation in Auschwitz, a picture of old ladies, from the Museum Archives in Auschwitz.

Slide 72 is liberation of children from Auschwitz, from Klarsfeld's book, "Memorial".

Slide 73 is taken by Robert Faurisson. It shows Crema II, ruins of the underground mortuary No. 2, which was in the authoritative text, is referred to as the changing room, and it shows that the ceiling of {2685|2686} that building was supposed to be at ground level.

74 is taken by Robert Faurisson. Four photos of the Hartheim Castle with how many people were supposed to have been gassed in this room.

THE WITNESS: From one million to one million and a half. Franz Zereiss [Ziereis] in Mauthausen.

MR. CHRISTIE: Franz Zereiss is supposed to have said this being the commandant of Mauthausen. The gas chamber and the entrance itself.

THE COURT: I'm sorry, is Hartheim a subject brought up at all in Exhibit No. 1?

MR. CHRISTIE: Yes, it is, sir, indirectly, because it says that Mauthausen was not an extermination camp, whereas Zereiss, he swore that people were gassed, this is supposed to be where they were gassed.

THE COURT: At what page? You'll get that later.

MR. CHRISTIE: I think this is Slide 75 showing another four views taken by Dr. Faurisson in Hartheim Castle.

THE WITNESS: The gas chamber there, there, there, and this is the door seen from the {2686|2687} corridor with two little openings and a glassing.

MR. CHRISTIE: Yes, two little openings and a glass. This is supposed to be the gas chamber at Hartheim Castle reported by Zereiss in his affidavit through Marcelek [Marsalek] at the International Military Tribunal where he was alleged to have been shot three times and died be-

fore morning.

This is a very obscure view. It is of Stutthoff-Danzig, the alleged homicidal gas chamber. Dr. Hilberg said he did not believe there were killings.

THE COURT: This is evidence[ ] in reply of that, saying there were gasings.

MR. CHRISTIE: Yes. It's to say that now there is dispute about, between Hilberg and other authorities about Stutthoff-Danzig having gas chambers. It is to show that allegations of gas chambers throughout history have changed, and now not everyone is in agreement. That is what it is showing.

I see there is one more photograph. This is the one that was shown to the jury, showing Commandant Hoess with his back to the brick wall in the top, and Colonel Draper, and the caption in the book of – excuse me, I don't know who, what books – {2687|2688}

THE WITNESS: "Blind to Murder" by Tom Bower.

MR. CHRISTIE: "Blind to Murder" by Tom Bower. This shows that Colonel Draper has just obtained, secured the confession of Commandant Hoess in this picture. And the one below is Commandant Kramer and a woman who was later hung, by the name of Dreis. All three of the people in the picture other than Colonel Draper were eventually hung. That is the slide projection.

I guess that is another close-up, trying to show Commandant Hoess, his expressions and his demeanour in captivity.

And those are the slides.

My request, for the record, is that Dr. Faurisson be permitted to show the slides that he actually took. The reasons why I wanted to show the ones about the American gas chamber, Your Honour has already heard. The listing I think will help Your Honour. I don't know if my friend now has one, but I can get one right away.

THE COURT: Please be seated for a moment, Dr. Faurisson. {2688|2689}

— The witness stands down.

MR. CHRISTIE: With the exception of the slide showing Commandant Hoess, all the slides are listed in the list of slides that I have provided.

In essence, Your Honour, the reason for these slides, especially the one that Dr. Faurisson took at Auschwitz, is to demonstrate his reasons for disbelieving that these items, places, were used for gassing, and they are taken by him in his ten-day visit in 1976.

The reason pertaining to Hartheim Castle is to show the implausibility of the story itself as it was accepted in 1945.

The argument of the defence will be that we have no more reason to believe the gas chambers in Auschwitz than we do the ones we used to believe in Hartheim and Dachau. That's the ultimate culmination of the argument of the defence in its essentials.

So I think I have said all I need to say about the reasons why we wish these exhibits to be introduced.

THE COURT: Mr. Griffiths?

—— {2689|2690}

MR. GRIFFITHS: Thank you, Your Honour.

Your Honour, I confess at the outset it's hard to look so quickly at seventy-seven photos and decide which ones, if any, should be admissible, or that I would be objecting to. I have a difficulty, Your Honour, with photographs taken from the Auschwitz Museum or of official sources of individuals, people, things going on in the camps.

THE COURT: Difficulty agreeing or disagreeing?

MR. GRIFFITHS: Difficulty [sic] agreeing, because I don't know when they were taken, or where they were taken, and the when is important, Your Honour, as we've heard other evidence. I don't think Dr. Faurisson would disagree from his studies the camps underwent changes; they were non-existent in 1940 and they were built in stages. At what particular stage the camp was at at any given time makes a considerable difference as to how the photograph, I would suggest, is being interpreted. And without the information as to at least the year the photo was taken, then that becomes problematical that it is not misunderstood by the jury. The photo, {2690|2691} in short, would not speak for itself. It may well speak to conditions at some time in the camp, but I

am not sure how valuable that would be without putting it into context.

The photographs showing the various uses of Zyklon from a German text, I am not unaware of the role[ ] that plays in the defence and I would not object if they wish to indicate the different delousing procedures through those photographs. I am not objecting to those photographs.

I'm sorry, Your Honour, I believe that would be photographs 10 through 21. No objection. Photographs 22 through 25 are aerial photographs taken from several different days. We have in, evidence now, I don't know whether it's one and the same photograph or not, but we have in evidence now a photograph with an interpretation report attached to it which is from the National Archives in Washington, and I believe that some of the photographs where they are reproduced in 24 and 25, maybe Mr. Christie can help me, are from that exhibit.

MR. CHRISTIE: Yes, they are, Your Honour. And the only reason we hope to introduce them {2691|2692} is to explain the theory of the defence in relation to them so that the jury can see the one thing at the same time. It is not particularly new from our position.

It's quite obviously just an expansion for the purpose of the jury being able to see and have certain things pointed out to them.

It may be that in view of the lighting conditions, that may not be very helpful anyway, but that was our intention. We can still see what I think we wanted to point out.

MR. GRIFFITHS: Thank you, Mr. Christie. I think the photographs and the sources of the photographs are sufficiently identified that they would come within the parameters of the best evidence rule and of earlier rulings of Your Honour, and I have no objections to those photos as long as they are the ones in the Archives, same photos. And I think Your Honour's ruling is that it should be the entire photo. The context is clear.

As I looked at those, I thought that that wasn't what was there, the entire photo.

Slides 26 and 27 – I'm sorry, 26 is a plan. I think we already have that in evidence. {2692|2693}

MR. CHRISTIE: Yes, we do.

MR. GRIFFITHS: Photographs 27 through to 31 are photographs said to be – I am not disputing that they are from the Auschwitz Museum, and I would object to those on the basis that I have already indicated for photographs.

The same, Your Honour, with 32 and 33. I'm sorry, 33, is that a photo or a map?

MR. CHRISTIE: That's a photograph.

MR. GRIFFITHS: Numbers 34 through 53 are Dr. Faurisson's photos at Auschwitz I, and as I understand the evidence, the area said to be a gas chamber in Auschwitz I has gone through a number of transformations since it was used as a gas chamber, and if Dr. Faurisson is able to indicate that to the jury, whether or not these are the same photographs he's taking, are the same building, space that would have been there in 1943, '44, then I am content that those photographs go in. I'm not sure whether or not that can be said if there have been substantial changes; then I think they are misleading and they should not go in.

54 through 57 are some plans, and as long as the plans are identified, as I know my friend is {2693|2694} able to do, then I have no objection to those matters.

THE COURT: As long as ...

MR. GRIFFITHS: As long as they are properly identified, whether they are draft plans, final plans, what-have-you – where they come from.

58 through 61 are again photographs, and I would object to those for the reasons indicated, and those are from the Museum, from the Archives.

62 through 64, I believe, are the models, and I have no objection to that being shown. 65 through —

MR. CHRISTIE: That was 62, 63, 64?

MR. GRIFFITHS: I believe so. That is what I have indicated, that that is a model from the Auschwitz Museum. I have no objection to that.

65 through – some of these are plans and some are photographs. Can

you tell the difference, Mr. Christie?

MR. CHRISTIE: Yes. 65 is a plan of furnaces. 66 is a plan. 67 is a plan. 68 —

MR. GRIFFITHS: I think that's the photo, then.

MR. CHRISTIE: That's the photo. {2694|2695}

MR. GRIFFITHS: Right.,

MR. CHRISTIE: The difficulty I see with my friend's position on 62, 63 and 64 is that the model shows the theory of the gas chamber all right, but Dr. Faurisson would want to explain why he considers that an impossible problem.

THE COURT: I was under the understanding that Crown counsel takes no objection to 62, 63 and 64.

MR. CHRISTIE: Right.

MR. GRIFFITHS: That's what I said, Your Honour.

THE COURT: That's what he said.

MR. CHRISTIE: As long as it can be accompanied by Dr. Faurisson's explanation. I don't know it's sensitive because, you see, he wants to introduce it for that reason.

MR. GRIFFITHS: Well, if that's the reason it is being introduced, Your Honour has already ruled that Dr. Faurisson is not in a position to be able to comment, so I am content that they be kept out. I am in my friend's hands.

THE COURT: It is just as well that {2695|2696} that point was brought up now.

MR. CHRISTIE: Because otherwise it just portrays the theory of the Crown that — without the explanation that defence provides.

MR. GRIFFITHS: Thank you, sir.

62 through 64 would not be proved, then, in that case, and I would not have to state my position on them.

MR. CHRISTIE: Through this witness.

THE COURT: Yes. That's correct. 65 through 68 will be covering Mr. —

MR. GRIFFITHS: I think, Your Honour, 65 through 67 are from plans, and I believe they are close-ups of the plans that we have here and I have no objection to that.

68, Your Honour, through 73 are photographs taken and I do object to those. They are said to be from the Archives, rather.

74, 75, Hartheim Castle, I have no objection to those going in through Dr. Faurisson, and again, my understanding is that somebody else will be interpreting those.

THE COURT: Is that correct? {2696|2697}

MR. CHRISTIE: Well, I don't think so. I mean, I don't understand that he cannot say what Franz Zereiss says, which he did say and was introduced through the affidavit of Marcelik [Marsalek] at the IMT about that mass gassings at — I mean, there is not much point unless he says that he understands about it from his research from IMT and other sources.

I realize my friend wants to keep out the explanation, and I understand why, but there is a reason why the defence seeks these exhibits, to demonstrate his theory that the supporting evidence for this allegation is suspect, and it was a false allegation at a time when people believed it. That's why — I mean, that is why I want to introduce 74, 75 and 76, to show the inconsistencies of the story of extermination.

If Dr. Faurisson cannot say anything about these things, if we are going to run into that problem, then I can't see the point of introducing any of them, but surely he should be entitled to say what the theory of extermination is from what he photographed, from the literature publicly available from the International Military Tribunal and other publications. That is why I would like that explanation accompanying those {2697|2698} photos.

MR. GRIFFITHS: Sorry, Your Honour, that is the field where Dr. Faurisson has been qualified and I don't dispute the Court's ruling. If the intent is to show a photograph of a room at Hartheim Castle and say, "This is where Zereiss said this happened and somebody else said this happened, and somebody else said the other thing happened", then that is perfectly within Dr. Faurisson's competence as found by the Court. And that is in a legal sense and the only way I mean that. But if he wishes to use them to demonstrate, well, because

there are these many windows then it can't be a gas chamber, then that is not within his field of competence and I would object.

THE COURT: I have the point.

MR. GRIFFITHS: And Struthoff [sic] and Danzig I take no position on, Your Honour. I don't think that it's been an issue in this trial, but if my friend thinks it is, I take no position.

—— {2698|2699}

#### RULING

THE COURT: The ruling is that the photographs that Dr. Faurisson obtained from the camp in question, Auschwitz, do not speak for themselves. Crown counsel is correct. There is no accompanying evidence to indicate changes. There is plenty of evidence that these camps, including the one we are talking about, were in various stages of construction progress at various times.

Photograph numbers 1 to 9 are irrelevant. They are forty years out of date. They will not be admitted.

Photograph numbers 10 to 21 will be admitted. It seems to me superfluous to admit three more, there already being aerial photographs in evidence. I will hear more submissions on that. I am not ruling that out.

The plan of Auschwitz, number 26, will be admitted. Photograph numbers 27 to 31 will not be admitted. The same with 32 and 33. Numbers 34 to 53 I want to hear more argument on after lunch, provided that 54 through and including 57 are going to be identified by the witness in a proper way. That can be covered by {2699|2700} counsel between themselves and I can be informed at two o'clock. They will be admitted subject to that caveat.

Photograph numbers 58 through to 61 will not be admitted. Photograph numbers 62 through to and including 64 will not be admitted. Photograph numbers 65 through to 67 will be admitted. Photograph numbers 68 through to 73 will not be admitted. Photograph numbers 74 through to 78 will not be admitted.

In my view, 77 and 78 are totally irrelevant to the essential issues this jury must decide, and 74 through to 76 are so remote that they are irrelevant. I will hear submissions at two o'clock on what I have left outstanding.

— Luncheon adjournment.

— Upon resuming.

THE COURT: Yes.

MR. CHRISTIE: Your Honour, I have had the opportunity to consider your earlier remarks and the position of the defence in the matter. Unfortunately I have concluded that to introduce the evidence in the abridged order attenuated form that is suggested by Your {2700|2701} Honour or by the Crown would render it meaningless, and we do not desire to abridge the evidence of Dr. Faurisson in such a way that he cannot express the reasons for his conclusions from the evidence that he has accumulated.

Your Honour's indications regarding the relevance of some of the exhibits would tend to indicate that the theory of the defence is irrelevant on the points that we had hoped to prove through these exhibits. I'd like to put on record my position on that. Although time changes, by common sense and practical knowledge the jury could consider that the chemical properties of gasses and poisons do not change. This is not to say that I would be asking for Dr. Faurisson to testify about the chemical properties of those gasses which would be required of an expert, but I was hopeful that Your Honour would consider that he could describe the precautions taken in the ordinary and customary manner of use to protect against those chemical properties, such as might be the case if someone testified about the dangers of or the consequences of misuse of other items of poison, not necessarily describing the chemical constitution or professional knowledge of {2701|2702} those. And for these reasons I do not propose to put Dr. Faurisson in the position of communicating the slides in the abridged manner suggested by Your Honour. And I must ask, although I recognize Your Honour will probably feel disinclined to agree, I respectfully request that in view of my submission Dr. Faurisson be permitted to produce the



benefits of his research in such a way that he is not prevented from giving the reasons for his opinion, and I would like to stress that this is regrettably or unfortunately necessary for me to request of you, although I recognize that what you have said earlier probably indicates your disposition towards the matter.

I am not saying this in any way to try to irritate Your Honour, but simply to put on record the position that I must take in the interests of the defence, recognizing as I do that Your Honour may already have expressed your views contrary to this position and I simply put it on the record, because I maintain that it is the right of the witness to express himself in an unrestricted manner on the basis of whatever his common sense from his experience and firsthand observation is, and it was for no other reason that I hoped that he {2702|2703} might testify than to assist the jury with what information he's gathered in a factual way as a supporting basis to the opinions that he has been allowed to express.

I regret that I cannot somehow accommodate the very courteous and generous views taken by the Crown of some of the slides and somehow produce some meaningful evidence from it, having considered that, do not think that possible.

So I will be asking for Your Honour's ruling on the presented evidence as it stands as a whole in view of what I've said.

Now, I understand that pertaining to the plans my friend expressed to me his position that, in view of the fact that I couldn't have made copies of the plans from the approximately forty-five minutes since the break at noon or thereabouts, that he would consent to me obtaining copies tomorrow and filing them.

THE COURT: Yes. That is no problem.

MR. CHRISTIE: Provided that he is given the opportunity which I quite agree to do, to examine both the copy and the originals received by Dr. Faurisson to ascertain that they are true copies. {2703|2704}

Whatever elements I may be able to accomplish from those exhibits would only be later possible, in any event, by the fact that this would be marked as a lettered [sic] exhibit for identification, and so I, in view of that, will be closing my examination of Dr. Faurisson and asking for Your Honour – well, I shouldn't say – excuse me. I would ask Your Honour's ruling pertaining to the proposed exhibits that I have showed in the voir dire.

THE COURT: I am a little confused. First of all, I must observe one thing, that full answer and defence does not necessarily include the unrestricted right for him to express himself or herself.

Now having said that, Mr. Christie, give me the request again. You want me to rule on what I thought I had, but I will be glad to listen to you. What do you want me to rule on?

MR. CHRISTIE: I have to take the position, Your Honour, in light of what I have discussed with Dr. Faurisson about his reasons and about his examination of evidence ...

THE COURT: I understand that. {2704|2705}

MR. CHRISTIE: ... I must take the position that either he is allowed to express his views in a logical manner as he says it, at least, upon all the slides that he has prepared from his own observations and research, as well as his own attendance on the scene, or he can make no meaningful sense out of the few or whatever number Your Honour has expressed a willingness to allow.

So I am asking you, then, to rule on the integrity of the exhibit as offered, and I cannot take the position that we are able to make meaningful sense out of the exhibits otherwise.

THE COURT: Ruling on what exhibit? I have a list here.

MR. CHRISTIE: Yes. I am asking that Your Honour permit me to allow Dr. Faurisson to testify upon the full extent of his research on those points.

THE COURT: I have it now.

MR. CHRISTIE: And in view of the fact that otherwise he cannot express himself in a manner that is rational and comprehensible. I must not and cannot edit what he considers necessary to make {2705|2706} sense out of his opinion.

Thank you.

MR. GRIFFITHS: Your Honour, with respect to Crown's position, full

answer and defence does not include inadmissible evidence. We are all bound by the rules of evidence, and there are certain matters that are inadmissible, it doesn't matter whether it is important to the Crown or important to the defence. It can't go into evidence. Those are the rules we live by.

I have made my submissions as to the admissibility and the relevance of certain of these slides, and the reasons why I would request that they be ruled inadmissible, and I would suggest that if the ruling that Mr. Christie is seeking is for all or nothing, I would ask you to rule nothing, because there are matters within those seventy-seven slides that, in the Crown's position, are inadmissible, and the fact that there are some that are admissible doesn't render the others admissible.

MR. CHRISTIE: Since I have the last word on the point; being my application, I would like to say that I maintain that they are part of the {2706|2707} Doctor's research that included not any expert observations on gas chambers, but firsthand, physical ones. And finally, that it being part of his research and part of the basis of his opinion should be admitted as part of the truth thereof, even though it doesn't involve hearsay, I suppose, in a sense, as other experts are able to express that.

Secondly, it is the basis, and Dr. Faurisson has said it was the basis of communications between him and Ernst Zundel directly upon the subjects depicted in the photographs, and whether it was to prove the truth of Dr. Faurisson's opinion or to prove the reasonable basis of Ernst Zundel's opinion, it was an opinion expressed, whether it was expert or otherwise. It would still be up to the jury to decide whether it was a reasonable opinion, and to hear that issue out, it should be open to them to hear what that opinion was and how it was derived, even though it wouldn't be considered an expert opinion.

I think this aspect of the case is also important because it will be the position of the defence that it's not just Ernst Zundel who forms these opinions and the source of his opinions and the method {2707|2708} by which he derives those opinions and others derive those opinions and it should be open to the jury to see, to assess whether they are, first of all, reasonable and therefore honestly held, or not, and that's why I submit that even though, as an expert, Your Honour might have decided and did decide that he is not qualified to speak about gas chambers, he nonetheless could give firsthand observations thereon for his own opinion; and secondly, even if he wasn't able to give those opinions as an expert, the fact that he did and he has sworn to conveying that information to Mr. Zundel should put it into another classification, so to speak, not of hearsay but to prove the truth of its contents, but of evidence that proves that the statement was made and, indeed, what the statement was. Not the proof of truth of its contents, but to prove that it was the honest belief of the accused that it was true.

I might argue, just briefly, by analogy, that if, for example, the charge – and I hope no one will snicker to this suggestion because it is only by analogy – but if, for example, the charge was possession of stolen property, the quality of having possessed it and knowing it to be stolen being the {2708|2709} issue it will be my submission that the accused can call the witness to say that he told the accused that it was not stolen. If the allegation is that the accused holds a belief and says that he has acquired it or that Dr. Faurisson provided it to others, it should be permitted to lead evidence from those other people that on given occasions they did provide such and such information to the accused. This would be relevant to the honesty and veracity of his belief.

It could also, indirectly, I concede, tend to give the jury reason to believe that it was the truth, but that is not the fault of the accused that the law, in my respectful submission, could have that effect. It, indeed, does, in my respectful submission, have that possible effect only because of the convoluted nature of the charge at bar, because it is not an act or the knowledge of an event or of history that is at issue but the honest belief of the accused as well.

And for those several reasons I submit that Dr. Faurisson should be entitled to give his unabridged opinion, however Your Honour may have held that he was unqualified in some aspects of that opinion in your earlier ruling. Thank you.

—— {2709|2710}

# RULING

THE COURT: Before the luncheon recess counsel for the accused, examining in-chief his own witness, Dr. Faurisson, provided the Court with a three-page typed itemized list of proposed slides, photographs and the like which, subject to the order of the Court, he proposed to put to his witness.

Those slides, photographs, maps and plans are on a list and numbered chronologically from 1 to 78. I have seen the projection on a screen of all of this material. I heard submissions before lunch with respect to the admissibility or otherwise of all of it.

I ruled before lunch, after hearing submissions, on what may be put in front of the jury through this witness by counsel for the accused and what may not. I was specific in all of the items with the exception of one or two, upon which I had expected to hear submissions after lunch.

It is now after lunch. The jury is still absent. Mr. Christie, over the luncheon hour, has informed me that he takes the position that it is all or nothing. That simply means that he should have, in his submission, full answer and defence totally unabridged of all of the items. If he cannot have that, {2710|2711} his position is very simple; he has elected, as I understand it, not to lead any of these items.

He now invites my ruling on the matter. I am distinctly under the impression that I had already given a ruling before lunch. I have ruled, and I have no intention whatsoever of changing my mind one way or the other.

If Mr. Christie wishes to elect to not lead any of it, then that is up to Mr. Christie and not up to the Court. I have nothing further whatsoever to say in a more formal way other than what I have already stated on the record. Full answer and defence does not necessarily include the unrestricted, unbridled right of any witness to express his or her opinion.

The evidence is either, as a matter of law, admissible or it is not. I have made those rulings. That is the end of what I have to say.

THE COURT: Bring back the jury, please.

MR. CHRISTIE: I have just one further question of Dr. Faurisson and I will be finished. {2711|2712}

THE COURT: Thank you. The list will be marked as a lettered exhibit for identification.

— EXHIBIT "S" (For Identification) List of Slides.

— The jury enters. 2:25 p.m.

— The witness returns to the stand.

THE COURT: Yes, Mr. Christie.

Q. MR. CHRISTIE: Dr. Faurisson, have you been able to provide all the reasons that you know of for your disbelief in the gas chamber?

A. No.

MR. CHRISTIE: Thank you. Those are my questions.

THE COURT: Yes, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

# CONTINUED CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Mr. Faurisson, will you give us your opinion as to how many Jews died as a result of the action of the Einsatzgruppen, the special action groups?

A. I have no answer about that. I {2712|2713} said the figures that I was supposing right for the concentration camps and specially Auschwitz. I didn't say anything about the Einsatzgruppen or about any slaughters or about any pogrom or about any Jews who died in prison.

Q. Is that an area that you've researched?

A. I've been interested, yes, in this, but I specialized myself in what I consider as the cornerstone of the Holocaust belief.

Q. Dr. Hilberg testified here that 1.4 million Jews were shot by groups such as the Einsatzgruppen, and that's the whole area that you, in your study of the Holocaust, haven't even considered; is that right?

A. No, I didn't say that. I considered that, but I didn't make a speciality

of that. I know that —

Q. Have you read the documents on that?

A. Yes. Sure.

Q. All right. Have you read the Stoliker [Stahlecker] report?

A. Stoliker or Yager [Jäger], yes.

Q. Can you tell us what the Stoliker report says?

A. Yes. That is about the Einsatzgruppen in Russia, but that is not my competence.

Q. You have read the Stoliker report?

A. Yes.

Q. What does it say? {2713|2714}

A. It says so many Jews executed.

Q. How many Jews?

A. I don't remember.

Q. A lot, wasn't there?

A. It is a lot, yes.

Q. Yes. You don't consider that.

A. Oh, I didn't say that I do not consider. I say that I have not studied the question. I told you that I had been interested, this question, and that I found that Sir Reginald Paget had made some very simple remarks which seemed to me important. He has a practical way of studying the question. That is my practical way. As far as the gas chambers I know that books —

Q. We are not talking about the gas' chambers. We are talking about the Einsatzgruppen.

A. No, that is not my speciality. I don't want to go into that.

Q. This book of Paget's that you read, when was that written?

A. '51 or '52 or '53, beginning of the fifties, yes.

Q. Are you familiar with the daily reports filed by Einsatzgruppen?

A. I've seen that also, yes.

Q. Indicating the number of dead killed each day?

A. I've seen that also. I don't know how much those documents are genuine or not. People have studied that. They do not think that it is genuine, other things that they are genuine. {2714|2715}

Q. Who doesn't think they are genuine?

A. Arthur Butz and Mark Weber. There are doubts about those reports. I cannot pronounce them.

Q. Who is Mark Weber?

A. Mark Weber is a historian who is going to publish a book, and he will treat in this book the question of the Einsatzgruppen specially.

Q. All right. And is he a member of the Institute of Historical Review?

A. He works with, but I don't think he is a member. He is in relation with another specialist of this question with Mr. Timothy Milligan of the National Archives, working under Mr. Robert Wolfe. I think that he has also something about that. I am waiting.

Q. Can you tell us how many copies of the daily report were made out and how many survived?

A. I don't know.

Q. You have never seen anything on that?

A. I've seen. I don't know. I don't remember. I took this problem apart, like the question of, I could say, many other questions. The state of the Jews in France, for example. I am French. I should be able to answer about the situation of the Jews in France during occupation. It is an enormous work. I didn't go into it, not really.

Q. Why? I ask you these questions, Dr. Faurisson, because you have been qualified on the Holocaust as a whole, same as Dr. Hilberg. So I want {2715|2716} to ask you about that as a whole.

A. But I say that if you consider the Einsatzgruppen as being a part of this question, that's your opinion.

Q. Well, that's —

A. Myself, I am waiting for real studies about the question.

Q. You are waiting for ...

A. Real studies about that.

Q. Real studies.

A. I mean — yes. I mean something which is based on documents.

Q. Yes. Have you read the work of Helmut Krausnick and Hans Wilhelm?

A. No. I didn't read this book.

Q. So you don't know whether that is based on documents or not?

A. No.

Q. All right. That is a book – you are better at German than I am. Would you read that?

A. The troops of Weltanschauungskrieges [Weltanschauungskrieges]. When I shall have the two sides I will be interested.

Q. And that is published in 1981?

A. Yes.

Q. You will be interested when you have the two sides, but you haven't read this side yet.

A. No, I don't say that even the other side I have not read, really. Even the side of Butz and Weber.

Q. Do you — {2716|2717}

A. I have enough to do with my own problem, you see.

Q. Did you have an estimate as to how many Jews died in the ghettos from your research?

A. No. No. And about the figures, I repeat that I think it is quite possible to determine those figures, and I could tell you even how.

Q. But that's not work that you've done. That's not work that you've done.

A. I have not done this work. I intended to begin this year, but I saw that it was not possible for me to go to the Arolsen Archives because it is the only place, I think, where this work could be done.

Q. You told us in your evidence that various numbers attached to the dead from Dachau.

A. Yes.

Q. And the largest number by far was, as I recollect, 238,000, and then there were numbers that were roughly between twenty-five and thirty-two thousand. Is that fair, Dr. Faurisson?

A. Yes. That's right.

Q. Where did the number 238,000 come from?

A. I have the source. I could give you the source. I think that I gave it. It is in a book of Monseigneur Johann [Johann] Neuhaeusler.

Q. And is he somebody that purports to have studied this?

A. Yes. He has been himself an inmate in Dachau. {2717|2718}

Q. Yes. All right. And you quoted to us a passage from the testimony of Konrad Morgen from the International Military Tribunal trial.

A. Yes.

Q. And that was a passage that talked about the conditions in the camps at the end of the war; is that right?

A. Yes.

Q. And Konrad Morgan is also referred to in the pamphlet, "Did Six Million Really Die?", isn't he?

A. Yes.

Q. Let's see how quickly we can find it here. On page 24 ...

MR. GRIFFITHS: Your Honour, there may be several references. If there are, I will pass the Exhibit No. 1 to the jury.

Q. It's page 24, column No. 2. And about a fifth of the way down there is a sentence that starts, "Occasionally there was brutality, but such cases were immediately investigated", sorry.: "Scrutinized by S.S. Judge Dr. Konrad Morgen of the Reich Criminal Police Office whose job was to investigate irregularities at the various camps."

Is that the same Konrad Morgen that testified at the International Military Tribunal?

A. Yes.

Q. "Morgen himself prosecuted commander Koch of Buchenwald in 1943 for excesses at his camp, a trial to which the German public were invited. It is {2718|2719} significant that Oswald Pohl, the administrator of the concentration camp system who was dealt with so harshly at Nuremberg, was in favour of the death penalty for Koch. In fact, the S.S. court did sentence Koch to death, but – he was given the option of serving on the Russian front: Before he could do this, however, Prince Waldeck, the leader of the S.S. in the district, carried out his execution. This case is ample proof of the seriousness with which the S.S. regarded unnecessary brutality. Several S.S. court actions of this kind were conducted in the camps during the war to prevent excesses, and

more than 800 cases were investigated before 1945. Morgen testified at Nuremberg that he discussed confidentially with hundreds of inmates the prevailing conditions in the camps. He found few that were undernourished except in the hospitals, and noted that the pace and achievement in compulsory labour by inmates was far lower than among German civilian workers."

Have I read that correctly?

A. Yes.

Q. And you have read the testimony of {2719|2720} Konrad Morgen at the International Military Tribunal.

A. Yes.

Q. And wasn't one of the investigations that Konrad Morgen started on an investigation of mass murder and extermination at Auschwitz and Maidanek?

A. No. He made investigation about Koch, I think, and he talked about extermination and all that, sure. But the extermination camp, he put it in Monowitz, nine times.

Q. He talked about Monowitz as an extermination camp nine times.

A. Yes, nine times.

Q. And he talked about Majdanek as an extermination camp, too, didn't he?

A. Perhaps.

Q. All right. Let's just see, and I am going to suggest to you that he also discussed the means of extermination at Maidanek.

A. Konrad Morgen said also stories about the soap stories. You have that in the book of Hilberg. He said many things about that.

Q. We don't find that in the pamphlet here, do we, that he investigated —

A. No. But to see who is Konrad Morgen we need to know that.

Q. Page 492, 493, Volume 20, the International Military Tribunal.

A. That's the story of Wirth.

Q. That's the story of Wirth, Commissar Wirth, is that right? {2720|2721}

A. Yes. That's right.

Q. And he was the man in charge of Maidanek, Wirth was.

A. No. He was the man in charge of Belzec.

Q. Belzec.

A. Yes.

Q. All right. Near Lublin?

A. No.

Q. Where is Belzec?

A. Belzec is down, further down. You have Lublin, Maidanek, Belzec, Sobibor. Near the Russian frontier.

Q. What does Morgen say there in his testimony about what Wirth told him?

A. Do you want me to read? I prefer to read.

Q. I believe it starts where he discusses a Jewish wedding. He found that a very elaborate party was held for Jews.

A. "As I said before, 100 guests participated in this Jewish wedding. What followed was described as quite extraordinary owing to the glutinous consumption of food and alcoholic drinks. Among these Jews were members of this camp guard, that is to say, some S.S. men who joined in this revelry. This report only came into my hands in a roundabout way some months later due to the fact that the commander of the Security Police suspected that the circumstances indicated that some criminal acts had occurred. This was my impression as well and I thought that this report would give me a clue to one of the big cases of criminal {2721|2722} corruption. With this in mind I went to Lublin and called the Security Police there, but all they would tell me was that the event happened at the camp, at the — I will translate it in English — "German Armament Company", or Works, "but nothing was known there. I was told it might be possible rather ... This was the actual term used, camp in the vicinity of Lublin. I found out the camp and the commander who was Criminal Commissar Wirth. I asked Wirth whether this report was true, or what it meant. To my great astonishment Wirth admitted it. I asked him why he permitted members of his camp men to do so, and he revealed to me that on the Fuhrer's order he had to carry

out the destruction of Jews."

The defence lawyer said, "Please go on, witness, to describe your investigation."

Morgen said: I asked Wirth what this had to do with the Jewish wedding. Then Wirth described the method by which he carried out the extermination of Jews, and he said something like this. Want us to fight the Jews with their own weapons, that is to say. Pardon me for using this expression. One has to cheat them. Wirth, in an almost deceptive manner, said that he first selected Jews that would serve as leaders, and then, if that is small or medium small or medium size detachment of Jews, he began to build up the extermination camps. This is an expression invented after the War. He extended this staff of Jews; and with this Jews Wirth himself carried out the extermination of the Jews. Wirth said that he had four extermination camps and that about five thousand Jews, were working at the extermination of Jews {2722|2723} and the seizure of Jewish property in order to induce for this business of extermination and plundering of their race and creed. Wirth gave them every freedom and so to speak gave them a financial interest, in the spoils of the dead victims. As a result of this attitude, this sumptuous Jewish wedding had come about. Then I asked Wirth how he killed the Jews with the Jewish agents of theirs. Wirth explained the procedure that it went off like a film every time. The extermination camps were the neatest of the Government General in forests or inhabited land. They were like a Potemkin village. They thought they were entering a city or township. There was a dummy railroad station. After the escort and trained personnel had left the area the cars were opened and the Jews got out. They were surrounded by this Jewish laboratory and Commissars or one of his representatives made a speech. He said, 'Jews, you were brought here to be re-settled, but before we organize the Jewish State, you must, of course, learn how to work. You must learn a new trade. You will be taught that here. Our routine here is first, everyone must take off his clothes so that your clothing can be disinfected and can have a bath so that no epidemic will be brought into the camp.' After he had found such camping work for his victims they started on the road to death. Men and women were separated. At one place they had to deliver the fur. At the next the coat, collar shirt down to the shoes and socks. These places were like cloak-rooms and a person was given a check at each one so that these people believe that they would get their things back. The other Jews had {2723|2724} to receive the things and hurry up the new arrivals so they should not have time to think. The whole thing was like an assembly line. After the last stop they reached the big room and were told that this was the bath. When the, last one was in, the doors were shut and the gas was let into the room. As soon as they had set in, the ventilators were started. When they could breathe again, the doors were opened and the Jewish were, with a special procedure which Wirth had invented, they were burned in an open air without the use of fuel.

Q. Now, did Konrad Morgen try to investigate that or bring charges?

A. I think that he did investigate that.

Q. He did investigate it.

A. I don't think he did.

Q. And does he explain in his testimony there what his problem was?

A. Yes.

Q. Does he say that it is hard to investigate a Head of State?

A. Something like that, yes.

Q. Meaning Hitler.

A. Meaning that it could not, or something of this kind, because this is very interesting. All the testimonies of Morgen, not only on the IMT but on the Frankfurt trial, are very interesting to study because it is typically the man who says, "I have heard this. This happened." And he says stories that cannot stand up.

For example, he talks about everything, {2724|2725} even about Auschwitz, situating the place of extermination nine times in Monowitz. So there were contradictions also when, in 1963, '65, he went to the Court of Frankfurt, but it doesn't seem by the book of Hermann Langbein that the judge said there is something which does not fit. And the habitual explanation is that I couldn't get into it because it was the big

secret, or I would have lost my life, or things like that.

The question was asked to him.

Q. And would you say that this pamphlet, Exhibit 1, by not including the fact that Morgen tried to investigate those things, would you say that is pretty misleading?

A. Excuse me, I don't understand your question.

Q. Well, there's no reference in the pamphlet here to Morgen trying to investigate the extermination of Jews. Wouldn't you think that is misleading?

A. No, I don't think that is misleading. Myself I have the complete file about Morgen that I wanted to bring for Mr. Hilberg because very often he quotes Morgen. So I have a file on the question and I consider that this file is not interesting whatsoever because this man, Morgen, cannot be believed.

Q. I see. But you quoted us Morgen who cannot be believed.

A. Yes. Excuse me?

Q. You quoted us Morgen, sir, in your examination-in-chief.

A. Yes.

Q. And now you are telling us it is {2725|2726} somebody who cannot be believed. What are you telling us? You quoted us Morgen and Dachau from the end of the War. That was from Morgen's testimony, right?

A. Yes.

Q. Now you are telling us he can't be believed.

A. I say that when Morgen says things like that about the situations of the camps of which we have an amount of proof of what happened at the end of the War, I have no reason to say that this man is lying. Even a liar is not lying at every moment, you see.

Q. Ah, so you used Morgen when you can corroborate him from other sources.

A. Oh, sure. If I have the possibility to see that what he says might be true, I am not going to say that it's not true.

Q. How is that any different from how Dr. Hilberg used the Gerstein affidavit?

A. The Gerstein affidavit, it's quite different.

Q. I'd like to hear about it.

A. We could not have an idea of what was Gerstein. If it was cut into pieces about the extermination story

Q. You cut Morgen into pieces.

A. I didn't cut Morgen into pieces.

Q. Well, some you like and some you don't like.

A. No. I say that when it is a thing like the situation of the German camps were at the end {2726|2727} of the War, I quoted Morgen. I could have quoted anybody.

Q. But you quoted Morgen.

A. I put in Morgen. Why not?

Q. I don't know. You told us before he couldn't be believed.

A. No, I don't say that this man cannot be believed on anything.

Q. You just said he cannot be believed on anything that disagrees with you.

A. No. When he says – it's material that – when he says that, for example, at Bergen-Belsen or so on the situation was dramatic, I cannot not believe that, but when he says that there were extermination camps in Monowitz, I cannot believe it at all.

Q. What about when he describes the extermination process you just read to us?

A. Do you call that a description of an extermination process?

Q. Yes, I do.

A. Stereotypic? He didn't say, he didn't say – he did not say that he has seen that.

Q. No. He heard that from

A. He is repeating something.

Q. But he was trying to investigate it, though, and he couldn't.

A. He said that he was trying to investigate it.

Q. And he couldn't.

A. He said that he couldn't. As we have people like Hoettl [Höttl], Wisliceny saying "Eichmann told me this or that." This case is very

interesting. {2727|2728}

Q. Very. Can you tell us – you mentioned about the changing ideas of the death camps in the West that – you mentioned a number of different camps, Dachau being one of them, Treblinka, I believe – Dachau, Buchenwald, Ravensbrück were the three camps I think you mentioned where there were rumours of gas chambers after the War, and they were not founded, according to the experts.

A. According – yes.

Q. Can you tell me whether there have been any changing ideas about the death camps in the east – Chelmno, Belzec, Treblinka, Sobibor?

A. Yes. For instance, Martin Borchat [Broszat] does not mention, if I remember, Maidanek, Lublin.

Q. Okay. Anybody else?

A. Oh, I couldn't say. I should go through all that and see what says Reitlinger, what says Hilberg, because usually the number is six, but there are not always the six same camps.

Q. What were those camps for?

A. As I told already, we have nothing material about those camps.

Q. Well, did they exist?

A. I'm sure that they exist, and I found very curious that we have not even a plan. We have plans, theoretical [sic] plans, and it seems that they were quite little, those camps. I suppose that when those camps that Himmler called Deutschganslager (phonetic) [Durchgangslager]...

Q. What does that mean, help us.

A. Transit camps, as for the camps of Belzec itself. Hans Frank heard rumours about that and {2728|2729} about that and he went to the place. He said to the International Military Tribunal —

Q. Hans Frank, so that we all knew, was in charge of the German Government in Warsaw?

A. In Poland.

Q. Poland?

A. In Dachau.

Q. Thank you. I defer to you, sir, on that. He was in charge.

A. He was in charge of – and he went and he says, "I went to Belzec because there were rumours. What I saw, if I remember, I saw Jews from France and another country constructing a ditch. I talked to them and that's all what we had." And I suppose that in the forty-three volumes of Hans Frank that I have not read, I suppose that we don't have anything about any of these camps as extermination camps.

Q. Well, we'll come back to Hans Frank. He is not denying that there was extermination of the Jews, annihilation of the Jews?

A. We must take that into time. At the beginning when he was asked guilty or not guilty, he answered as the others. He said not guilty. Then, when Hoess testified the 15th of April, 1945, and when Hans Frank and the others read the Press, the newspapers, Hans Frank was absolutely transformed. He said, "That's awful what you have done."

Q. No. He admitted that he knew about it and he apologized. Is that right?

A. No. I can't recall exactly these words. He was asked, "Are you responsible of the extermination of the Jews?" {2729|2730} And his answer was, it was not yes, it was not no. It was, "I answer yes because I do not want those things to be on the shoulders of little people. I take this responsibility on me." So you have books, books of history, even in university, where it is said the proof that the extermination camps existed, that there was an extermination programme is that Dr. Frank – the title of the Doctor is given at that time, Dr. Frank said that there were exterminations. Germany dirty by that for one thousand years; but I must say also that, at the end of the trial when he had once more the right to talk, remember what he said about what we did to the Jews, and he meant by that extermination, and I believe it that Germany is dirty for one thousand years, but I know what has happened to the German minorities in the East of Europe and I say that that is also dirty.

Q. Well, he wasn't denying what Nazi policies had done to the Jews.

A. We must be quite clear. What do you mean when you say he did not deny what Nazi Germany did to the Jews? What does it mean?

Q. Well, annihilation, sir.

A. Annihilation. Well, I think that he believed, when he heard Hoess,

when he heard others, he said, "It's impossible that it is a lie." That's what —

Q. What happened to Frank?

A. He was hanged.

Q. So his confession cost him dearly, didn't it?

A. Cost him?

Q. Dearly. He lost his life. {2730|2731}

A. No. Nothing to do. I think it has nothing to do. I think that Hans Frank would have been hanged if he had confessed or not confessed. I don't think so. But especially this confession of Hans Frank is so interesting because systematically, we are said, even the German did not deny. I know German people today, there were perhaps S.S. or whatsoever, and they say, "I believe that there was an extermination." If I ask them, "Why do you believe?" They say, "You are not going to say that everybody is lying?" So you have people, you have an example much more interesting, an example of Karl Wolfe. He was General S.S. He was attached to Himmler, and this man, you could see a film where he is recounting the extermination. But Karl Wolfe never heard about extermination before April 1945 when he was in Switzerland negotiating an armistice with the Allied for the German troops in Italy. He said, "That's the first time on the radio that I heard about that." And he believed, and he did a kind of profession about that. Like Speer, Albert Speer.

Q. How far apart were those camps in the east – and I will name the camps that I am talking about: Maidanek, which is close to Lublin, Belzec, Chelmno, Sobibor?

A. Yes.

Q. How big a circle could you draw around those?

A. I could put Warsaw there, Treblinka something like ninety kilometers, Lublin something like 120 kilometers, then there is Belzec. I couldn't get a view of the distance. And Sobibor there, and Chelmno {2731|2732} is something like eighty kilometers east from Poland.

Q. Can you tell me one industry in any one of those camps?

A. I beg your pardon?

Q. One industry.

A. One industry.

Q. Yes.

A. I don't think that there was industry.

Q. I don't either.

A. I don't. I think they were transit camps.

Q. They were all transit camps.

A. I beg your pardon?

Q. They were all transit camps.

A. We have so few documents about that. The most important one is given by the book of Gitta Sereny-Honeyman who interrogated Stangl.

Q. Thank you.

A. And we have the book of Rueckerl, German prosecutor. And there is no substance in those. We would like to have something concrete, not stories.

Q. If they were transit camps, I guess we could assume a large number of people went through there.

A. Yes, I suppose, but I have no proof of that, eh?

Q. Well, you've got S.S. General Stroop who talks about people going to Treblinka, and there were thousands.

A. Yes. For one camp. For Belzec I {2732|2733} don't know. For Sobibor, for Chelmno, what do we know about Chelmno? Mr. Hilberg himself says in Chelmno there were perhaps two or three vents gas vents.

Q. Gas vents.

A. Gas vents, yes.

Q. Now, you had occasion, in your research, to speak to the International Committee of survivors of Dachau.

A. Yes.

Q. And the International Committee of the survivors of, did you say Buchenwald?

A. Yes.

Q. Have you ever spoken to the International Committee of the survivors of Treblinka?

A. No, because —

Q. There isn't one, is there?

A. No, because —

Q. There isn't one, is there?

A. Excuse me, we have in France an association of former inmates of Auschwitz and Upper Silesia, and the contents of Camp of Treblinka, although it is not Upper Silesia.

Q. No. And there's no organization for the survivors of Chelmno or Sobibor or Belzec other than what you told us about.

A. I interrogated in France this association, and I was, as I told you already, I am more interested in what is written than in what the people could tell me. And we are told that there are one survivor or t, two or three for those camps. What do we have?

Q. So — {2733|2734}

A. Gitta Sereny-Honeyman, when she wrote the book tried to find survivors.

Q. And did she?

A. She found perhaps six of them. I don't know.

Q. Out of thousands of people that went through that transit camp.

A. No. People — she said that she found six people. Now, if you go and say to the people, "Were you in Treblinka?" And if these people, this person says, "I was in Treblinka but there was no gas chamber", I don't know, but if it says that, what do you think you will do with your book trying to demonstrate that there were gas chambers?

Q. Well, I am not sure that all scholars ignore all evidence that goes against them, if you are asking me a question.

MR. CHRISTIE: I don't understand what is going on here. Is this an exchange of statements?

THE COURT: No. It is merely the same type of remark that you made during your cross-examinations.

Go ahead.

Q. MR. GRIFFITHS: Your source of figures, as I understand it, for the number of people who died in concentration camps during the War — have I got that right, was it all concentration camps, or German concentration camps?

A. All concentration camps.

Q. Your figure was two hundred or three hundred fifty thousand people? {2734|2735}

A. Two hundred thousand minimum. Three hundred fifty thousand maximum.

Q. That's what I understood.

A. But I didn't publish anything about that.

Q. No. You were asked by Mr. Christie and I am going to ask you about it.

A. For the camps. I don't say for the ghettos. I don't say for the ghettos.

Q. For the ghettos.

A. I don't say for.

Q. For the Einsatzgruppen?

A. For Russia, Poland, I don't know. I talk about the concentration camps.

Q. All right. And your estimate, based on, if I could use the phrase and I don't mean any disrespect, an educated guess, is that for Auschwitz it was fifty thousand?

A. Yes.

Q. Is that fair?

A. Yes.

Q. And as I understood you, you said that the source of your figures was the International Tracing Service at Arolsen.

A. Yes.

Q. Have you ever been to the international Tracing Service at Arolsen?

A. I have never been on this spot, but I have been in correspondence with them. I received their annual activity report.

Q. All right. And is it fair to say {2735|2736} that that is an organization that somebody who was looking for a relative can go and file an index card there?

A. Yes.

Q. And they have, in this day and age, a computer system and if you've lost your family during the War, Arolsen is one place you can find it.

A. That's right.

Q. And that is what a tracing service I means — you are tracing family, people you have lost.

A. Yes. That's right.

Q. Okay. Do you know how many cards are on file there?

A. There are something like forty million cards.

Q. Yes. And do you know how many names, the computer projection of those forty million cards?

A. You mean how they are divided and all that?

Q. No. I will be more precise. There are some forty million cards there. Do you know how many missing people those forty million cards relate to?

A. No, I don't know that, but I am going to, because your question is how do you use those figures given by the International Tracing Service —

Q. Well, that may be my question eventually, Dr. Faurisson. It isn't right now.

A. Okay.

Q. With the report that the Inter-{2736|2737}national Tracing Service sends around is there any warning as to how their figures are to be used or not used?

A. Yes.

Q. Do they not indicate that there are many camps where they have no records at all, including those camps of Auschwitz, Sobibor, Treblinka, Belzec, Chelmno?

A. No. They say since few years, with insistence, that there are people to help families and all that, and they insist that the revisionist people — I am a revisionist — are falsifying what the International Tracing Service is publishing. And up till 1976 I could easily work with those people. I mean, exchange correspondence. They were quite polite and all that. And then, suddenly, their politic change. And now they say they try to say we are among those people who say that the gas chamber existed, that there were million people killed.

Q. Well, aren't they saying you are among those people who are falsifying and misusing their figures?

A. Yes, they said that.

Q. Yes, they do say that.

A. They said that. If somebody, for example, say the International Tracing Service gave this figure for this camp, if they do not had that the International Tracing Service said that it was a minimum, that it was not finished, so that's not right. That's dishonest.

Q. The only deaths that the Inter-{2737|2738}national Tracing Service could have listed with them could have been registered deaths, I suggest to you those prisoners who were registered in a camp whose death was the subject of a certificate or something of that nature.

A. No. You ask a different type of registration. You have a registration with those documents that the German left. That's right. And you have, since nearly forty years, a registration from people asking information about such and such person of their family, and you have a special registration service in the International Tracing Service itself, and you have another one in the Town of Arolsen, and all that is brought together. So it's not only the registered of the camp.

Q. All right.

A. It's a work in progress. May I explain to you why. I said three hundred fifty thousand?

Q. Go ahead, Doctor. I'm sure we would all like to hear.

A. Because I received those reports since, I cannot tell you, perhaps something like — I don't know, '68 perhaps, up till '83. And we see all the work that they did, those people. It's an extraordinary work. So in 1968, I am going to quote figures, like that. They say that for Auschwitz they had forty-eight thousand people. Then the next year you have fifty thousand. The next year you have fifty — no. I mix up.

Q. I'm sorry, I lost you. I don't know what those figures represent. Are those living or {2738|2739} dead?

A. The increasing, the increasing of the figures from year to year —

THE COURT: Of the number dead?

THE WITNESS: Of the number dead, yes. This figure is like this. It goes to expiration. It means that you feel that they are getting to the end of what is possible to find. They may find next year, perhaps, ten more peoples, but certainly not, we are certainly not going to six million, eh?

Q. Well, that's your reading of the figures and as I understand your evidence, the International Tracing Service use their figures wrong.

A. No, not wrong.

Q. I thought I asked you and you said they say you are falsifying and misusing their figures.

A. Not myself. Not myself. I have never been accused of that.

Q. Oh, I misunderstood you then, Doctor.

THE COURT: So did I.

THE WITNESS: I mean that the —

MR. CHRISTIE: Is this an opportunity for both Your Honour and my friend to express your opinion on the witness' evidence? I object to that.

THE COURT: I am not expressing an opinion. Your objection is not well taken at all. I have him written down as having said something. If he wants to correct it, he can feel perfectly free to correct it.

Go ahead. {2739|2740}

THE WITNESS: Yes. They said that those people called revisionists were dishonest at all because they were saying that those figures were definitive figures, for instance, a thing that I have never done and I don't feel that I am concerned at all by that.

THE COURT: So they never accused you.

THE WITNESS: No. Never. Never.

Q. MR. GRIFFITHS: But they won't let you have their figures. They won't let you do research there.

A. Not knowing the sense of my figures, I have been chased from the Centre of Documentation, the Jewish Centre of Documentation in Paris, I have been chased — I didn't do any scandal. I have been chased from the Historical Institute, German Historical Institute in Paris, I have been chased from the Centre of History of Resistance in Vienna, although I came with the recommendation of Mr. Simon Wiesenthal. At that time he didn't know who I was. He had my name, but he didn't think anything of it, but the people of the Resistance Centre in Vienna, after accepting me, chased me. And for Arolsen; I see that I wrote to them many times asking them, "Could you please send me your report, annual report, as you did it?" At the time! they send me this report, and I cannot get it any more so I try to get it by other ways.

Q. Do you know how many people the International Tracing Service, whether this information is in the report or not, say that are still missing, {2740|2741} not accounted for, can't be found?

A. You mean if I know how many cannot be found?

Q. Yes. You told us how many are dead.

A. I don't know. I don't know. I don't know how anybody could answer this question.

Q. Well, you've got forty million cards there, presumably, of people looking for people.

How many names does that relate to?

A. I don't know. I don't know how many names because you can have many cards, and they have cards for all the displaced persons.

Q. Is this a question you've asked, then?

A. I know that.

Q. No. Is that a question you have asked them in the course of your research?

A. No. I see that in the activity report.

Q. How many people are missing?

A. No. I see they have files about the displaced persons.

Q. I'm sorry if I am jumping, I want to go to another subject and sort of following the same path you went. And the next topic you cover, to my recollection, is Klarsfeld's report on the deportations, and in his book Klarsfeld is giving figures and listed names of deportations. Does Klarsfeld draw any conclusions or have anything to say in this book as to how many of those Jews died and never came back? {2741|2742}

A. Oh, yes, he said that.

Q. What does he say?

A. I thought that I explained already.

Q. Thank you. I will try to appreciate it.

A. I am ready to repeat. Klarsfeld said that there were, at least, 75,721 Jews deported from France all over the world, which means if we take the figures that he gives for the number of Jews in 1939, that three-quarters of the Jews in France were not deported, and one quarter was deported. And about the dead, I am interested in this question, he said — when he thinks that somebody died he put only a little mark, nearly invisible, about the name, right after the name. I think that he does that because I studied all his books. Two thousand five hundred times, I think. It would mean that only 2,500 people were alive.

Q. The mark was for people who survived.

A. Yes. But on page 10, 11 and 12 he explains how he has done his calculation, and he said, "I counted as dead everybody who came back to France and who went to the Ministry of Veterans to say, 'I am alive.' (sic) A thing which was not even asked by the Minister of Veterans. It was not an official list. And this before the 31st of December, 1945, which means that we can have all the doubts for all the people who came after this date.

Q. How many do you say died?

A. What?

Q. How many do you say died? {2742|2743}

A. I am not — I cannot say, but I can tell you how I could say, if I had the right to work in Arolsen, this is what I would do. I would take the list of Klarsfeld and I would take the name number one, number one hundred, number two hundred, three hundred and so on, and I would try to study seven hundred fifty cases to have an idea of what happened to the 75,721. It would be a beginning.

Q. And your research method would be that if a name wasn't in Arolsen, what would that mean to you?

A. I don't know what it could mean, but I would try to study this question. I would like to do this work. I told you even with Dr. Hilberg —

THE COURT: Did you say, Doctor, something about that Klarsfeld counted people who came back?

THE WITNESS: Yes.

THE COURT: What did you say? I am looking at what I've written here and I think what I have written is wrong, and I want to change it.

THE WITNESS: On page 10, 11, 12 ...

THE COURT: Yes. He counted —

THE WITNESS: He counted as alive.

THE COURT: I had the word dead, I'm sorry.

MR. CHRISTIE: That's right, Your Honour, he did say that.

THE COURT: I wondered how somebody who was dead could come back, but I have that all straightened out now. Thank you. {2743|2744}

MR. GRIFFITHS: Thank you, Doctor.

Q. Do you have any estimate as to how many prisoners were never registered in concentration camps?

A. No, I don't know. All this quite interesting question of the numbers and the figures, I think that we should study them. I said that. I repeated that. I would be very pleased to have something else that hypothesis or affirmations. This work should have been done since a very long time.

Q. Well, the work has been done for a very long time, I suggest to you, Doctor. There are quite a few people in the field that have done that work.

A. Oh, I know people that gave, among the revisionists or exterminators, gave the result of their work, but I am not convinced, either by the revisionists, like Walter Sanning, neither by other people. I am not convinced by those, neither by the figures of Rassinier.

Q. You told us, or told Mr. Christie, that there were three — I'm sorry, that[ ] there was no material proofs of the existence of the gas chamber. You felt that the gas chamber was built on three pillars. Have I got that?

A. Yes.

Q. And presumably if those three pillars are destroyed then these gas

chambers —

A. It could fall down, yes. Possible. Broken, I don't know, but it could fall down.

Q. So it's important to you, I guess, to study all aspects of those three pillars and to make {2744|2745} sure that what you say is false — or what you believe is false, is false.

A. Their text, yes.

Q. Their text.

A. Yes.

Q. All right. And the first of those pillars was the Vrba-Wetzler report.

A. Yes. Yes.

Q. And we only have one page of that report.

A. No.

Q. I'm sorry, in evidence here.

A. Yes. But we used, when Dr. Vrba was there, I think that we were transmitting pages and pages of his report.

Q. There was some drawing shown to Dr. Vrba as well that he identified as being his.

A. Yes.

Q. But the body of his report we haven't put into evidence here, but you've read it.

A. Oh, yes. Yes. Yes, I read it.

Q. All right. That's fine.

A. And even the report of the two other Jews and the report of the Polish Measure.

Q. All right. And I am going to suggest to you that in the body of the report Dr. Vrba — Vrba-Wetzler, they give a list of transports arriving in Auschwitz-Birkenau, going back for two years, and they get the numbers of people that were — the registration numbers, tattooed numbers, for each one of those transports. {2745|2746}

A. Mm-hmmm.

Q. And they give information as to the country of origin that the transport came from.

A. Yes.

Q. And in some cases they even give the names of people who are on the transport.

A. Yes. I remember the brother of Leon Bloom or something like that.

Q. Yes. That's one of them. I recall that, too.

A. Yes.

Q. Did you ever check any of those transcripts?

A. Yes, but a very long time ago, because it was the first document that I ever studied, you see.

Q. Do you know if any work has been done checking those transports?

A. I don't know any work checking those transports. I know the calendarium of Auschwitz, yes, and I would begin by that, although the calendarium of Auschwitz is plenty of mistakes about those convoys. Klarsfeld himself said that.

Q. Well, I just want to see, this crucial pillar, you've mentioned some things that you've looked at very carefully, but most of the report dealt with these transports where they came from and a description of the camps.

A. What do you call most of the report? Do you mean the number of pages?

Q. Yes. The volume. {2746|2747}

A. The volume. The volume is one thing and the importance of the topic is another thing. I think that the most important part has been taken by the Nuremberg Tribunal which is the page, document L022. They took this page. They considered that, it was this page which was important.

Q. Have you ever looked at the original documents in the archives that were filed at Nuremberg?

A. Yes. I saw some of them in the Centre of Jewish Documentation in Paris.

Q. All right. Would you agree with me that not all the documents that were filed, and indeed not — not all the documents that were filed are in, reproduced in the forty-two volumes.

A. Yes. Yes.

Q. And that we had an example here of the Stroop Report; the entire Stroop report is not reproduced here.

A. Yes.

Q. But the entire Stroop report I am going to suggest to you was before the Tribunal.

A. Yes. Possibly. But we have many, many examples of documents which are in the Jacob Robinson bibliography and not in the Nuremberg trial.

Q. All right. So may I suggest to you there was a comment, I think you made yesterday, or maybe this morning, that documents were cut up and they should have had the whole document.

A. Yes.

Q. And my suggestion to you is that {2747|2748} they did have whole documents, that what's cut up are those parts of the document that is reported in this blue series.

A. No. No.

Q. Have you ever checked that?

A. No. For example, what I said is that the Gerstein report, PS 1553, was cut into pieces in the International Military Tribunal.

Q. Have you ever looked for the original Gerstein report? Not what is —

A. Oh, yes. Oh, yes. Really.

Q. All right. And where have you looked at, which archive?

A. National Archives in Washington. Israelean, the State of Israel. I have the stamp and all that. And then in the French Justice, Military Justice Archives.

Q. And were the complete documents available?

A. And excuse me, the fourth source, I cannot give you the address exact, but the Evangelic Church in Germany, in Bielefeld. I had many documents pertaining to the case of Gerstein.

Q. Doctor, my question was specifically, the Archives where the exhibits of the International Military Tribunal reside, either on microfilm or the actual exhibit, my question is whether you have ever looked in those archives to see whether the entire exhibit was before the International Military Tribunal.

A. Yes. Yes. Yes.

Q. Or only a part of the exhibit. {2748|2749}

A. No. No. I have seen an exhibit entirely.

Q. And the entire exhibit was before the Tribunal.

A. No. You take the case of Gerstein, you mean?

Q. Gerstein, Stroop, the Wetzler-Vrba report.

A. For Gerstein, for Gerstein you had this text. I am not going to repeat the reference. You had this text, and the tribunal didn't take anything of this text, but —

Q. They didn't use it all.

A. Wait a minute. The document PS 1553 is the Gerstein Report, the most well-known version, and twelve invoices of Zyklon. And they took only the twelve invoices of Zyklon and in the blue series you will find, I think, two examples of invoices. You see, you had three fragments.

Q. But doesn't the blue series in the actual archives have all twelve invoices and the affidavit.

A. In Washington.

Q. That is what I am getting at.

MR. GRIFFITHS: I see, Your Honour, it is three thirty.

THE COURT: Fifteen minutes. Doctor, you will please not discuss this with anyone until your cross-examination is complete.

— The jury retires. 3:30 p.m.

— Short adjournment.

—— {2749|2750}

— Upon the hearing resuming.

THE COURT: Mr. Christie, I draw your attention to a point during the time that this witness was testifying in cross-examination. The subject was the forty million cards in the files of the Tracing Service. There was an apparent misunderstanding between Crown counsel and the witness where the witness indicated that he did not say what both Crown counsel and I thought he said. You then, in the presence of the jury, made a remark the details of which I don't specifically recall, in which



you stated that I and the Crown have been apparently misinterpreting, doing something of an improper nature with the witness' evidence.

I have asked our reporter to look up that particular reference. I propose to have her read it to you now in the absence of the jury and then ask for your reaction before I have her read it in the presence of the jury.

THE REPORTER: "Q. Do they not indicate that there are many camps where they have no records at all, including those camps of Auschwitz, Sobibor, Treblinka, Belzec, Chelmno? {2750|2751}

A. No. They say since few years, with insistence, that there are people to help families and all that, and they insist that the revisionist people – I am a revisionist – are falsifying what the International Tracing Service is publishing. And up till 1976 I could easily work with those people. I mean, exchange correspondence. They were quite polite and all that. And then, suddenly, their politic change, and now they say they try to say we are among those people who said that the gas chamber existed, that there were million people killed."

THE COURT: That is the end of the quotation. Now, what is your answer to that?

MR. CHRISTIE: I don't understand what Your Honour means. I was interested to know what Your Honour had said, and what I said is, because I understand it is something I said —

THE COURT: Do you want to hear what you said, because I will adjourn while she looks it up. {2751|2752}

MR. CHRISTIE: Well, before I comment on any exchange said between myself and my friend and Your Honour I would like to know specifically what it is that I am asked to comment upon, because I don't recall the exact words, and I think it must be important.

THE COURT: (To the Reporter) Can you find it now?

THE REPORTER: Yes, Your Honour:

"Q. Well, that's your reading of the figures, and as I understand your evidence, the International Tracing Service use their figures wrong.

A. No, not wrong.

Q. I thought I asked you and you said they say you are falsifying and misusing their figures.

A. Not myself. Not myself. I have never been accused of that.

Q. Oh, I misunderstood you, then, doctor.

THE COURT: So did I.

THE WITNESS: I mean that the —

MR. CHRISTIE: Is this an opportunity {2752|2753} for both Your Honour and my friend to express your opinion on the witness' evidence? I object to that."

THE COURT: "Is this an opportunity for both my friend and Your Honour to express your opinion on the witness' evidence." Exactly.

MR. CHRISTIE: Well, that was a question, Your Honour.

THE COURT: It was a most improper question, and I wanted to read it to you for your reaction. Now, do you want me to read the whole thing back to the jury, or do you want to make the correction? It is going to be one or the other. You have indicated —

MR. CHRISTIE: I objected —

THE COURT: Just let me talk. You have indicated quite clearly to me, by implication, that I am siding with one side of this litigation, which is totally wrong and quite improper. Now, what do you want done about it?

MR. CHRISTIE: I objected to what I understood to be an expression of Your Honour's opinion and my friend's opinion on the witness' evidence.

THE COURT: Can you now see the falsity {2753|2754} of it?

MR. CHRISTIE: I don't think I understand it as a falsehood on my part at all. I raised an objection because I thought an opinion is being expressed by Your Honour and my friend on the witness' evidence.

THE COURT: Unless you can make any further comment, I intend to have the jury, at some stage, hear that total evidence back, unless you want to say that you were wrong, which in my view you were entirely wrong.

MR. CHRISTIE: Well, I don't —

THE COURT: You don't. All right. Then that's the end of it.

MR. CHRISTIE: Just a moment. Let me finish, please, Your Honour. I

don't intend to form a judgment at this point on the words spoken. They are not as simple as they might appear, and I'd like to know exactly what was said in relation to the question that Your Honour and my friend said you misunderstood, and I am afraid haven't been able to find that precisely.

THE COURT: Then I will order the transcript and you will have time to look at it.

(To the Reporter): The transcript at {2754|2755} your convenience, please.

MR. CHRISTIE: Of what portion, Your Honour?

THE COURT: The whole portion. Right from the beginning, from the questions ahead right down to our answers. That will be reserved for another time, but you are now on notice, Mr. Christie.

Bring in the jury, please.

— The jury enters. 4:05 p.m.

— The witness returns to the stand.

Q. MR. GRIFFITHS: In a roundabout way, Dr. Faurisson, before the break, we sidetracked a little but, but I started off talking about the Vrba-Wetzler report and what work you had done to authenticate that report, and you have not, as I understand, checked the transports that are indicated, the long list of transports indicated, and registration numbers that are indicated in that record.

A. I have not checked, no.

Q. Okay. That's my question. Have you checked them?

A. I have not checked that.

Q. But there are many other aspects —

A. And many other things, yes. {2755|2756}

Q. And my understanding is, from a question Mr. Christie asked you, that your primary concern in checking the accuracy of that report, was in the maps contained in that report and in the drawing of the crematorium.

A. Yes.

Q. Have I got that right?

A. Yes. Yes.

Q. Were you in court when Dr. Vrba testified? You were present in court when Dr. Vrba testified?

A. Yes. Yes.

Q. And did you hear Dr. Vrba say that when he drew those maps they weren't meant to be architectural drawings but to give an idea of what was there?

A. Yes. Yes.

Q. Does that change your opinion at all?

A. It doesn't change my opinion because it is like when he said that it was he used a Latin expression — licence as a [licensia] poetarium.

Q. Poetic licence.

A. Poetic licence.

Q. For those of us who are not classic scholars.

A. So he used this expression, and I don't think that it explains me anything of what he said in "I Cannot Forgive". The same thing when he says, you see, it's not the work of an architect. It doesn't change anything in substance, because when he says there were {2756|2757} four — nine ovens with four openings, they were around the chimney, all was on the same ground, there is a series of fantastic errors.

Q. All right. So your answer is that that doesn't change your opinion at all about the verbal exchange.

A. It doesn't change because on the plan and in reality you have not nine, you have five. You have not four, you have three. It was —

Q. We'll come to that. The next pillar that you spoke of was the Hoess affidavit. And again you indicated, I believe, that your principle concern about that were in areas that you are not an expert on, but there were things that concerned you. Is that fair — but there are other things as well about Hoess and his affidavit?

A. Yes. Yes.

Q. Okay. And some of those things were that there was no budget, no trace of consultation. There was nothing to indicate from any documentation that any of these things were going on.

A. Yes.

Q. Is that —

A. That's exact, yes.

Q. All right. Would you expect a mass murderer to advertise what he was doing?

A. I am going to answer this question.

Q. Good.

A. I am going to take a comparison, if you permit. If I had to suppress something like the population of Quebec, the Province of Quebec, I don't {2757|2758} think that I could hide it, how a secret would be possible. And I think that it would be quite naive to say I am going to kill six million people, but if I don't put it on the paper so everything will be okay, if I don't put my signature, so later nobody will say, "Oh, that was your signature."

Q. Isn't that what you are saying — because there was no signature it never happened?

A. No. I say that the fact that we don't have budget and things like that. Dr. Hilberg agrees completely on this point. Now, if I understand you, you mean that the fact that there is no budget, that there is no order and so on, doesn't mean that the thing did not happen. Am I right?

Q. Well, that would have been one of my questions down the way, but you have me, Doctor. Yes.

A. So I say that it's completely incompatible. You cannot make such an enormous enterprise. Those terrible slaughter houses, thousands of people, specialists studying this matter to prepare the plan, to prepare the buildings. To pay all that you would have traces. You cannot, you cannot do otherwise.

Q. Okay. Do you know what personnel dossiers look like, German personnel dossiers?

A. I have seen some.

Q. And have you seen any in Auschwitz?

A. In Auschwitz itself, no. Personal dossier, perhaps reproduction, yes.

Q. Would you expect that people working around the gas chambers would take an oath in secrecy as to what was going on there — and by people I {2758|2759} mean German soldiers?

A. I think that the oath of secrecy was taken by everybody, not only those people, I think. Everybody have to take the oath of secrecy.

Q. Well, you think the Jews working in that area had to take the oath of secrecy, too?

A. I think you even have Jews liberated from Auschwitz in 1943 who came back to ... We have that.

Q. What's that got to do with the oath of secrecy?

A. Well, I think there were inmates to be in a camp and not indefinitely.

Q. Were these Jewish inmates?

A. I don't know. There was one that I speak to you, yes. Yes, they were Jewish.

Q. Have you ever seen that document or a document like that before?

A. Oh, I've seen many documents of this kind, yes, that the master closed their mouth. If they don't do it, they might be shot or condemned or whatsoever, yes.

Q. I am going to suggest to you that that is an oath of secrecy.

A. Yes.

Q. And it's for — it's got a stamp on it, Auschwitz. It's dated.

A. 22 of May, 1944, yes.

Q. Yes. And it deals with an S.S. man by the name of — the signature is a little hard, but it's Schulz. {2759|2760}

A. Schulz, yes.

Q. And the document I have shown you is in German, is it not?

A. Yes.

Q. I am going to suggest to you this is a translation, and if I am wrong you will help me.

There are three listings there, three points — one, two and three.

A. That is the title.

Q. And the first one, I suggest, in English, would be, it is known to me.

A. The title, please.

Q. I'm sorry, the title is "Serve Obligation".

A. Yes. Something like that.

Q. "Serve Obligation". One: It is known to me and I have been instructed today about the fact that I will be punished with death if I appropriate Jewish property of any sort; Two: I must preserve absolute secrecy concerning all measures carried out during the Jewish evacuation."

A. Yes.

Q. Have I got that right?

A. Yes.

Q. "Even with my colleagues".

A. Yes. "With my comrades", yes.

Q. "Three: I commit myself to use my entire person and energy for the quick and smooth execution of these measures".

A. Yes. That's it.

Q. Is that right? {2760|2761}

A. Yes.

THE COURT: Have you seen that, Mr. Christie?

MR. CHRISTIE: No. Never. I have now. Thank you. Is this my copy?

MR. GRIFFITHS: I'll get one, Mr. Christie.

Q. Konrad Morgen also talks about the secrecy of this whole operation.

A. For everything you had secrecy, as I am supposing to all the armies.

Q. Even Albert Speer talks about all the secrecy.

A. Yes. Secrecy everywhere. You had most of the time, you had Geheim — secret, or secret affair of the Reich. So — and you had it for everybody, even the civilians, even in Berlin.

Q. Can you see the difference between keeping records for how many dogs there are in Auschwitz and keeping records of mass murder at Auschwitz?

A. I don't understand this question, excuse me.

Q. The question is, can you see a difference — you told us that you have records right down to how many dogs there were, how much they paid for the keep of the dogs.

A. Yes.

Q. And my question is whether you can see a difference between the record for the dogs at Auschwitz and records of mass murder.

A. I don't understand this question. {2761|2762} You mean I am going to tell you what I meant if I was not clear? I mean that the German kept recall, it seems, of everything, even things like dogs or nails or trees or whatsoever. It's impossible to make disappear from a dossier, and specially from the dossier of the locksmith in Auschwitz, to make disappear something which would mean that something special has been built for killing of people, or even if the word "killing" is not there.

Q. All right. So —

A. I think —

Q. I guess your answer is that you don't see any difference between records of the dogs and records of mass murder.

A. No. I don't like this way of formulating that, because it seems that I put dog and Jews equivalent.

Q. Well, it's your example.

A. But the meaning, I think that you understood there, the meaning is that even for the dog, even for the last detail you had tracing register, for the last thing.

Q. You would also expect to find the last detail of records of mass murder.

A. If we had had a mass murder, we would have a terrible amount of witnesses. You cannot suppress the witnesses like that. You cannot suppress the documentation for that. How is it possible, during the War? You know very well that the Red Cross, after the War, said, "We did not know at that time." The Pope said, "I did not know." Even Churchill, Roosevelt and {2762|2763} Stalin, who said that there was an extermination of the Jews 17th of December 1942.

Q. It was in the London Agreement, was it?

A. Yes. It was a general phrase about that.

Q. They warned the Germans that they would prosecute them if it kept up.

A. Yes. Etcetera. But about those gas chambers no measure has been taken in consequence.

Q. I'm sorry, I don't follow.

A. No measure if they believed in those gas chambers in Auschwitz. It

would have been very easy for them to propagate around the world that there were those slaughter houses, because they had once more those extraordinary aerial photo reconnaissance. They had a tremendous amount of information about Auschwitz by the OSS, etcetera. You cannot kill thousands and thousands of people like that in places so well delineated, and nobody would see that. You cannot keep this secret.

Q. Sorry, haven't there been thousands and thousands of witnesses since the War testifying to these things and writing about these things?

A. No, no, no. I see when I try to find the witness and when I tried to find the first and most important Vrba, Gerstein, Hoess — do you call that witness? I am ready to say that they call themselves, perhaps, witness. I'm ready to say that. But it does not mean that there were accurate witnesses, real witnesses. You had witness of soap factory; you had {2763|2764} witness —

Q. Well, no, wait a minute. Now, Hoess doesn't witness a soap factory.

MR. CHRISTIE: Can the witness answer that?

MR. GRIFFITHS: Well, he is talking about something that Hoess never said.

THE WITNESS: Now, first you don't want me to talk about any other information —

Q. MR. GRIFFITHS: Go ahead.

A. We have thousands of information. For example, in I think November 1944 the New York Times, you could find that in the book of Professor Butz, it was said in the New York Times that the Hungarians were preparing false big shower rooms to gas Jews systematically in Hungary. You heard everything about every camp, every rumour. For Belzec —

Q. So —

A. May I say for Belzec?

Q. Please.

A. For Belzec, for instance, the first one talk really about Belzec published something about that Kauski. He is living in Washington, Jan Kauski. I wonder if he is not professor. He published a book at the end of '44 in the U.S.A. and he said that Belzec was a death camp. He was witness. He presented himself as a witness. And he said, "This is the way that things were done. The people were put into trains. Those trains were plenty of — do you say quick lime?"

Q. Quick lime, yes.

A. And this is how the people in {2764|2765} Belzec were killed. Another one said by electricity.

Q. Now, just a minute. Pravda said by electricity. Are you taking Pravda as a source?

A. Other one, I said. It was not newspaper. The first was Jan Kauski, and in the notebooks of Auschwitz you have a testimony of Leib Langfuss, presented first as an unknown whoever, and last year it was published in the French translation, and this unknown author became Langfuss, and he said in his testimony that people were el[ec]trocuted. And we have plenty of stories of this kind.

Q. How did they die in Belzec?

A. I do not know. I think that those transit camps were those camps used in the big operation that the Germans decided to take the Jews of Poland which were, who were in one thousand places, to put them in fifty-five.

Q. Fifty-five.

A. In fifty-five places, some of them ghettos, some other not ghettos. It is said in the IMT, I can give you the reference, and I think that it is really a sad thing that people were transplanted like that, and I am sure brutally and with the War and all that, and it was also very sad when, just at the end of the War, after the War, the German minorities were transported like that also. You had transfer of this kind.

Q. Doctor, would you expect a transit camp, Belzec, you said, Treblinka, Sobibor, Maidanek, Chelmno —

A. No. Maidanek no. They don't call it a — {2765|2766}

Q. Except for Maidanek. Treblinka, Sobibor, Chelmno, Belzec, those four, would you expect the trains to run both ways? Would you expect the trains carrying people to go both to and from the camp?

A. No, no. I think that a transit camp, you can bring the people by foot or by train, or by any means. And then that they could go, as so many people went, by foot to such or such place, because when Dr. Hilberg says those trains came, brought those people, and they went away without anybody, but a train is not supposed to bring those people and to bring them back. Certainly not.

Q. Well, have you studied the train records?

A. No, I haven't.

Q. So you can't say whether the trains ever took anybody away from those camps.

A. No. No.

Q. Yet you say that.

A. No, I don't say that. It was quite possible that train took them. It is quite possible they were sent by foot, by lorries. I don't know. But Dr. Hilberg said that they were taken from Warsaw by train.

Q. And the trains came back empty.

A. And he says that, yes.

Q. And we don't have more than a handful of survivors from all those camps?

A. I don't know. I don't know about that. {2766|2767}

Q. Well —

A. A handful, I don't know.

Q. Well, if you studied the literature, then I —

A. No, no, no. All those questions of figures, because I see that you insist on that, may I explain you?

THE COURT: One at a time, gentlemen.

THE WITNESS: I understand that very well. The first day I said I think that I was very interested by that, although I had no time yet to study this question. I said that I would be so pleased to work with Dr. Hilberg on this question, because we have many words. Now, I am going to give you another inquiry that I could do for statistics.

Q. No. I don't want to hear about an inquiry that you could do. I want to hear about inquiries that you have done. You have presented yourself here as an expert.

A. Not an expert of everything, no. Remember, I am not even an expert of gas chamber, an expert of architecture. No, really not.

Q. In all your reviews of the literature, do I understand that you are unable to give us any idea of how many survivors there are from those four camps?

A. I said that. I repeated that. I cannot say, and I think that nobody has the right to say, because I don't know what they become, they were gassed. I don't understand that.

Q. Hoess, we've heard a great deal. {2767|2768} We had sections from his book read to us a number of times. From memory, he alleged that he was tortured by the people he was arrested, beaten by his own riding crop and a statement was taken and he signed it and he didn't know when he signed it. And he later gave and signed two more confessions.

A. Much more than that.

Q. Much more than that. And he wrote a book.

A. He is supposed to have written a book freely, yes.

Q. All right, Do the subsequent confessions and the book bear any relation to the first confession that he didn't know what he was signing?

A. In the book? You mean if in the book he said?

Q. You've read the book.

A. Yes.

Q. You read all the confessions of Hoess.

A. Yes.

Q. You read the testimony of Hoess, the International Military Tribunal.

A. Yes. Yes.

Q. All right. Is there any difference between all those different statements that he made?

A. Oh, yes.

Q. All right. And is there a difference between the first statement that he made where he said he didn't know what he was signing and subsequent statements? {2768|2769}

A. Oh, yes.

Q. What is the major difference?

A. Oh, I could give an example, which is extraordinary. The story of Wolzek. In his first statement he repeated that[ ]there was a camp called Wolzek. He never said that any more in his memoirs.

Q. All right. Anything else?

A. I would have to go through all those documents once more to make the difference. I did this job, yes, already.

Q. Is there any difference in terms of his description of the extermination process?

A. He is very vague about that. He is constantly vague – vague in the testimonies, vague in his book. We really don't know.

Q. And is the same vagueness in the first affidavit as in subsequent affidavits?

A. I found, yes. I found.

Q. I suggest, Doctor, that whether or not Hoess was tortured

A. Hoess?

Q. I'm sorry. I apologize for my total lack of any other language. Hoess was tortured, that notwithstanding whether he was tortured or not, the affidavit that he gave on that occasion was true and in substantial accord with other affidavits that he gave.

A. You can ask the question to Dr. Hilberg as you are asking the question to me. If you consider that three million people killed during the time Hoess was Commandant, which means only from June 1940 to November 1943, if you believe that this is a {2769|2770} true statement —

Q. No. My question was not that, Doctor. My question was whether there was a significant change in his story of the events of Auschwitz between the affidavit that he didn't know what he was signing, and later after. You've told me there was one difference, there – Wolzek.

A. Yes.

Q. Wolzek was mentioned in the first one and not in the later ones.

A. And you want some more example?

Q. I'm asking whether at this time it's substantially the same.

A. No. I would say it is the same vague story.

Q. All right.

A. The same vague story, because as he does not go, really, into details, you cannot even know where he placed those gas chambers, and you don't understand if there is one gas chamber or two or three or four or five or six. It's impossible. When he says, the first time, the gassing was done on this way, you cannot really see where it happened. For the first time, yes, he says in the block eleven. Yes. That's right. For the second time he says, in Krema I, and then after we don't know absolutely where were those gassings.

Q. Okay.

A. There is no detail about that. Like the witnesses, you see.

Q. Your next pillar was the Gerstein {2770|2771} statement. You gave us Gerstein's figures for the different camps and compared those to Dr. Hilberg's figures, which Dr. Hilberg, I think, indicated about one half million, approximately. Is that right, to your recollection, the Documents of Destruction?

A. I don't remember the total.

Q. Okay. Is it your understanding, from your review of the literature and the documents, that the camps of Belzec, Sobibor, Treblinka and Chelmno were all destroyed long before the Russian advance?

A. They were closed much before, yes. No. I think that Chelmno – perhaps not Chelmno.

Q. So the Russian advance wasn't the reason for the closing of those camps.

A. Perhaps it could be. I don't know.

Q. I am going to suggest to you that they were closed up to a year before the Russian advance.

A. No. You had the camp of Belzec in, they say end of '43.

Q. And when did the Russians hit this area?

A. I think that they were there – they were in Maidanek, which is further, in July '44.

Q. Six months later.

A. Yes.

Q. And what condition did the Germans leave those camps?

A. Leave?

Q. In what condition did they leave those camps? {2771|2772}

A. I don't know.

Q. Pardon?

A. I don't know.

Q. Well, have you seen reference to that in literature?

A. Yes. I have seen the books that I told you about Gitta Sereny-Honeyman.

Q. They don't refer to the total destruction of those camps – you go there and it is a grassy field?

A. Yes. What it is is that the Germans, if we have nothing —

Q. You can answer my question first and then you can give your explanation.

A. What?

Q. Were the camps totally destroyed by the Germans before they left so that all that is left, in essence, is an empty field?

A. I cannot answer to this question. I think that they said that, Gitta Sereny-Honeyman. I didn't check it. When I was in Poland I was told there was nothing to see in Treblinka, Belzec and Sobibor. There was no monuments. I had no time to visit monuments. I had work to do elsewhere, and in fact —

Q. Doctor, on a number of occasions you indicated to us that your expertise was not to listen to survivor stories but documents and literature; and from the documents and literature, what condition were those camps in?

A. We have no documents about them. We have not even the plans, or plans showing a little {2772|2773} drawing with gas chamber. And not even a gas chamber of disinfection in those camps.

Q. And how many people do you estimate went through those camps?

A. I don't know. You see, there is an accusation. I am obliged to listen to the accusator when he says people were killed on such and such way. I am looking for that. I see that Mr. So and So said electricity. Another one says steam chambers. Another one says electricity. Another one says quick lime, etcetera. So do you consider that this is information? I say it is a kind of lack of information. And for Auschwitz, when they arrive in Auschwitz, the Russians found the place called gas chamber, when they are called by the new revisionist people called gas chamber. They found the same thing in Maidanek. They found places that the tourist today visit, which are called gas chamber. I would say only to the tourists, try to open your eyes and open your minds.

Q. You testified that, I believe, from, in the Gerstein affidavit, there is a reference to a transport of some 6,700 persons, forty-five cars arriving from Linburg. Have you checked that?

A. No, I have not checked that, if a convoy of this kind came in Auschwitz, in Belzec at that time. No.

Q. You haven't checked that. All right.

A. No. No.

Q. And have you checked whether, in fact, Mr. Gerstein did speak to Baron von Otter, the {2773|2774} Swedish diplomat on the way back from Belzec?

A. Yes, he did, I am sure.

Q. And he testified at one of your trials, didn't you?

A. Yes.

Q. Yes.

A. Baron von Otter came. I can tell you why.

Q. No.

A. I think it is important.

Q. I am asking the questions.

A. It is a pity.

Q. Mr. Christie can ask you that question.

Dr. Hilberg has suggested that he only used the parts of the Gerstein affidavit that were corroborated from other sources. What do you say to that, is this appropriate?

A. I don't see what was corroborated.

Q. Have there been trials related to those camps, Belzec in particular?

A. Oh, yes. There were trials.

Q. And testimony at trials concerning Belzec?

A. Yes.

Q. And testimony as to the mass extermination process there?

A. Yes. We have all sorts, for the Auschwitz trial, vague confessions; the people are not going to say there was no gas chamber.

Q. And on the basis of those vague {2774|2775} confessions you indicated, were there convictions?

A. Oh, yes. There were convictions. For Ravensbrück where there were no gas chambers, people were hanged. That's the same thing.

Q. Yes. You mentioned that before. We will come back to that. You mentioned the Red Cross.

A. Yes.

Q. And Mr. Christie put to you a report that was written during the War by a Red Cross representative. Do you know who the head of the German Red Cross was?

A. Yes. His name was Gravitz [Grawitz].

Q. Dr. Gravitz, yes. And do you know what position he held in the S.S.?

A. Oh, yes. He had a high position.

Q. He was in charge, was he not, of all the doctors and all the concentration camps?

A. I couldn't say that because the concentration camps had their own administration, you see.

Q. Well, he was in S.S. administration though, was he not?

A. Yes.

Q. And for example, Dr. Mengele, he was an S.S. Doctor?

A. I don't know anything. I see that we talk very much about Dr. Mengele. I don't know anything about him, eh?

Q. All right. You have never looked at his dossier.

A. Oh, I've read things. I have {2775|2776} seen films about that, but —

Q. No. No. Have you looked at his dossier, the official document?

A. No. No. No.

Q. All right.

A. I am looking for the material itself of those gas chambers.

Q. All right. Now, the head of the German Red Cross was Dr. Gravitz.

A. Mm-hmmm.

Q. And I would suggest to you that he was Himmler's personal physician and that he was in charge of all medical personnel for the S.S.

A. Possible.

Q. Including Mengele or any other doctors working in the camps.

A. Possible.

Q. Do you see any conflict of interest there that Dr. Gravitz might have in the Red Cross and in the concentration camps?

A. It depends what he has as a responsibility and ideas of his responsibility. If there were extermination camps, I say that it is impossible, absolutely impossible, but if there were concentration camps, not only Germany had concentration camps. Allied Russia had that.

Q. Do you know about medical experiments carried on in camps by S.S. personnel?

A. No. I don't know very well, but have something to say about that.

Q. Well, if you don't know about it, {2776|2777} I can't ask you.

A. No, I don't know very well, but I studied the story of Dr. Derring [Derring].

Q. You told us the story of Dr. Derring.

A. Yes. And very important, the two doctors who were in Struthoff [Struthof], in Alsace, I studied their trials in Metz and in Lyons, and I can tell you it was Dr. Bickenbach, and the other one, a name beginning by "H", I don't remember. They were judged by the French Military Justice. I have no transcript because, as you know perhaps, there are no transcripts in France. So I had books on that. I had tapings, etcetera. At the beginning of the trial there were inmates in the room, in the courtroom, with manifestation, etcetera, and the people were very tense and were very against Bickenbach and the other one, but when Dr. Simonen came to testify, the question was, was it something inhuman or not what they did, those people? At the beginning the idea was that it was absolutely inhuman.

Q. Excuse me, Doctor. I don't know what was absolutely inhuman and I don't know what you are talking about these people did.

A. It was experience about gas, phosgene. At the end of 1942 the German learned that in North Africa the American were concentrating big quantity [sic] of gas phosgene which could be employed by bombers. So Dr. Bickenbach decided to make experiences for protecting the people against this gas phosgene. And the first experiment he did, it was on him. And then {2777|2778} he did it on — now, don't take it like that — on volunteers, so-called volunteers. I don't approve of that, you see. And finally, two gypsies died after the experience, but in the hospital, and then Dr. Bickenbach decided to suppress his experiments about, gas phosgene. And to come back to what I said, Dr. Simonen more and more, day after day, was finally explaining that what they did, what he was interested about.

Q. Thank you.

THE COURT: Members of the jury, Nine thirty tomorrow morning. Keep an open mind. Thank you.

Doctor, you will please not discuss this case with anyone until your cross-examination is over.

— The jury retires.

— The witness retires.

— Whereupon the hearing is adjourned to February 7, 1985.

(VOLUME XIII FOLLOWS) {2778|2779}

## VOLUME XIII

### FEBRUARY 7, 1985

— Upon the hearing resuming.

THE COURT: The jury please.

— The jury enters. 9:45 a.m.

THE COURT: Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

### ROBERT FAURISSON, previously sworn

#### CONTINUED CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. You told Mr. Christie yesterday, Dr. Faurisson, that the pamphlet, Exhibit No. 1, "Did Six Million Really Die?", is basically true on three points. You said it is basically true about Anne Frank's Diary, the first point. The second was that there was no genocide, and the third was that there was no gas chambers. And are there points in the pamphlet that are not basically true?

A. For instance, it is completely wrong when he says that the Anne Frank Diary is a fake, because a tribunal in New York decided I don't know what about Mr. Frank, and the man called something like Melvin. I don't know.

Q. On page 21 of Exhibit 1 there is a subheading, "Best-Seller a Hoax", and there is a picture of Anne Frank there. {2779|2780}

A. Meyer Levin is the name.

Q. Meyer Levin, yes. And it indicates, I believe it's been found to be a hoax and an action in the New York Supreme Court, that Meyer Levin wrote significant part of the dialogue. It was the allegation here. That's not true, is it?

A. That's mistake, no.

Q. A mistake. Do you know what that action was about?

A. I think that it was because Mr. Otto Frank asked this man to write a play.

Q. A screen play?

A. A screen play, yes.

Q. And they are arguing about his fee for the screen play.

A. Yes.

Q. And nothing to do with the Diary itself?

A. With the Diary nothing to do, but Richard Harwood was basically quite right, and I can see why.

Q. You have other reasons why you think that Anne Frank's Diary is a hoax.

A. I am not only — I am not alone to think that, since the Forensic

statement of investigation, Baden, in 1982, when they studied the paper of the manuscript —

Q. Since that is not in this pamphlet, I am not going to ask you about that.

A. That is a mistake. I make mistakes. I know only Dr. Vrba for not making a mistake and knowing everything. {2780|2781}

Q. Is there anything else in the pamphlet that you say is a mistake or not true?

A. Maybe. Maybe. I don't know. Basically he is right.

Q. Basically it's right. There may be other mistakes.

A. Yes. Surely. There are mistakes in Dr. Hilberg's works, Reitlinger and everybody.

Q. And you are putting Richard Harwood with them, are you?

A. Yes. And myself and Dr. Butz and Dr. — everybody makes mistakes.

Q. You talk about Anne Frank's Diary. Now, the second point at which you said the pamphlet was basically true, you said there was no genocide.

A. I must explain what it means, genocide. We must be careful.

Q. What do you mean when you say no genocide?

A. No planned extermination of a race.

Q. Right.

A. Planned extermination means that you need to have a plan.

Q. All right. Now, are you making a distinction between a plan and an order?

A. Oh, an order like Mr. Hilberg says when he says an order from Hitler. That's the meaning, Yes.

Q. So you're saying that without a written order from Hitler, there would be no genocide. {2781|2782}

A. I wouldn't say that only, because there are many things that make me think that a genocide was impossible, for instance practical things. The German people occupied France during four years. They deported one quarter of the Jews. Deported, I say, not kill. If they had the plan to kill the Jews, I think that they wouldn't have act like that.

Q. What's the policy of putting, deliberate policy of having Jews confined in the early stages of War to ghettos and then later on to concentration camps?

A. What I think about that?

Q. I am just asking you. Was that a policy?

A. A policy?

Q. Yes.

A. Yes, he had a policy against the Jews. I say that the Jews were persecuted, that there were ghettos, that there were even slaughters, pogroms, what you find in any war. I don't see any difference between the way the Germans acted in Europe from 1939 to 1945 or any difference with what the French did in what they call their colonies.

Q. All right. Now, was there a deliberate policy of starvation in those ghettos? Was food restricted in getting into the ghettos?

A. I don't have anything which, for me, proves that. I can see that if the Germans had shortage of food, they would think that first their soldiers would have food. Then the civilian German population, then the French, and so on and so on. {2782|2783}

Q. Who's, at the bottom of the line?

A. The bottom I think anybody that Hitler would consider as an enemy — a Russian or a Jew or an American or whatsoever.

Q. So that rations, you would agree with me, would be wholly inadequate in the ghettos, and hundreds of thousands of people starved?

A. And in France also, I can tell you.

Q. Hundreds of people starved in the ghettos?

A. I don't know how many, because once more I need figures. And we have no figures, really.

Q. And for twenty-five years you've been working in this field.

A. No, not in this field. I told you already that there are many fields in which I have not really worked, or I have worked sometimes, I know many things about it, but I prefer to say I do not know.

Q. All right. So in saying that genocide does not exist, is it fair to say you haven't considered the German policies towards the Jews and the ghettos in making that statement?

A. I don't see anything which proves a decision to starve people systematically.

Q. All right. Do you see anything that would indicate that people were worked to death?

A. I don't understand what you mean, worked to death.

Q. Well, I mean worked until they die. {2783|2784}

A. Until they die.

Q. Yes.

A. You mean that they wanted the people to work until they die.

Q. Yes.

A. I think that we must be very careful with the words, because all the politicians, they use big words, and after they are very surprised when you recall them, you said that. They say, "I don't mean that." So I think that during the War Hitler said, "We are going to kill all those people" — all of our enemies, etcetera. We have phrase, words like that. I suppose that, Churchill, Roosevelt, Stalin were saying the same about their enemy. What is an enemy? An enemy is somebody to exterminate. You don't say to your soldiers, "You are going to fight, but don't exterminate."

Q. So this pamphlet talks a great deal — by "this pamphlet" I mean Exhibit 1 — about the policy of the Germans to transport Jews from concentration camps for the sole purpose of utilizing their labour. That's a major theme of this pamphlet.

A. For the labour, yes.

Q. And I am suggesting to you —

A. But not only — I remember, I cannot tell you where, I think I remember that he said that it was also for consideration of security or something like that.

Q. Yes, I agree with you. My question —

A. May I say something about that?

Q. About what? {2784|2785}

A. About this concentration of security?

Q. Well, we are talking right now about labour, and we will come back to security. All right? The question is whether you would agree that it was a policy that they would deliberately starve prisoners in those camps and work them until they die.

A. No, no. I don't see a decision of this kind saying, "You must proceed so and so to make the people die by labour." Maybe they said, make them work and don't bother about anything. That's possible. I don't know.

Q. You've heard from Dr. Vrba; you've heard from Chester Tomaszewski; you've heard from Mr. Ignatz Fulop; you've heard from a number of people, both Christian and Jews, who worked in those camps, who said that people were worked to death.

A. Yes, people were alive told me that.

Q. Pardon?

A. People who were alive told me that.

Q. Yes.

A. So —

Q. So you say because they are alive you can't accept — is that what you are saying, Dr. Faurisson?

A. No. I say it is not systematic. You have survivors.

Q. So you say there is no policy to work people to death. {2785|2786}

A. I don't really understand what means work to death.

Q. It means work until you die, Doctor.

A. I don't see what it could represent exactly.

Q. So you don't know, is that what you are saying?

A. It doesn't mean that I don't know. I don't understand very well the question.

Q. Can you tell us what medications were available to prisoners in the concentration camps and what treatment they received for typhus and typhoid?

A. Oh, yes.

Q. Please.

A. We have many, many documents about that, specially, I should say, dozens of article in a Polish medical journal about that published either in the blue anthology of Auschwitz that you have in English, in French,

in German or in those notebooks of Auschwitz. You have many, many articles about that, about the hospital in Auschwitz or in Birkenau.

Q. We've heard about hospitals. My question is about medicines available in those hospitals.

A. I think that in those hospitals they had, yes; certainly there was shortage like for everything in Europe.

Q. Now —

A. I have not been calculating how many serum they received and so on. I cannot tell you.

Q. You cannot tell me how many {2786|2787} medicines were in that hospital?

A. Oh, you have to remember I am not a specialist, eh, but I could quote articles from Dr. Fejkiel about that, and a French doctor from Strassburg, his name is Mark Klein, and he published something special about that already in 1945 or 46. I could bring you, I think, the book.

Q. And Dr. Klein and Dr. Fejkiel, were they prisoners in these camps?

A. Yes. Dr. Klein was a Jew and I think Dr. Fejkiel was a Jew also. Many doctors in those camps were Jews. And you have Dr. George Villers.

Q. And prisoners. Jews and prisoners.

A. Yes. And Dr. Villers, that is interesting, because at the same time they say there was extermination and so on, and at the same time they say, "Oh, we perform fantastic things in surgery, in dentistry, and all that, because we Jews, or we prisoners, we did so and so. And it is extraordinary what we did." They say that.

Q. In the testimony of Mr. Henry Leader, who —

A. Excuse me, Mr. ...

Q. Mr. Henry Leader who was the gentleman who was in Maidanek.

A. Oh, Maidanek. Yes.

Q. And he testified as to the treatment — that he received when he had typhus and the whole camp was put in quarantine and left there — no medicine.

A. He said so.

Q. Yes. {2787|2788}

A. Okay. He said so.

Q. And can you tell us what medicines were made available to the prisoners — medicines?

A. You mean what kind of medical products?

Q. Were they given medicines?

A. They were given medicines, yes.

Q. Do you have documents that indicate that?

A. I have documents about that.

Q. What documents?

A. There are the notebooks of Auschwitz. You have plenty of articles about that, about the typhus, about the typhoid fever, about malaria, about noma.

Q. You are talking about diseases. My question is about the treatment of diseases.

A. I don't know about that. I am not a doctor.

Q. So you don't know about that?

A. I don't say that I don't know. I am saying that I read many articles that, "I took care of people in this way and this way." I am going to tell you the story of Mrs. Louise Alcan. She is, if she is alive today, I knew her some years ago, she is leading the association of the former inmates of. Auschwitz. She wrote, she published, after the War, a little book in English. It would mean, "We fought weapon and we fought baggage". And this is what she says. She says, "Those dirty Germans. When I was in Auschwitz I could play bridge, and during this time {2788|2789} they were exterminating my people. I could go and take care of my teeth because you had sanitary installations for that specially, and I did promenades, and there were flowers and all that, and you see, during this time, they were exterminating my people."

The Germans have no chance, you see. Many people said that they have been cured for typhus and all that. I think it's the case of Dr. Vrba. He was in hospital.

Q. You're quite right. And where did he get his medicine from?

A. From the hospital. I don't know where it was coming from.

Q. Well, I'd suggest to you that if you read the book, he got it by bribing another prisoner and not from the hospital.

A. Oh, by bribery.

Q. Yes.

A. Yes, he said that, bribery. You could have, for instance, radio — how do you call that? X-ray installation by bribery.

Q. Without bribery you don't get it.

A. And you could have operation performed by Dr. Derring by bribery. Okay. Like the gas chamber in Dachau. If this gas chamber has not been achieved, it is because the inmates boycott.

Q. That's interesting.

A. Yes. On Dachau —

Q. Why do you think that gas chamber is in Dachau?

A. Because we have said that the {2789|2790} Germans kill people in this gas chamber. It is said by official documents.

Q. Well, you have seen the gas chamber. You have seen that it was there while the War was still on. Why did the Germans have that gas chamber?

MR. CHRISTIE: My friend is putting to the witness something he did not say.

THE COURT: Stand up, please. Now say it again.

MR. CHRISTIE: My friend is putting to the witness something he did not say in cross examination. He says, "You said you knew that the gas chamber was there during the War." I suggest that to put a question that is not an accurate representation of what the witness has said is rather unfair, especially in this situation.

THE COURT: Thank you. What do you say?

MR. GRIFFITHS: I will rephrase the question, Your Honour.

THE COURT: Please.

MR. CHRISTIE: Thank you.

Q. MR. GRIFFITHS: Dr. Faurisson, from your studies of Dachau can you tell us that the gas chamber was there during the War?

A. I say that the Germans are accused of having used, built and [used] a gas chamber in Dachau.

Q. My question is whether they built it. We will leave whether they used it for another time. My question is, did they build it?

A. And when I go to Dachau I see a {2790|2791} room and I don't see anything which could be a gas chamber, because I have studied the question, but even somebody who would not have studied the question have no answer to the question, "Why do you call that a gas chamber?" During eighteen months I corresponded with those people of the Dachau Museum, Miss Barbara Distel [Distel], Miss Jakash, with Dr. Greviss in Brussels, International Committee of Dachau, and I asked them, "Why do you say that this place is a gas chamber not achieved?"

Q. Not

A. Not achieved.

Q. Not used, you mean?

A. No, no, they say, even. They say now never used; because never achieved. So my question was —

THE COURT: I don't understand the last word. I wonder if we can have an explanation.

THE WITNESS: Achieved means finished. Excuse me. They say never used because never finished. So my question is, "What do you need to achieve to finish this place and to call that a gas chamber? What is lacking? And as I suppose that you have never seen a gas chamber in your life, how could you say that this place is a thing not yet finished but that you have never seen in your life?"

Q. What do you think the room was, Doctor — the ventilation system, the showerheads not hooked up to the plumbing?

A. What we see today, yes. When we see the place today. I would be pleased to show my {2791|2792} slides about Dachau and tell you that.

Q. My question is what you think the room was.

A. My answer is, if you see Braus[e]bad, it would have been a shower room.

Q. With a ventilation system?

A. Pardon?

Q. With a ventilation system?

A. I don't know about ventilation system. Now, about this, please, Mr. Griffiths, may I ask you if you know this?

Q. Oh, yes.

A. You know about this because it is you're become against the Richard Harwood pamphlet. You took your arguments from there. I can tell you the question that you are going to ask me. Not all, but most of them. I know the order. Since twenty-five years I know them. Now, in this book, I see page 1 to 2 —

MR. GRIFFITHS: For the record, Your Honour, the book is called, "Six Million Did Die". It's published in South Africa, Johannesburg, 1978.

THE WITNESS: By two people of a Jewish organization. I see a photo with this caption, "Victims of the Dachau Gas Chamber lie piled to the ceiling in the crematorium." But now it is said never used. Nobody was gassed. And it's the same for many camps. And my question, since years and years, what are your proof for Auschwitz? How are they different for Auschwitz? They are the same for Dachau. And they quote even there, I think I remember, I may ask you that. I think that they quote even the official report of the {2792|2793} Americans about this gas chamber. Am I right?

Q. I think they do.

A. Yes. So they say, you see, those American people are serious people. They are not liars. They visit. They made a report, and you see there was a gas chamber, and this gas chamber was used. In this book. So is it spreading false news? I don't know.

Q. My question, Doctor, is what that chamber is, if it's not a gas chamber, and as I understand it, it may be a shower.

A. It would have been a shower. I don't know. When you visit the place, I didn't do any technical study of this place. I asked to the people of Dachau, "Do you have any expert's report saying that it is a gas chamber?"

Q. Yes.

A. I never found them. The same thing in Mauthausen. When I went to Mauthausen I saw a place, quite a little place, called a gas chamber. And if I may say that, excuse me —

Q. No. go ahead.

A. No, but we have not to do any joke, but when you see the place, it is a kind of service gassing. You have the tap inside. So I wrote to those people, I study the question. I said, "Why do you call that a gas chamber? What proof do you have? Because there is no airtightness, nothing."

A book has been written by Pierre Choumoff, "The Gas Chambers of Mauthausen". And I asked, "Is there an expert report?" And I can tell you my visit of Mauthausen, I saw the director, he is a {2793|2794} Spanish, and I told him, "Do you have an expert report saying that this is a gas chamber?" He said, "Yes. You have it, in the gas chamber itself. It's placed on the gas chamber." I said, "I visited it. I didn't see that. Could you show me that?" He told me, "I have something else to do, but at five o'clock." And I waited one hour in the sun in July. We were outside, himself and I, and I waited and I waited. I told him, "Now, sir, it's five o'clock. Could you show me this report which is supposed to be in the gas chamber?" He told me, "It's in Linz. If you go to Hartheim where one million to one million and a half people are supposed to have been gassed — ["]

Q. Is Kurt Gerstein's sister one of those people?

A. Oh, no. Kurt Gerstein has nothing to do with that.

THE COURT: Gentlemen, please. Listen to the question.

Q. MR. GRIFFITHS: It says here, page 9, "Gerstein's sister was congenitally insane and died by euthenasia." [sic] I thought it was an unusual disease. It is euthenasia. [sic]

A. I thought you were talking about the Gerstein Report.

Q. No. It is in the pamphlet.

A. Or it is Hartheim, go visit the place of Hartheim. I want to see by my eyes. I want to visit and touch. I went to Hartheim and I can tell you what is in Hartheim.

Q. You are a document examiner. You {2794|2795} are a document man. You don't want to rely on survivors or other things. You want to

rely on documents.

A. But what do I call a document? I told you even a stone is a document.

Q. Ah, anything but a survivor is a document.

A. Document, I don't know if you know the Latin, it means something that teach you something. So, please, about Hartheim can I say?

Q. No. Thank you. We are still talking about genocide, so there is no evidence about genocide. I must apologize for looking through Exhibit 1 as you were speaking. There is a reference here, if you will pardon me I think I will find it. Page 11. Do you have it there, please?

A. Yes.

Q. Page 11, column 2, and it's under the heading, "Twisted Words and Groundless Assumptions". Perhaps column 1 in the heavy type. It says:

*"A review of the documentary situation is important, because it reveals the edifice of guesswork and baseless assumptions upon which the extermination legend is built. The Germans had an extraordinary propensity for recording everything on paper in the most careful detail, yet among the thousands of captured documents of the S.D. and Gestapo, the records of the Reich Security Head Office, the files of Himmler's {2795|2796} headquarters and Hitler's own war directives there is not a single order for the extermination of Jews or anyone else. It will be seen later that this has, in fact, been admitted by the World Centre of Contemporary Jewish Documentation at Tel-Aviv. Attempts to find 'veiled allusions' to genocide in speeches like that of Himmler's to his S.S. Obergruppenführers at Posen in 1943 are likewise quite hopeless. Nuremberg statements extracted after the war, invariably under duress, are examined in the following chapter.*

You are familiar with Himmler's speech at Posen?

A. Yes.

Q. In fact, it is quoted at some length in Mr. Butz' book that you gave us. I have it at page 193 and I thought we'd use Mr. Butz' translation — that is Butz' "The Hoax of the Twentieth Century", published, Second Edition 1977, by Historical Review Press.

I suggest to you first of all that Posen was a speech that is reported in the International Military Tribunal documents. It covers some sixty-three pages. Is that right?

A. Mm-hmmm.

Q. And I understand that everybody from a standard knowledge of the time — it was an {2796|2797} interminable speech. It went forever. Have you read that speech?

A. I read the speech in the German text, and — but I have not, myself, heard the discs.

Q. The records.

A. The records, yes.

Q. You went to the Archives but you haven't listened to it.

A. I have listened to part of them. Somebody who told me that they consider that as a suspect document.

Q. Who told you that?

A. Mr. Fritz Berg.

Q. Who is he?

A. He is a man who lives in New York interested in this topic also, working on this topic, and is an engineer.

Q. Fine. Now —

A. So we will listen to that, but I am going to proceed like I proceed with texts and documents, which means that I am going to consider that this text is true. We are going to consider that this text is true.

Q. All right. And this is —

A. So that means that it is true.

Q. This is the translation of Mr. Butz, and tell me if I am reading this right. Page 193:

*"I also want to talk to you, quite frankly, on a very grave matter. Among ourselves it should be mentioned quite frankly, and yet we will never speak {2797|2798} of it publicly. Just as we did not hesitate on 30 June 1934 to do the duty we were bidden and stand comrades who had lapsed against the wall and shoot them, so we have never spoken about it and will never speak of it ... I mean the evacuation of the Jews,*



the extermination of the Jewish race. Its one of those things that it is easy to talk about. "The Jewish race is being exterminated," says one Party Member, "that's quite clear, it's in our program – elimination of the Jews and we're doing it, extermination is what we're doing." And then they come, eighty million worthy Germans, and each one has his decent Jew. Of course the others are vermin, but this one is an A-1 Jew. Not one of all those who talk this way has watched it, not one of them has gone through it. Most of you must know what it means when a hundred corpses are lying side by side, or five hundred or a thousand. To have stuck it out and at the same time apart from exceptions caused by human weakness – to have remained decent fellows, that is what has made us hard. This is a page of glory in our {2798|2799} history which has never been written and is never to be written, for we know how difficult we should have made it for ourselves, if with the bombing raids, the burdens and the deprivations of war we still had Jews today in every town as secret saboteurs, agitators, and trouble-mongers. We would now probably have reached the 1916 – 1917 stage when the Jews were still in the German national body. We have taken from them what wealth they had. I have issued a strict order, which S.S. Obergruppenführer Pohl has carried out, that this wealth should, as a matter of course, be handed over to the Reich without reserve. We have taken none of it for ourselves. ... We had the moral right, we had the duty to our people to destroy this people which wanted to destroy us. But we have not the right to enrich ourselves with so much as a fur, a watch, a mark, or a cigarette, or anything else. Because we exterminated a germ, we do not want in the end to be infected by the germ and die of it. ... Wherever it may form, we will cauterize it."

A. Yes.

Q. That's Himmler's speech? {2799|2800}

A. Yes. Very well known. Always quoted in all the books.

Q. Do you say it forms some evidence of genocide?

A. Absolutely not.

Q. Thank you, Doctor.

A. No, I am going to explain why. I have the right to do so, I suppose.

Q. Explain why.

A. First, when he says, "Most of us must know what it means when one hundred corpses are lying side by side, or five hundred or one thousand", he is speaking to German soldiers, and they know what is War. Okay?

THE COURT: And they know, Doctor ...

THE WITNESS: What is war.

THE COURT: What is war. Yes. Thank you.

THE WITNESS: It means thousands of bodies. Even in the German cities.

Q. MR. GRIFFITHS: You are saying that that doesn't refer to Jewish corpses.

A. I'm sorry?

Q. You are saying that doesn't refer to Jewish corpses.

A. I don't think so. I don't think so. Now, about this, because this is the first thing which was opposed to me and to other than me about that, we must see this entire text of Himmler. We have even more than that. We could have quoted something like:

[*"The following question has been {2800|2801} posed to us. What do we do with the women and children? I have made up my mind. And there, too, I have found an obvious solution. I do not feel that, in fact, that I have the right to route out the main. Say if you wish to kill them or to have them killed, and to allow their children to grow up to take revenge on our children and our descendants. It is necessary to take the grave decision to make this people disappear from the earth."*]

So is it not genocide that?

Q. That's the question.

A. Now, if we stop the quotation here, Himmler look like a famous French General in 1792 who said, "We are going to exterminate all the Royalists". Okay? However, the continuation is curious and gives to understand that Himmler has had a word himself to —

Q. Excuse me, where are you reading from, sir?

A. I am reading my answer to this book that I wrote about that.

Q. I see. I'd rather you told us.

A. It's difficult for me to say it in English, you see. I need the words themselves of Himmler, the words themselves. Excuse me.

Q. You could do the best you can.

A. I am going to try. I am going to {2801|2802} try. He says in fact in this carrying out the policy he was able to avoid from the German officer and soldiers a double danger, that of — I am obliged to quote there, "that of becoming too hardened or becoming heartless and of no longer expecting human life or even of becoming too weak and of losing one's head to the point of having a nervous breakdown."

Two months after he said, I quote Himmler:

[*"When I was obliged to give in one village the order to march against the partisans, and the Jewish Commissars, I say before — this audience, and my words are exclusively to it, I have in principle given the order to likewise kill the women and the children of the Commissars. I would be a coward and a criminal if I had the hateful children of these subhumans killed in the trial of subhumans and against sub-humans grow up. Believe me that an order is not easy to give or carry out. It is harder to understand and express it in this hall, but we must always be aware of the fact that we found ourselves in a primitive racial struggle, natural and primitive."*]

Now, another quotation of Himmler, and we are going to see that Himmler says, talks about the partisan war in Russia. Himmler declare — {2802|2803}

Q. Excuse me. What's the date and the source of this next quotation?

A. It is the Posen discourse two days after, I think.

Q. Two days after what?

A. This might be 4th October, and perhaps it is something like 6th October. We have two Posen speeches.

[*"I thought that I did not have the right, as regards women and children, to allow children to grow up who would later seek to take revenge and to kill our fathers and our children. I think that would have been cowardly. As a consequence the problem has been resolved without compromise."*]

And if we stop there, we have extermination, genocide, etcetera. "We are consequently" — the "consequently" is my word:

[*"We are presently exporting, it is exceptional in this War, 100,000 Jews from Hungary into the concentration camps. We will later transport them to construction underground factories, but none will be seen by the German people."*]

And that's what Himmler called Ausrottung, extirpation.

Q. What is that word?

A. It means extirpation, and can mean also — {2803|2804}

Q. Extermination.

A. It can mean the two, extirpation or extermination, and I think what Himmler said he meant extermination, and it is quite the style of Himmler and of all those people saying, as I told you already, "We are going to exterminate." For instance, "We are going to take those men and women. Some are going to be killed. Some are going to be —"

Q. Worked to death.

A. I don't say worked to death. Put into — no, because if you need the people to work, they must not die, eh? And this is quite the phraseology of Himmler that you find everywhere. "We are going to be without pity. We are going to exterminate." And in fact, the fact is interesting. There is no order, "You exterminate so and so".

Q. No. He is talking about it as a fact here. "This is what we have done and this is what we will continue to do." He is not saying, "Go do it."

A. No. The same thing, what are the facts about that? This is a military — how do you say that — phraseology that you find everywhere?

Q. Exterminate.

A. Yes. We are going to exterminate the enemy.

Q. "Because we exterminated — Ausrottung"

A. Which means extermination.

MR. CHRISTIE: May the witness finish, please, Your Honour? My friend is interrupting the witness. {2804|2805}

THE COURT: Yes. Let him finish, Mr. Griffiths.

MR. CHRISTIE: The question was, what was Ausrottung.

THE WITNESS: Ausrottung, yes. Extirpate, exterminate. It is difficult if you have no fact to say it is exactly this or that. And Ribbentrop said that in the International Military Tribunal. He said many things about that, about Ausrottung.

Q. MR. GRIFFITHS: So it could mean either eliminate by moving somebody, or exterminate by destroying them.

A. It could be exterminate. It could be extirpate. It could be – in the German it could be, but none will be seen by the German people, and the problem is finished.

Q. All right.

A. As, for instance, when he did those deportations, he said, you see, things are going very well because we are keeping on deporting the people east.

Q. Well, I am going to suggest to you that in the passage that I read to you, that he was talking about exterminating meaning death, but when he said, "Because we exterminated a germ, we do not [want in the end to be infected by the germ and die, of it", he is not talking about moving the germ; he is talking about killing it, like killing the lice.

A. Yes. If you take the term, if it is a lice, you are not going to say to the lice, "Now, go this place." Sure if it is a lice, but when we have comparison of this kind, it is quite common. And take {2805|2806} the example, once more, of Hans Frank. He said things like that. And in Nuremberg trial he was quoted, "You said, Mr. Frank, we are going to get rid of all the Jews; we are going to exterminate." And Hans Frank said that it was a period of passion, a period of terrible war and all that, and that he was ashamed of the word that he used, because it didn't mean that.

Q. Well —

A. If you take any political man and if you say, "See, you have said those enormous words", he will say, "Yes. After all, I didn't mean so much."

Q. But I am going to suggest to you that what convicted Hans Frank was not his public words but his private diary.

A. No. It was in his private diary that you have those phrases, and he said about those phrases in his diary, "I didn't mean that."

Q. All right. You know Raul Hilberg's book, "The Destruction of the European Jews". I am looking at page 308, and he's got a long quotation here, and there are some words at the bottom of the page and over the next page, 309, said to be from around December of 1941. Have you ever seen any of that before?

A. Oh, yes. Yes. That is precisely what I meant.

Q. All right.

A. It is precisely that.

Q. That is from his diary. Those are his private words to himself.

A. Mm-hmmm.

Q. Let's see what Hans Frank says, {2806|2807} then.

A. No. His diary is not a private diary at all.

Q. It is not now. It was then.

A. There are thirty-three volumes, and Hans Frank used to put in his so-called diary everything that he did, in his speeches, in his trips, in his actions and all that.

Q. So it was like a scrapbook.

A. Eh?

Q. Sorry. That is an English term.

A. Yes, I think I understand.

Q. Scrapbook, where you put newspaper clippings and —

A. Everything.

Q. And was he submitting this for publication?

A. He handed it to the —

Q. To the Allies.

A. Yes.

Q. Did he hand it to the Germans before publication, or was it his private diary?

A. It was a diary. I cannot call that a private diary. It was an official and private diary. Everything was in it.

Q. Everything was in it of a personal nature to him.

A. Things personal and things not personal.

Q. And who had access to that diary in the German Reich? {2807|2808}

A. In the German Reich at the end of the War?

Q. No. Before the end of the War.

A. I don't know. If somebody was Minister of Interior or Governor General of Poland, if he has his diary, I don't know to whom he might hand it. I don't know.

Q. Well, that's my point.

A. I don't think that if he had been asked by somebody superior to him, "Show me what you have written", I don't think that he would have said, "This is my diary. I cannot give it to you."

Q. But you don't know whether he was ever asked that.

A. No, I don't know.

Q. All right. So in the diary that he kept during the War he talks extensively about the extermination of the Jews.

A. No. I don't think extensively. I am going to tell you why, because this diary is something like twelve thousand pages.

Q. Yes.

A. And in the International Military Tribunal took section 269 pages, I think. So I think that if there was something quite specific about the act of exterminating, not speeches, like Himmler and the others, I think that we would have the trace of it.

Q. Well —

A. We have speeches, yes, all kinds of speeches.

Q. I am suggesting to you we do have {2808|2809} a trace of the outcome of those speeches.

A. I don't say the trace of the speeches; of the actions.

Q. I am suggesting to you we have the trace of the actions, too, Doctor.

A. What kind of actions?

Q. Genocidal actions, starvation, gassing people to death, shooting them to death.

A. Gassing?

Q. Yes, sir.

A. There?

Q. When you say "traces of the actions", I am saying to you we do have traces of the actions.

MR. CHRISTIE: Is my friend obliged to prove these statements as I was obliged to? I wonder if the rules are going to be applied to my friend's statement. If he is going to prove gassing, I would be very interested.

MR. GRIFFITHS: Crown has called evidence, Mr. Christie.

MR. CHRISTIE: Of Gassing? [sic]

MR. GRIFFITHS: Eye witnesses, Mr. Christie.

MR. CHRISTIE: Of gassing, I see.

THE WITNESS: Gassings in the forty-three volumes of Hans Frank?

Q. MR. GRIFFITHS: No, not of Hans Frank.

A. I thought you said that.

Q. No —

A. I thought — I was not right? {2809|2810}

Q. Maybe I am not right. Like you, I make mistakes.

A. Yes. Sure.

Q. Let's see what Hans Frank says in his diary. Let's continue with this description in Dr. Hilberg's book.

A. Yes. Surely. I am sure that he quotes correctly there:

*"The Jews are for us also very parasitical eaters. We have in the Generalgouvernement an estimated 2,500,000 ..."*

and Mr. Hilberg says, "a gross over-estimate," and all is over estimate about Frank, I think maybe, together with Mischlinge, and all that hangs on, 3,500,000 Jews." —

Q. What's Mischlinge?

A. Half Jew.

*"We can't shoot these 3,500,000 Jews, we can't poison them, but will be able to take some kind of action which will lead to an annihilation success, ..."*

Q. *"To annihilation success."*

A. *"To an annihilation success, and I am referring to the measures to be discussed in the Reich. The General gouvernement will have to*

become just as judenfrei as the Reich”.

Q. Jewish free.

A. Jewish free.

Q. Go ahead. {2810|2811}

A. “Where and how this is going to happen is a task for the agencies which will have to create and establish here, and I am going to tell you how they will work when the time comes.”

Q. All right. And Hans Frank, when he was —

A. I want to have, please ...

Q. All right. And Hans Frank, at Nuremberg, indicated to the Tribunal that he was convicted out of his own diary, not out of his own mouth.

A. Exactly. He said, “I employed words that are a kind of charge against me.”

Q. Yeah.

A. But he explained also that he didn’t mean that at all. And he says, “I am ashamed to have used those words.”

Q. He said —

A. He said, “There are plenty of Christian repentants saying what happened is terrible.” He didn’t know in fact, he thought that what Hoess said was right.

Q. What your source was saying was that Hans Frank didn’t know, in fact, what he was saying?

A. In the IMT. In the IMT when you read all concerning Frank, you will see that all from the beginning to the end, he says, “Hitler” — how do you say that, *trompé* — “fooled us”.

Q. “Fooled all of us”.

A. Yes. What is *trompé*?

Q. Fooled us. {2811|2812}

A. Yes. Fooled us. “I was Governor General of Poland, and in my territory those things happened?” And he said that and many others said, “Hitler fooled us.”

Q. Maybe.

A. That is said also by Gilbert in his Nuremberg Diary. So excuse me, we need facts, you see. When people say, “We are going to exterminate — our enemies; we are going to be without pity”, I say this is a kind of speech that you very often, during the War, everywhere, in all the newspapers you see that, but in fact, when you have a fact you have, for instance, Himmler saying, “We are going to exterminate them; we are going to send 100,000 people in factories”, and you say it means that you want them to work to death —

Q. Well, he said, “We are going to send 100,000 people to factories” two days later, but this speech that you and I read from Dr. Butz’ book, the computer scientist, he says that they are going to exterminate them like germs.

A. He said, “We are going to exterminate them like germs.”

Q. Yes.

A. That’s what you call an image to make the people understand. “We are going to be without pity.” But in fact, what happened in fact, in the war against the partisans, I am sure that they were without pity, like the Russians.

Q. Well, also against the group — but you haven’t read the material about the Einsatzgruppen so you can’t tell us about it. {2812|2813}

A. I have read. I told you I have read and I read the Yager [Jäger] report in 1977 with Dr. Butz and I can tell you that it was in Paris in the Centre of Jewish Documentation, but I don’t want to talk about something that I have not really studied. I studied for some months, not for twenty years, like the other questions. I told you that already yesterday.

Q. Yeah, but you — excuse me just a minute.

So you would call, as I understand it, then, would you agree or disagree — I will phrase the question that way — on page 11 of our Exhibit 1 here, where the Posen speech is referred to in the column two here”[.]

“Attempts to find ‘veiled allusions’ to genocide in speeches like that of Himmler’s to his S.S. Obergruppenführers at Posen in 1943 are likewise quite hopeless.”

Do you agree with that?

A. Yes, I agree.

Q. You say that at best we have veiled illusions in that speech.

A. I don’t know if the word “allusions”, if I would use those exact words, but I mean very clearly that’s a warrior’s phraseology.

THE COURT: A warrior’s phraseology.

THE WITNESS: Quite common. You could find that everywhere. Mr. Morgenthau I think might have said the same thing about the Germans.

Q. Mr. Morgenthau? {2813|2814}

A. Mr. Morgenthau, I think. And when Hitler had to give an order, he signed it. He did not hesitate. It has no sense to say that Hitler would have said, “I am not going to sign”, for instance, when he decided what is called the euthenasia [sic] programme.

Q. Euthenasia, [sic] mercy killing.

A. Yes, mercy killing. He signed the order. He gave the date. It was done in October, and he gave the date of 1st September, 1939.

Q. Have you seen the orders for the running and the maintenance of the camps for Sobibor, Treblinka, Chelmno, Belzec?

A. Have I seen what?

Q. Have you seen any documents relating to those camps?

A. Documents?

Q. Yes.

A. About those camps?

Q. Yes.

A. We have nearly nothing. We have not even the plans.

Q. Doesn’t it strike you as odd?

A. What?

Q. Does that strike you as odd?

A. Yes, because when they publish in their books plans of Sobibor or Belzec, for instance the German book that you have, you see that it is done by the memory of an inmate, and you have not even the measurement. And how is it we had Franz Stangl [Stangl], he was interrogated in many weeks in prison, in Dusseldorf by Gitta Sereny-Honeyman, he had been responsible of {2814|2815} Treblinka, Sobibor and so on. You must read into that darkness, and you have absolutely nothing, in fact, about the gassings. And when I said to myself —

Q. I am not asking you about the gassing. I am asking you about any documents about those camps.

A. Oh, I am interested by the question of gas chamber or not.

Q. All right. But have you looked for documents relating to those camps?

A. I have looked in anything, any book we had something about the gas chamber in Sobibor, Belzec and Treblinka. And what we have I can show you. I have a dossier about that.

Q. And in twenty-five years, though, did it ever occur to you to look not for just the gas chamber but for the camps themselves and a document trail indicating the camps themselves? You said Treblinka, you said, I think, was a square mile or square kilometer.

A. No. I quoted Dr. Hilberg.

Q. Ah, I see.

A. The square mile compound. But we don’t have even the measure. So I want to finish what I was saying about Gitta Sereny-Honeyman.

Q. Is it an answer to my question?

A. Yes. And about Treblinka, Sobibor and so on. I said, but how is it that there is, in fact, nothing about the gassings? You say always gassings, gassings, and that you have interrogated Stangl.

Q. This is a conversation you have {2815|2816} with somebody?

A. Yes. I had a conversation with Miss Gitta Sereny, yes.

THE COURT: Who?

THE WITNESS: She is the author of, “Into the Darkness”, a book about Stangl, Sobibor, Treblinka and so on. I had a conversation with her and I said, “How is it that you didn’t ask Frank Stangl about the gas chamber?” And she said, “I didn’t think of asking that.” And you have, in fact, nothing.

Q. Have you looked for the documents showing what they fed the dogs or if there were dogs, or where they ordered the materials for the camps, or the pay sheets for the guards, or who the guards were that were there, or any of that document trail that you told us that the Germans loved to leave?

A. Oh, I have documents stated in some judgment about the people

who were judged in Germany for that, yes. They mention things like that, how many people there were and so on.

Q. This is from the documents of eye witnesses, of the guards who were there.

A. It means documents quoted by the German Tribunals themselves. But if it does not interest the question of the gas chamber, it doesn't interest me. I am looking for this weapon of the crime.

Q. Well, you were very interested in aspects of secrecy of the gas chamber at Auschwitz, and in particular saying, "Well, the Germans left records for everything."

A. Mm-hmmm. {2816|2817}

Q. Why wouldn't there be records for gas chambers if they were at Auschwitz? And my question to you really is, there's no records for those four major camps because they never existed.

A. I don't think you can say that, because when Ober Hauser was interrogated in Munich in the sixties, the judge, the prosecutor, they had documents to say that Ober Hauser was in this camp and many others were sued for that.

Q. You had never seen them.

A. I have never seen them, because I see that there is nothing about the question of the gas chamber.

Q. Well, there's nothing about anything is what I am saying, because those camps never existed.

A. No, you cannot say that. Those camps have existed. Even Himmler calls that, at least I think for Treblinka, transit camps.

Q. What is a transit camp?

A. It is a camp where you bring people, for example, from Warsaw and you put them in camps, and then, how do you say that, they take a register, or I don't know what, and then they are sent to, I told you, fifty-five places in Poland instead of one thousand, instead of being disseminating in one thousand places; they are sent to fifty-five places.

Now, don't ask me if they went by foot or in whatsoever. I don't know.

Q. No. I asked you what a transit camp is, and as I understand it, it is just a temporary {2817|2818} holding facility.

A. Yes. Like Birkenau was more or less. It was more or less a transit camp, Birkenau, because after Birkenau many people were sent in one of the thirty-three, thirty-eight sub camps. In Mauthausen it was also you had a kind of a part that you could call transit camp. People were sent into forty-seven, I think – or Maidanek, perhaps – forty-seven places, because when we say Auschwitz or Mauthausen, we must realize that it is quite a complex. You have the camp itself, and sometimes you have a kind of a camp two hundred kilometers further.

Q. Okay.

A. In Warsaw itself you had a place depending from Maidanek Lublin.

Q. So your answer is, a transit camp —

A. A transit camp like others, yes. People are transitting. [sic]

Q. You quoted us Eichmann yesterday.

A. Yes.

Q. Are you familiar with this book, "Eichmann Interrogation"?

A. I have it in German.

Q. Unfortunately I only have it here in English. Does that pose a problem?

A. Perhaps not, no.

Q. Well, if it does, then I will do something about that. Published by Ferrar, Strauss and Geroux, 1983, First Edition, and that is edited by Jochen von Lang.

A. I have it in German because I know {2818|2819} your questions.

Q. Good. Things will go a lot easier.

MR. CHRISTIE: What was that? I didn't hear.

MR. GRIFFITHS: He said he knows my questions. I said, "Good".

Q. On page 77 – I will come back to it. Just so the jury understands, can you explain what this is, this book?

A. Yes, I can explain you that the interrogator [sic] of Eichmann was a man called Avner Less in Israel. He was Captain, and he interrogated Eichmann during 270 hours.

Q. Mm-hmmm

A. Over a number of days and weeks.

Q. Yes.

A. And the result is something like 3,564 pages, I think. And then you have this, those excerpts presented by the accuser himself.

Q. By the accuser. Who is that?

A. Avner Less.

Q. Do I understand from what you are saying that that is not a fair representation of that interrogation?

A. I don't know, sir.

Q. You haven't read the whole —

A. Oh, yes. I have read the whole, but don't know if it is German or not. When you have three thousand five hundred and how many pages, if you give this, I don't know how the choice has been made. {2819|2820} Same for Hans Frank, thirty-three volumes and you have 269 pages.

Q. Well, I will refer to the trial transcript, then, rather than to that book.

A. 3,564 pages.

Q. Now, let's go back to our Exhibit 1. Do you still have it there, Doctor, the pamphlet, "Did Six Million Really Die?"

A. Yes, I have it.

Q. On page 11 in the pamphlet, column 2, it says, "Legal Principles Ignored". It says, the second sentence under "Legal Principles Ignored":

*"The accusers acted as prosecutors, judges and executioners; 'guilt' was assumed from the outset."*

Dr. Faurisson, there were twenty-one, I believe, accused – twenty-one or twenty-two, at the International Military Tribunal?

A. It depends if you count Bormann, if you count —

Q. Bormann was not there, but was tried in absentia.

A. In absence, yes, etcetera.

Q. So of those people were they all convicted?

A. Three of them were —

Q. ... acquitted.

A. — acquitted.

Q. Were they all sentenced to death, those that were convicted?

A. No. I believe twelve were sentenced {2820|2821} to death.

Q. Will you agree with me, then, that it is not fair to say that guilt was assumed from the outset?

A. This phrase is so general that I don't understand what he means if I have only this. Now, if you ask me if I consider this trial as fair, I can answer you. Is that the question?

Q. No. My question was whether guilt was assumed from the outset when people were acquitted?

A. I can see that three of them have been acquitted and they have been taken by the German and condemned by the Germans.

Q. Page 12, column 2 —

A. Excuse me, Mr. Griffiths. Why don't you read the words which are just after? There is an explanation very interesting about that.

THE COURT: Doctor, listen to me for a moment.

THE WITNESS: Oh, yes. I don't have a right to ask questions.

THE COURT: You don't, but apart from that you have a capable lawyer. When Crown counsel is finished asking the questions he wants to ask you, you can rest assured that Mr. Christie will ask you any questions that he wants to ask you. Does that clear matters up for you so you won't be hard done by?

THE WITNESS: Thank you.

THE COURT: Go ahead.

Q. MR. GRIFFITHS: Page 12, column 2, "Confessions Under Torture", the first sentence there {2821|2822} on that column is:

*"Altogether more disturbing, however, were the methods employed to extract statements and 'confessions' at Nuremberg, particularly those from S.S. officers which were used to support the extermination charge."*

Now, you are a text and document examiner, Dr. Faurisson. Would you agree with me that one would expect, after that sentence, to hear about tortures involving Nuremberg trials and extermination charges?

A. "Which were used to support the ..." – "Altogether more disturbing, however, were the methods employed to extract statements and 'confessions' at Nuremberg, particularly those from S.S. officers which

were used to support the extermination charge."

Yes, you would have something, for instance about Ohlendorf, something like that, perhaps.

Q. Now, would you agree with me that what follows, then, is a description of Malmedy Trials which have nothing to do with extermination or Nuremberg?

A. Yes. But you have Ohlendorf just after.

Q. Just after. I suggest to you the trials at Dachau in the same column, "Confessions Under Torture" had nothing to do with extermination charges or with Nuremberg.

A. You mean that Ohlendorf had nothing to do with extermination?

Q. Where is Ohlendorf? {2822|2823}

A. Page 13.

Q. Well, I am still on page 12, Doctor, under the heading, "Confessions Under Torture". First, the Malmedy Trial, nothing to do with extermination. Next, Dachau Trial, same column.

A. Yes.

Q. And I'd suggest to you that has nothing to do with extermination or Nuremberg, the Dachau trial.

A. Oh, yes.

Q. Is that a Nuremberg trial?

A. In the trials you had the Oswald Pohl case, for instance. He was the responsible of the concentration camps.

Q. Is Oswald Pohl involved in the case that's set out here?

A. What, excuse me?

Q. There is an allegation here of brutality in Judge van Roden's investigation with the Simpson Army Commission. That didn't involve Oswald Pohl or Ohlendorf.

A. No.

Q. It didn't involve charges connected to extermination charges, annihilation charges.

A. No, because they were accused of having tortured American prisoners.

Q. All right. Thank you. That is my point. Would you agree with me, then, that that's misleading to start off that paragraph —

A. Yes, I would say it's misleading for a moment, and then, after, we see that when he talks {2823|2824} about this Malmedy Trial and the story of those, "All but two of the Germans, in the 139 cases we investigated, had been kicked in the testicles beyond repair. This was standard operating procedure with our American investigators", yes, it says that. But then he goes on saying the American people who are able to torture as everybody, and then he says that other people were tortured. But I, yes, if you take word for word, it is not about an extermination programme. Sure.

Q. Sure. Okay.

A. But it is not really misleading because I am waiting, when I read something like that, I am waiting for tortures concerning people accused of extermination. And I found them after. And I don't know if what he says after is true or not. I don't know. I have not studied this question of torture.

Q. All right. Now, on page 14 under the heading, "Action Group Executions Distorted", it is in column one, the first sentence there, or the first two sentences are:

*"The Soviet charge that the Action Groups had wantonly exterminated a million Jews during their operations has been shown subsequently to be a massive falsification. In fact, there had never been the slightest statistical basis for the figures."*

Now, you know that is false don't you, Doctor?

A. Do I know that is false?

Q. Yes. {2824|2825}

A. No. The question, you have the book of —

Q. Krausner [Krausnik]?

A. No. The book of Dr. Butz. See about that, about page 200, you will see things about the executions, about the Einsatzgruppen.

Q. You told me yesterday that although this wasn't an area of your expertise, you have seen the daily reports of the Einsatzgruppen, you have seen the documents, the daily reports of killings each day, you

have seen the Kohrerr [Korherr] report, statistics coming out of the East.

A. I have not studied this question.

Q. But you know there is a statistical basis for those facts.

A. I know there are documents and I know that many of them are not even signed. That's what I know. And if you want any reference about that, see Dr. Butz, about page 200.

Q. I think you have my copy. Now, page 21, we dealt with Anne Frank — sorry, page 26, Chapter 9. The Red Cross. Do you have any comment on what the author here, Harwood, does with the Red Cross report?

A. You mean page ...

Q. Pages 26 and 27, Dr. Faurisson, Chapter 9.

A. Yes, I see. Yes, I see.

Q. Do you have any comment with the way in which —

A. Yes. {2825|2826}

Q. — the report is used by Harwood here?

A. Yes, I see.

Q. Do 'you agree with me that —

A. Page 9?

Q. Pages 26 and 27. That he takes quotations out of context, that he chops them off, thereby distorts the meaning of the quotation?

A. No, I would not agree.

Q. You do not agree with that?

A. No, I do not agree. I said, I think I said something about those reports of the Red Cross. I said that Richard Harwood claimed that never the Red Cross books talked about extermination. And I said that is not true. He should have said, during the War. He needed three words, "During the War no Red Cross report said anything about extermination or about gas chamber."

Q. Well, that's like saying, instead of no evidence, he should have said evidence. It changes the meaning totally, doesn't it?

MR. CHRISTIE: This is a matter of opinion. Unless the witness is being examined on what the meaning of the words is, and my friend's opinion is valid, think that is for the jury to decide.

THE COURT: You can proceed.

MR. GRIFFITHS: Thank you, Your Honour.

Q. Would you agree with me? Adding the three words, "During the War" totally distorts the meaning of all of the rest — {2826|2827}

A. I agreed he didn't say that. He should have said, "During the War".

Q. And by saying that, it is false.

A. Because the report the Red Cross brought after the War, the Red Cross tried to say, yes, extermination existed, as everybody. The Pope himself did nothing about that. He never said extermination or —

THE COURT: I'm sorry, who was that?

THE WITNESS: The Pope. Even when Rome was liberated from the German people, and I may suggest, I may suggest that if the Pope never attacked about extermination and gas chambers, it is because he was very well informed about what was going on in Poland, where you have so many Catholics and priests. And he knew that about Treblinka, Sobibor and Belzec, especially. You had all kinds of rumours. We have a book about that.

Q. So you tell me the Pope knew about Treblinka, Belzec, Sobibor?

A. I think that he knew perfectly well what was going everywhere in Poland.

Q. Do you have correspondence, documents that you've seen?

A. I have seen acts and documents of the Holy See. There are nine volumes, I think.

Q. And is the correspondence in there? Are people writing to the Pope about Belzec, Treblinka, Sobibor?

A. No. But I say that the Pope never said that in the acts and documents of the Holy See. {2827|2828} We have nothing about extermination or gas chamber. But please, let me tell you something about Belzec, Treblinka and Sobibor, because I see, that this is important.

THE COURT: Has this got something to do with —

THE WITNESS: Yes, with information.

THE COURT: Just a moment, Doctor. You haven't heard the question

yet, Doctor.

Q. MR. GRIFFITHS: Does it have to do with the Red Cross?

A. Yes, but I wish to go back to that, if possible, because the people around Treblinka and around —

Q. Doctor, I am talking about the Red Cross, pages 26 and 27 of this pamphlet. Okay? Is that the only mistake that you can find in here, and the only misuse of a quotation that you can find on pages 26 and 27?

A. Oh, I see what you mean. "Again the Report makes nonsense of this allegation. 'Not only' in quotation — excuse me. "Incidentally, it is frequently claimed that mass executions were carried out in gas chambers cunningly disguised as shower facilities. Again the Report makes nonsense of this allegation."

Quote of the Red Cross:

*"Not only the washing places, but installations for baths, showers and laundry were inspected by the delegates. They had often to take action to have fixtures made less primitive, and to get {2828|2829} them repaired or enlarged".*

If I remember, there is a mistake in the reference. It's not volume 3, it's Volume 1. No?

Q. Yes. Is there anything else other than a mistake in the reference you want to say about that?

A. I would need the context to see what it is. I need the volume himself.

THE COURT: We will do that in twenty minutes.

MR. GRIFFITHS: Thank you, Your Honour.

— The jury retires. 11:15 a.m.

— The witness stands down.

— Short adjournment.

— Upon resuming.

— The jury returns. 11:50 a.m.

— The witness returns to the stand.

THE COURT: Yes. Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

Q. We were, just before the break, discussing the Red Cross report, and particularly on page 27 the quotation about baths and showers being inspected by the International Committee of the Red Cross and found {2829|2830} inadequate. And your comment, I believe, was — and correct me if I am wrong — that the page reference was incorrect, but other than that that was a fair representation.

A. Yes.

Q. Volume 1 rather than Volume 3, page. 594, you look at that.

A. Yes. We have that.

Q. And the quotation is there that is in the booklet, is that right?

A. Yes. That's right.

Q. And the chapter that that is on, and I want you to check and make sure because the pages stick together sometimes.

A. Mm-hmmm.

Q. What is the chapter called?

A. "Civilian Internees". "Application in principle to civilian internees of the 1929 Convention relative to the treatment of Prisoners of War".

Q. And do you know how the Red Cross Report you have there defines "civilian internees" and whether or not that includes Jews? I suggest to you it doesn't.

A. It doesn't include Jews.

Q. No. So that couldn't possibly refer to Jews, Jewish camps or shower facilities.

A. In this place, no.

Q. No.

A. But ...

Q. So that's false. {2830|2831}

A. I don't think it's false.

Q. Not false.

A. I don't think.

Q. Well, why don't you think it's false?

A. Okay. So we found, I repeat:

*"Incidentally, it is frequently claimed that mass executions were carried out in gas chambers cunningly disguised as shower facilities. Again the*

*Report makes nonsense of this allegation."*

Then comes a quotation:

*"Not only the washing places, but installations for baths, showers and laundry were inspected by the delegates. They had often to take action to have fixtures made less primitive and to get them repaired or enlarged."*

And we found this quotation in Volume 1, page 594.

Q. In a chapter dealing with civilian internees and Jews who were not civilian internees.

A. So they say that when the people of the Red Cross went into those camps, they used to inspect washing places, installation for baths, showers and laundry. The delegates, when they are described, but those delegates, we know that they had the right in, I think, in 1943, in 1944 and in 19 — especially in, perhaps, February, March, April 1945, those delegates had the right to go into the concentration camps, or some of them, at least. So I suppose — {2831|2832}

Q. We've heard that from the report.

MR. CHRISTIE: Please let the witness finish his answer. I would object to my friend stopping that.

THE WITNESS: So I suppose that the delegates did the same routine job.

Q. MR. GRIFFITHS: And that is your answer as a text and document examiner that you would take this text to civilian detainees, which is just dealing with civilian internees, which are not Jews, as a text and document examiner you take that leap.

A. No. I say if it is a routine, shown as a routine of the Red Cross, I think they did the same thing when they visited the concentration camps but it is true that it is said in a chapter about civilian internees. I don't think that they suddenly don't do their routine work.

Q. For civilian internees. My suggestion to you is that that quotation is misleading, is out of context, and is totally false in the way it is used in the Harwood booklet.

A. Why is it totally false?

Q. Because it doesn't apply to camps where the extermination process was carried on.

A. But I don't know if there were camps where extermination process existed.

Q. What's the lead-in sentence again, just before the quotation?

A. "Incidentally, it is frequently claimed that mass executions were carried out in gas chambers cunningly {2832|2833} disguised as shower facilities." Yes, it is claimed.

Q. Go ahead.

A. Okay.

"Again the Report makes nonsense of this allegation."

Q. Was it claimed anywhere that mass gassings went on with civilian internees?

A. No. No. Certainly not.

Q. Is that out of context, yes or no?

A. That's not out of context, because if you have this routine of the Red Cross, this routine was used also when they had — I suppose —

Q. You suppose.

A. When they had the right to go into the concentration camps.

Q. Do you think that is a little biased of you to take that point of view without any documentation to back it up?

A. I know that they had the right to visit those concentration camps.

Q. In March or April of 1945.

THE COURT: One at a time. Go ahead, Doctor.

THE WITNESS: And I don't think, suddenly, because it was a concentration camp and not extermination camp, as I say, I don't think that they had no right to go and see the showers, suddenly. Why? It was a routine for the Red Cross.

Q. But this section did not deal, that quotation you read and it's in this book, does not deal {2833|2834} with Jewish camps.

A. It's about civilian internees camps.

Q. And that's not Jews.

A. That's not Jews. And then, after, you have the camps where Jews were put, and it is said that they visited those camps.

Q. Does it say anything about the shower facilities in those camps? Does it say that they had access to all camps?

A. No, certainly not. But see, see the text. They have the right to go into those camps. They went twice in Theresienstadt because there was a rumour about what was going in Theresienstadt. There were stories of, like we see about Belsen and in regard Sobibor. So the Germans decided, the German said, "Come and visit." If, during the War, the story of Theresienstadt, of the atrocities of Theresienstadt was known, Belzec, Sobibor, Treblinka, at that time, you had few things in the newspaper, you had, but absolutely contradictory.

So the Germans said, "Oh, we are accused for Theresienstadt. The Red Cross must come."

Q. That was their model.

A. In September '44.

Q. That was their show camp, was it, their model camp, Theresienstadt?

A. Is Auschwitz a show camp?

Q. I don't know. Is it?

A. I don't think.

Q. And you visited Birkenau?

A. Oh, I visited Auschwitz, and {2834|2835} Auschwitz I don't know whether it comprise or not Birkenau, but the same in Auschwitz you are supposed to have a gas chamber.

Q. You read us a portion put to you by Mr. Christie of the Red Cross Report where a Red Cross representative was visiting one of the satellite camps, I would suggest to you, of Auschwitz. That was fifty kilometers from Birkenau and involved prisoners of war. What do you say to that?

A. No, that is a mistake. Excuse me, Mr. Griffiths. If so people from Te[s]chen, fifty kilometers south of Auschwitz, those people talk about rumours, about Auschwitz, and he visited Auschwitz and the detainees didn't say anything about that by themselves. The detainees themselves didn't talk about that. He even charged the man, it was a British. He told him, "Try to make an inquiry about that."

Q. We will come back to that. Mr. Christie is just looking for the report.

MR. CHRISTIE: I am looking for the Red Cross Report where the September '44 visit is reported. Do you have it with you?

THE WITNESS: No, I have not this report today.

THE COURT: It will be found, gentlemen. Go ahead, Mr. Griffiths.

THE WITNESS: The report was —

THE COURT: All right, Doctor. Next question.

Q. MR. GRIFFITHS: You don't like it when [sic] they cut reports, do you? {2835|2836}

A. If it change the sense of the text, no.

Q. No. All right. Well, we are still on pages 26 and 27, and particularly on page 27, the paragraph above the heading, "Red Cross Recipients were Jews". So, that's the paragraph, page 27, column one, that starts: "The Report admits that the Germans were at first reluctant to permit supervision by the Red Cross of people detained on grounds relating to security, but by the latter part of 1942, the ICRC obtained important concessions from Germany. They were permitted to distribute food parcels to major concentration camps in Germany from August 1942 ..."

And if we can pause there for a moment, the Report indicated that was two camps they were permitted to send them to, neither one of which were Jewish camps.

A. I don't remember that.

Q. And the sentence goes on:

"... and 'from February 1943 onwards this concession was extended to all other camps and prisons'."

What do you take that meaning to mean, "extended to all other camps and prisons"?

A. It would mean that the same thing was done in the other camps and prisons.

Q. Would you think that was taken out of context if the words at the end of the sentence were {2836|2837} "in Germany"?

A. Well, I don't know. I don't have the text.

Q. I'll get you the text.

A. Volume 3.

Q. Yes. Page 78.

A. I believe we are just in the middle paragraph. Sorry, it's up here. So must I read?

Q. No. Just read it to yourself. You said you wanted to compare the text. My question is, doesn't that chop off an essential piece of information and, thereby, mislead and distort the meaning?

A. You mean the extension?

MR. CHRISTIE: Can I ask for clarification for myself so that I might understand the question? Does he mean chopping off of the words "in Germany"?

MR. GRIFFITHS: The words "in Germany".

MR. CHRISTIE: Well, the words are in the text preceding it.

MR. GRIFFITHS: No.

MR. CHRISTIE: Yes, "camps in Germany".

THE COURT: Mr. Christie —

MR. CHRISTIE: Sorry. I don't mean to interrupt, but I suggest that if my friend suggests the text chops off the words "in Germany", he is making an erroneous supposition.

THE COURT: Until the question is answered, if you want to object, but not now.

MR. CHRISTIE: Thank you.

THE WITNESS: I don't understand if {2837|2838} it is in Germany or not in Germany.

Q. MR. GRIFFITHS: The sentence, says, "They were permitted to distribute" — listen for just a minute, Doctor, and [ ] then we will go into the source.

The sentence, I suggest, says:

"They were permitted to distribute food parcels to major concentration camps in Germany from August 1942, and 'from February 1943 onwards this concession was extended to all other camps and prisons'."

A. Yes. And the text says, "other camps and prisons in Germany".

Q. "In Germany". Doesn't it make it nonsense to say in the first half of the sentence, to say it was extended to major concentration camps in Germany and the second sentence, all other camps in Germany?

A. That's not correct, yes. I agree with you.

Q. Don't you agree with me that it is misleading? Doesn't it mean that all other camps are included there, and it does not —

A. Yes. And he meant by this, Germany and elsewhere. And there you have only in Germany.

Q. Yes.

A. Yes.

Q. So that's pretty misleading.

A. Yes.

THE COURT: Now, Mr. Christie, is {2838|2839} there anything you want to add?

MR. CHRISTIE: I wanted to add and suggest that my friend is misleading when he interpreted the first part of the sentence to mean that they were permitted to distribute food parcels to all concentration camps in Germany, and then implying, in his submission to the witness, that it includes all concentration camps again, beyond Germany.

It is my submission that it is misleading to suggest that "major concentration camps" constitutes all concentration camps in Germany. In fact, I suggest my friend is putting to the witness a meaning that, although the witness has accepted it, I object to it because it's not contextual. That's my objection.

THE COURT: The objection is not well-founded. It is a question to be put to the jury at the proper time.

Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

Q. You had your hand up, Dr. Faurisson. Do you have a further comment to make?

A. No, no. I am on the text.

Q. I'm sorry?

A. No, I have nothing to ask. I am waiting a question.

Q. Okay. Thank you. Under the heading, "No Evidence of Genocide" in

the Exhibit 1 pamphlet – we will come back to the text if we need to.

A. Yes. {2839|2840}

Q. Would you agree with me that in that heavy-typed paragraph immediately underneath, “No Evidence of Genocide”, that the deletions are misleading and leave out important information to the understanding of what Kaltenbrunner and the German Government did?

A. You mean that I must read the first paragraph of “No Evidence of Genocide”?

Q. I will read it if that will help, and then we will get to the text.

A. You'll read it?

Q. Sure.

THE COURT: Page number, please.

MR. GRIFFITHS: Page 27, Your Honour, column two, top of the column.

THE COURT: Thank you.

Q. MR. GRIFFITHS: *“One of the most important aspects of the Red Cross Report is that it clarifies the true cause of those deaths that undoubtedly occurred in the camps towards the end of the war. Says the Report: ‘In the chaotic condition of Germany after the invasion during the final months of the war, the camps received no food supplies at all and starvation claimed an increasing number of victims. Itself alarmed by this situation, the German Government at last informed the ICRC on February 1st, 1945 ... In March 1945, discussions between the President of {2840|2841} the ICRC, and General of the S.S. Kaltenbrunner gave even more decisive results. Relief could henceforth be distributed by the ICRC, and one delegate was authorised to stay in each camp...”*

I am going to suggest to you, Doctor, that what was left out after the date February 1st, 1945, was that the German Government was responding, not initiating, but responding to a request of the International Committee of the Red Cross that was made in October of 1944.

A. Maybe, yes.

Q. Okay. And if that is, in fact, the case, would you agree with me that that's misleading?

A. Yes, I think so.

Q. Okay. And that —

A. Could you show me —

Q. Yes, I would. I am just trying to get the reference here.

A. Volume 3, page 83.

Q. Volume 3, page 83.

A. Yes, sir. I don't see where is the cutting, please.

Q. You are reading:

*“Itself alarmed by this situation, the German Government ...”*

— this is from the text, page 83 —

*“... at last informed the ICRC on February 1st, 1945 ...”*

Then comes the phrase that is not {2841|2842} included in the pamphlet:

*“... in reply to a request of October 2nd, 1944, that individual and collective relief parcels can be despatched to French and Belgian detainees.”*

A. Yes.

Q. Without that qualifying phrase, doesn't that significantly alter the meaning of that?

A. He says that the German Government accepted the principle of visits. He says that it was decided on February 1945. He does not go into details, saying in reply to a request of October 2, 1944, that relief parcels can be despatched to French and Belgian detainees.

Q. And I suggest to you that without that phrase, it is the German Government that initiated this request and not the International Committee of the Red Cross.

A. Oh, I see. Yes. In reply to a request.

Q. Yes.

A. Yes. But you have that. The German Government has been alarmed, and detail, why has he been alarmed, because he knew the situation. And also he received the request, so would you say that it is not an initiative of the German Government? I wouldn't say that. The German Government, I think — so what everybody was able to see at

that time, catastrophic condition in Germany, and he said to the Red Cross, “Okay. Call him.” {2842|2843}

Q. Okay. Four months after the Red Cross had made the offer.

A. Yes. Yes. In October. But we must understand that the German didn't want foreign people to be into those camps. I think I told you why. For reason of secret that you have everywhere. Even today, in Poland, tried to visit the Auschwitz factories, today in Poland, they don't want the people, the foreigners, to go into those camps where people are I working on synthetic rubber, on armament, on everything. They don't want those people to get in. But at the I end —

Q. Well, with mass murder, especially, they don't want them to get in.

A. Oh, I agree with you that if there were gas murder as you say ...

Q. Mass murder.

A. Mass murder, yes, it would be a reason, but that's a speculation, you see. I understand very well that the German Government was overwhelmed by that. I suppose that in October 2, 1944, so they received that some days after. And then they took a decision. Perhaps at that time they thought, “We are going to wait to see if it is possible to make the situation better”. And finally, it was the catastrophe. So they said to the Red Cross, “Come.” At one condition, which is very important. The man of the Red Cross had to stay into the concentration camp and until the end of the War so that he cannot give any information outside.

Q. Is that very important condition contained in the pamphlet, Exhibit 1? {2843|2844}

A. Oh, no.

Q. I am suggesting your word, suppressed.

A. What?

Q. Suppressed. It's your word, Doctor.

A. I don't understand. What I am saying about the necessity of suppression?

Q. Where does it say, on page 27, column one, that it says:

*“In March 1945, discussions between the President of the ICRC and General of the S.S. Kaltenbrunner gave even more decisive results. Relief could henceforth be distributed by the ICRC and one delegate was authorised to stay in each camp ...”*

Where does it say in the Harwood booklet that the delegate could not be released until the end of the War?

A. It is not said.

Q. And do you agree that by chopping that out, it gives a distorted meaning?

A. I don't know. It says he was authorized to stay in the camp. I don't know what the words are after.

THE COURT: That is volume ...

MR. GRIFFITHS: Volume 3, Your Honour, page 83.

THE WITNESS: On condition that he undertook not to leave it before the end of the War. {2844|2845} For the first time there was the concentration camps were open to the Committee. If I had to quote myself, I agree with you that I would not cut this, that it is for a, how do you say that, something dishonest; but when I quote, I try to give entire phrases, even if a part of the phrase is really not important. I try to do it. The most of the time I do that because I'm always afraid that somebody comes and say, “Oh, you have been cutting the text”.

Q. MR. GRIFFITHS: That's right. And that's not good.

A. And that's not good.

Q. You can give a false impression of a meaning.

A. Yes. And Mr. Reitlinger says that later of Goering, of the 17th of July, 1941, means that the decision has been taken to exterminate the Jews. Mr. Reitlinger, in this short letter, cuts all the beginning. He puts three periods, and he cuts everything which says few words that it is not the policy of emigration and expulsion. So if you have not those two words, it's very grave, because the letter of Goering means those two words.

Q. All right. On page 4 of Exhibit No. 1 there is an introductory section to the material, again with the name Richard Harwood at the end of that introduction. And he indicates that, he concludes that the extermination — the policy of extermination is utterly unfounded, that the con-



clusion is unpopular. He says:

*"A great deal of careful research into {2845|2846} this question, however, has now convinced me beyond any doubt that the allegation is not merely an exaggeration but an invention of postwar propaganda."*

First paragraph, last [last] sentence.

A. In the following chapters?

Q. Column one, page 4. Have you got that?

A. Yes. "In the following chapters".

Q. That's right. And I have paraphrased those first couple of sentences. And do you think that's out of context?

A. No. No.

Q. All right. It's the last sentence there. It says:

*"A great deal of careful research into this question, however, has now convinced me beyond any doubt that the allegation ..."*

and he is referring to the policy of extermination,

*"... is not merely an exaggeration but an invention of postwar propaganda."*

Do you see that?

A. Yes.

Q. What do you say to that, Doctor?

A. Oh, I don't agree at all, because it was an invention during the War.

Q. Okay.

A. It was an invention of the War propaganda. We have a book about that. We have the book {2846|2847} of Walter Laqueur. All those things had been concocted during the War, during First World War. You had a fantastic propaganda about the Germans killing the babies, crucifying the Canadian aviators.

MR. CHRISTIE: Soldiers.

Q. MR. GRIFFITHS: Pilots.

A. Yes. Canadian pilots crucified, and many things like that, during First World War. But when World War II begun, and even before, we had the same lies coming back. And during all the War we had fantastic rumours of all sorts, and they are studied there, and —

Q. The rumours during World War I were all dispelled almost immediately after World War I, weren't they?

A. Quite right. And the difference is that since 1945 this propaganda, this War propaganda is persisting. That's interesting.

Q. It is interesting.

A. How is it that this propaganda ceased, more or less, in 1923, '24? I think I have not checked that that even the British Government presented excuses to the Republic. I am not sure of that. I have not checked.

Q. I am not giving evidence, but I will not disagree with you.

A. You see, we can collaborate. And during World War II you have the same thing, but with much more modern responsibilities, with radio and all that. And all this is studied by Walter Laqueur, who is professor in George Washington University, who wrote {2847|2848} a book called, "The Terrible Secret". The thesis of his book is that —

Q. "The Terrible Secret", does that deal with World War I propaganda, or World War II propaganda?

A. No. World War II. And this man believes absolutely in gas chambers steam chambers, quick lime, electricity, everything. He believes in that. And he said, "How is it that the people did not react, did not believe?" You quoted, remember, the three pillars, the first one Dr. Vrba, page 19, when John Pehle, Director of War Refugee Board, wanted to publish the Auschwitz Report of the two escaped prisoners in 1944, Albert Davis, head of the Office of War Information, protested publishing these reports would be counter-productive. The American public would not believe them, considering them First World War style atrocity stories. And there are exact — I have I studied the rumours of the First World War, and the rumours of the Second World War, they are identical. It means no real imagination. Very simple thing that you can put in the brain of the soldier of the civilians.

Q. It is curious, isn't it, that the World War I propaganda was gone several years and there were public apologies made, and this what you have, called a fantasy or a fiction has gone on for forty years and nobody has apologized for it except West Germany who spent money—

A. It cannot apologize because West Germany wants to be guilty. They are there doing that. {2848|2849} They say, "We send money but that's not enough. We are going to send much more money." That is a political problem. It is a psychological problem. How is it that six million, six million is repeated? How is it that in the Toronto Star they still say four million Jews were killed in Auschwitz? Although since a very long time, no historian claimed that.

Q. So the West German —

A. No. please. How about, in Treblinka, we have a phenomenon of rumour which is interesting, Sobibor and Treblinka? We see page 133, the name of this man is Zukerman, one of the leaders of the-Zionist socialist underground, wrote in 1945 that the Jewish underground press had carried extensive reports about the mass murders?

Now, quotation by Laqueur of Zukerman, but Warsaw did not believe. Simple common sense refused to accept the possibility of mass destruction of tens and hundreds of thousands of Jews. The press was decried for panic mongering even though the descriptions of deportation action were strictly true. The destruction of deportation were strictly true, not the others, perhaps. The Jews about the German crimes was received with incredulity and mistrust.

Q. Because of the First World War.

A. Not only abroad. Even here in the immediate neighbourhood of Punary and Chelmno, Belzec and Treblinka. These reports found no credence.

Q. So people were very careful during World War II?

A. What? {2849|2850}

Q. So people were very careful during World War II about these stories.

A. Some people.

Q. And then after World War II the stories were confirmed, weren't they, by the —

A. I didn't understand the end of your phrase.

Q. The stories were confirmed after world War II.

A. Confirmed what? I don't find one confirmation. And for this rumour you have exactly what is current in the phenomenon of rumour. The rumour does not come from a space which is closed, but comes from the exterior. For instance, from far away. For instance, Struthoff camp was fifty-five kilometers from Strassburg. People who were — French people who were working there in Struthoff, in front of the so-called gas chamber, never knew about the existence of a gas chamber to kill people, but in Strassburg they heard, "Oh, you are coming from Struthoff. There is a gas chamber. A gas chamber."

Q. A lot of people from Auschwitz who were right there who said there was a gas chamber in Auschwitz, not far away but right there.

A. Yes. And you could have also people inside. And you have people like Benedict Kotsky who never heard about that. And you have other people. I could give you a letter of an Israelean who has been for three years in Auschwitz and Buchenwald. And she says it was in 1979; I could found the quotation. It has been published in a German teacher publication with {2850|2851} the address of this woman in Israel. She says, "I've been there. I am there in Germany in 1979. I see that there are discussions about the gas chamber. I must confess that myself I have never heard of that, and that it is a problem and that we should discuss freely about it."

Now, about the rumours, please, and the competition, because you must see that for the journalists, I understand very well that, you have a competition of atrocity, even in what is called Israel now. So this, the news about the massacres

Q. Doctor, Doctor, I am asking the questions. Okay? You are giving the answers. I will appreciate it if you answer the questions that I ask. All right?

A. Yes. Okay.

Q. Thank you. I'd like to ask you about Auschwitz. What, do you say, is the capacity of the four crematoria at Birkenau?

A. Oh, I would be quite ready to answer your question with the plans and the photos, and I could give you that.

Q. Well, you have given us a great deal of information without direct

reference to documents. Obviously, you have an answer to that from your studies, from your reading.

A. When I said no documents about Treblinka and Sobibor, I said there were no documents used by the tribunals.

THE COURT: Doctor, would you please let counsel ask the question and we will go from there. {2851|2852}

Go ahead, ask the question again.

MR. GRIFFITHS: Thank you.

Q. What do you say is the capacity for cremating of the four crematoria at Auschwitz?

A. It seems I have no competence to answer your question.

THE COURT: Doctor, I have made the ruling. I do not intend to change it. The jury and all of us have heard you complaining about my ruling indirectly. Now, please answer the question.

THE WITNESS: Okay.

Q. MR. GRIFFITHS: This is about the crematoria, not the gas chambers.

A. You had, in Birkenau, five ovens, each one with three openings. That is fifteen. Krema II, same thing, fifteen. Then Krema IV and V, but I don't know if they were used for cremation of corpse or for burning garbage. I don't know. So if we can't keep, for example, Krema II, if we need one hour and a half to burn one body, it means – I am not very clever in calculation.

Q. Me neither.

A. It means how many people in one day, one hour and a half? Sixteen perhaps.

Q. Well, I thought, maybe, you have done so much work on Gerstein and other things that you would have that worked out.

A. Oh, I have that in my dossier not my memory.

Q. So there were a hundred bodies at a time, if I understand you, in Krema I and Krema II? {2852|2853}

A. What?

MR. CHRISTIE: Excuse me. No.

THE COURT: Ask him again, Mr. Griffiths.

THE WITNESS: If it is sixteen by day ...

Q. MR. GRIFFITHS: Sixteen a day?

A. Sixteen a day, if it is that. I don't know if it is twelve or sixteen.

THE COURT: Sixteen what?

THE WITNESS: Sixteen bodies by day. If you multiply by thirty, that's it. If you could do that for me.

Q. MR. GRIFFITHS: What's the thirty?

A. Thirty openings of furnaces.

Q. All right. So we've got thirty openings of the furnaces each of which will take how many bodies?

A. I think one.

Q. One body. And what's the sixteen? That is sixteen hours a day?

A. No. I mean sixteen bodies in twenty-four hours.

Q. So with thirty openings, why wouldn't they put thirty bodies in twenty-four hours?

A. No. I mean for one opening.

Q. I see. One opening.

A. For one opening we should have sixteen bodies.

Q. That's all I want. So that would be 480 – sixteen times thirty? {2853|2854}

A. Sixteen times thirty, it gives ...

Q. And that would be for each crematorium, or for the two?

A. For the two.

Q. For the two. All right. And was there a lot of garbage at Birkenau? Did you have a record of that?

A. I cannot tell you how many tons there were, but I think that [there were many people in the Sonderkommando working on that.

Q. Working on ...

A. On collecting garbage and burning garbage. I cannot tell you for the garbage that you could have for forty-five thousand people.

Q. Okay. Were there any bodies that were burned in pits before the crematoria were built?

A. It's possible that in 1942, '43, bodies had been burned on pits, be-

cause at the beginning the German inundated their dead.

Q. The German ...

A. The dead inmates and dead German, but they had problem, because the land is very – plenty of water, you see, and you had danger of typhoid. So they extracted those bodies. If the crematorium were not already built, I think they burned them on pits, but surely not in the ground. I would add something about this number. We must consider that it is a hypothetical maximum, because we must know that, for instance, in the crematorium of Ruheleben [Ruhleben], in Charlottenburg, Berlin, I don't know how many ovens you have, but I know that in mall you have place for five hundred {2854|2855} people at the same time, because always a crematorium must be previewed for the case of a catastrophe.

Q. All right. Two hundred or four hundred people a day, deaths a day in Birkenau, were not unusual, is it?

A. In 1942?

Q. Yeah.

A. Even I think that one day during the typhus epidemic, one day more than six hundred people died. One day. But the same man who in the anthology of Auschwitz was taking the list of the dead told us that the Chancellery, as he said, had a terrible work to do in 1942, but sometime in 1943 they had two dead by day.

Q. Do you have any sense of what the average would be, Doctor?

A. I've read –

Q. Okay. Then based on what you've read.

A. The average I cannot give you because I have asked for many years directly, through the channel of other people, to the Auschwitz Museum, "Please, could I see what they call the book death."

Q. Death book.

A. Death book, yes. And it is impossible to know even if they had them. But what I know is that when one body was cremated, they had to sign a paper, and it is true that the golden teeth were taken out, that is not a legend, and in this case they had to indicate the name of the inmate, his number, the place of the tooth, etcetera. That I have seen for one {2855|2856} or two documents of this kind published.

Q. That's what Fred Wetzler would do, isn't it, the recorder, the Scribe of the mortuary? That was his job.

A. I don't know if he did that, because I don't believe very much those witnesses. Maybe he was talking about something done by others.

Q. All right.

A. But that is true.

Q. So when were Crematorium II and III built, at Auschwitz? What does the Calendarium or other studies tell you about that?

A. Yes, they were all built. The first one was in, I think, the 23rd March, 1943. We had another one the 31st March, another one –

THE COURT: '43?

THE WITNESS: '43. Another one maybe in April, I don't remember. And the last one on the 25th of June, 1944. I have an exchange of correspondence about the Auschwitz Museum which is quite technical. I could bring you this letter of four pages giving the date of the construction and all that, but even in the Auschwitz Calendarium we have the date, and I calculated that those crematorium function from seventeen months minimum to twenty months maximum. And it is said that they do not give precision about that that often, those crematories were not functioning for technical reason, that they had many worries with them. So when I asked at Auschwitz Museum, "Could you tell me how many days each crematorium has worked?", they said, "We cannot answer this question. We know that {2856|2857} there were interruptions, rebuildings and all that, but we cannot answer."

Q. All right. So if the two crematorium, only two crematorium were ever used for burning bodies, and if they operated at their maximum – take that.

A. Maximum, yes.

Q. I know what you said; we will take that first.

A. Yes.

Q. For seventeen months, which is the lesser figure that you gave.

A. You can go till twenty months.

Q. Then you have 245,000, approximately, bodies burned there.

A. 245,000, yes.

Q. Is that about right?

A. Mm-hmmm.

Q. Okay.

A. Now excuse me —

Q. And you have given us fifty thousand as the figure for Auschwitz, the number of dead.

A. Fifty thousand, yes.

Q. So clearly, they weren't working at their maximum.

A. Oh, yes. That's right. Because you have even you told us about Dr. Konrad Morgen. When Dr. Konrad Morgen is supposed to have visited those crematories, he said that not in the IMT but in the Frankfurt trial, he said, "I was surprised to find that all was the, to translate in English, it means white {2857|2858} like the mirror and all that. And when we think that the previous day, perhaps thousands of people had been burned, how is it that it was like that?"

THE COURT: Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

Q. Why do you think the Germans would have built these four large facilities with that capacity that clearly they didn't need, our figures?

A. Oh, no. I didn't say they didn't need. They had those typhus epidemic, those fantastic typhus epidemic in 1942, and they make provision, I don't know how. They said, "We are going to do those crematorium." But how many hours a crematorium is able to function by day? Perhaps twelve only.

Q. Have you found the people that worked in the crematorium to ask them about all that?

A. Yes.

Q. All right. Who have you found?

A. A witness?

Q. Yes.

A. Yes. I am trying to find his name. Oh, yes, I have it. Jankowski. His other name is Fajnzylberg.

Q. Was he a prisoner?

A. He was a so-called Sonderkommando.

Q. And where did he testify?

A. He testified first in 1945, '46. He was interrogated by Jan Sehn.

THE COURT: Where did he testify you were asked. {2858|2859}

Q. MR. GRIFFITHS: Where did he testify?

A. In Krakow, I'm sorry.

Q. And in what trial?

A. It was Jan Sehn in preparing the trial of 640 S.S., I think. He was the examining magistrate.

Q. All right. And did Jankowski testify?

A. He testified. We have the reproduction of his testimony in the notebook of Auschwitz, 1972.

Q. Okay. Thank you.

A. Then he testified in my legal suit.

Q. Which one?

A. For falsification of history, said the people, but he didn't come.

Q. Well, you asked him to come but he didn't come.

A. No, I didn't ask him to come, but those people, the nine organizations, the last day, gave us a paper for signed by Jankowski telling his story. I would have been very interested in seeing this man.

THE COURT: Excuse me. Do I gather he didn't testify in your matter?

THE WITNESS: He testified by a written report.

Q. MR. GRIFFITHS: Was that filed with the Court?

A. Yes. Yes. And I am going to tell {2859|2860} you what he says.

Q. Well, if he wasn't subjected to cross-examination I don't want to know what he says.

A. Yes, but —

THE COURT: Doctor, let me remind you again. Mr. Christie, if he wants to ask you all that, he can ask you that. This counsel is now asking you questions. It is up to you to answer the questions, not to say what you want to say. You will answer the question. Do you understand that?

THE WITNESS: Yes.

THE COURT: All right. Go ahead, Mr. Griffiths.

Q. MR. GRIFFITHS: The plan that you brought the other day and obtained from the Auschwitz Museum ...

MR. GRIFFITHS: Mr. Christie, do you still have that, or —

MR. CHRISTIE: I'm sorry, it is being reproduced, as we agreed.

MR. GRIFFITHS: Do you think we could have that this afternoon?

MR. CHRISTIE: Yes.

MR. GRIFFITHS: Thank you.

Q. We heard from a number of survivors here that although it is not, that you didn't feel very comfortable then, you reviewed some of the survivors' literature.

A. Have I read survivors' literature?

Q. Yes.

A. Yes. {2860|2861}

Q. And I am going to suggest to you that certainly what we've heard here about Birkenau, in particular, that the witnesses were all quite consistent as to the odour of the camp, the conditions in the camp, where the trucks went in the camp, what they could see from the outside of the crematoria, the horrible rations, food, and the high number of deaths each day from brutality. I suggest to you that they were very consistent. What do you say to that?

A. It was quite repetitive.

Q. All right. And I suggest to you that that consistency has been very effective.

A. Oh, do you mean — excuse me, consistency?

Q. Yes.

A. I don't think so, no. I don't think so.

Q. You didn't find that consistent?

A. No. No. And especially not consistent at all with the place, when you know the place, the plans and all that.

Q. Okay.

A. I can give an example.

MR. GRIFFITHS: Can I see the map of Auschwitz-Birkenau?

THE COURT: That is No. 21?

MR. GRIFFITHS: That is 21, yes, Your Honour. It is a large map. There are a number of notations made on it by various witnesses who testified already, and Mr. Christie produced that map.

Q. Can you tell us, Doctor, when that {2861|2862} was made, what period of time in the camp that represents?

A. I think it's something like 1943.

Q. You think it was like that in 1943?

A. Yes.

Q. Why do you say that?

A. Because Kanada is finished.

Q. What about this area over here, Bill?

A. Yes. And this part, I don't think they put anything else. They stopped their construction here.

Q. What about the railroad ramp, wasn't that built in the spring of 1944?

A. I don't remember.

THE COURT: I'm sorry?

MR. GRIFFITHS: "I don't remember" was [sic] was the answer.

Q. And you said '43, but you say one of this crematoria was built in '44?

A. No. '43.

Q. All four were built in '43?

A. All of them, from the 22 of March to the 25 June.

Q. All right. Now, on what do you base your information about — the railroad you don't know about. Your estimate of the time of that is strictly because of where Kanada is. Right? Barracks indicated there.

A. No. I saw that the barracks were {2862|2863} finished, so I think that something like December 1943, but I cannot ...

Q. When was Bill finished?

A. Bill was not finished, I think, it could be also 1944.

Q. Do you know?

A. No, I don't know.

Q. And you don't know when the railroad was finished.

A. When it was finished, it was certainly finished in March or May 1944.

Q. March or May '44.

A. Yes. Certainly.

Q. It was finished in time for the Hungarians to come in on.

A. Exact.

Q. Are there any earlier maps showing any of the growth of the camp?

A. I don't know any – I know different maps, but I cannot tell you the dates of those maps.

Q. Okay.

A. I can give an example.

Q. Well, as I understand you, Exhibit 21 was some time after what date?

A. I should say after December '43.

Q. Okay. And some time before what date?

A. I don't know because when I have another plan, like the Herman Langbein plan that you have, I cannot date it.

Q. I am asking you if you can date {2863|2864} this one.

A. I cannot date it, no. I have the book, and the book does not give the precision.

MR. GRIFFITHS: We are not going to be able to finish this morning, Your Honour. Is this a convenient time?

THE COURT: Yes. Two thirty.

— The jury retires. 1:00 p.m.

— The witness stands down.

— Luncheon adjournment.

— Upon resuming.

THE COURT: Yes.

MR. CHRISTIE: Your Honour, I have, through the co-operation of my friend, the opportunity, if I may, to file – I think by consent ...

MR. GRIFFITHS: Absolutely.

MR. CHRISTIE: The plans of Crematoriums II and III. These are not photocopies so the originals need not be filed. My friend has had an opportunity to compare them with the originals and I am under the understanding that he concedes that they are true copies.

I would like, then, if I may, to file them as exhibits upon which the witness may be cross-examined.

THE COURT: If that's agreeable, Mr. {2864|2865} Griffiths?

MR. GRIFFITHS: Yes. Thank you.

THE COURT: Done. What is the number?

MR. CHRISTIE: There are three plans, perhaps, under one number, 38 A, B and C, I assume, in any order. No particular order, Your Honour. They are the same building.

— EXHIBIT NOS. 38A, B & C. Three plans of Crematoriums.

MR. GRIFFITHS: While we are talking about exhibits, Your Honour, I propose, subject to Your Honour, to file as an exhibit the page of Arthur Butz' book that I read with the Himmler speech in it.

MR. CHRISTIE: Yes. I think that's fair. I wonder if it would permissible also to include the commentary upon it, as it appears to be.

THE COURT: The commentary of the author?

MR. CHRISTIE: Yes.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Well, Your Honour, I haven't been relying on the commentary of the author, and neither has Dr. Faurisson. He has no analysis of the {2865|2866} speech which, frankly, as I read Butz, is quite different from what Dr. Butz – I am not in a position to cross-examine Mr. Butz. My concern was a translation of a speech that everybody could agree upon, and I thought that was the best source.

THE COURT: Is the commentary in English or in German?

MR. GRIFFITHS: It is in English, Your Honour. The Butz book is in English, and I haven't counted the pages.

The difficulty that I have with that, Your Honour, is, I am not able to cross-examine Dr. Butz about his commentary.

MR. CHRISTIE: I suspect I will be endeavouring to put the whole book later on the basis of my client's belief, so ...

THE COURT: You are not suggesting the jury is going to read the

whole book, are you?

MR. CHRISTIE: No, no. But thereafter, they may reason or argue from the book.

THE COURT: Well, I propose again, subject to your comments – and when I say "your" I mean both counsel – that it could be put in as Exhibit 39. {2866|2867} I will reserve on the commentary until such time as it becomes proper to admit it or not to admit it, which I don't propose to decide now because the proceeding isn't finished.

MR. CHRISTIE: Thank you, Your Honour.

— EXHIBIT NO. 39: Photocopy of Himmler's speech.

THE COURT: Nothing else? The jury, please.

— The jury enters. 2:40 p.m.

— The witness returns to the stand.

THE COURT: yes. Go ahead, Mr. Griffiths.

Q. MR. GRIFFITHS: You mentioned this morning, Dr. Faurisson, a document that you have read from Krakow and a statement that you saw in relation to your own trial in France from Jankowski. Is that a man who is known by two names, one Otto Feinsilbert, or Janoslov Jankowski?

A. His first name, the first name I know is Alert Jankowski. Then he had the name of {2867|2868} Fajnzylberg, as I spell it this morning, but sometimes you find it also Feinsilberg [Feinsilber].

Q. I just want to make sure we have the same person here.

A. He was in Spain first, International Brigade.

Q. Before the War.

A. Yes.

Q. And Mr. Jankowski was one of the men that worked in the crematoria.

A. Yes.

Q. And do you know the name of some other men who worked in the crematoria?

A. Supposed to work in the crematorium, yes. We have, for instance, Filip Muller.

Q. Filip Muller, and we have talked about his book, "Eye Witness Auschwitz", and Dr. Nyiszli.

A. Nyiszli, yes.

Q. And you have mentioned him as well, "A Doctor in Auschwitz".

A. Yes. What Raul Hilberg quotes of Nyiszli is an affidavit. He doesn't quote his book. I think he was quite right not to quote his book.

Q. All right. Do you know how many – have you conducted any search for the number of people that survived who worked in the crematoria?

A. No. I think that it is said that on the 17th of January, 1943, I am not sure of the figure, I think that at least one hundred of those people left Auschwitz.

Q. Who said that? {2868|2869}

A. I think it is in the notebooks of Auschwitz.

Q. Do you think you could find it?

A. If I could find it? I have not all my notebooks of Auschwitz there. Perhaps it is in the volume about the manuscripts, perhaps, the manuscripts miraculously discovered in Auschwitz. So it would be 1972, I think, a special edition. But I am not sure of that.

Q. It would be in the manuscripts that were found in 1946 or '47, Birkenau, you think?

A. It was a book consecrated specially to those manuscripts, because —

Q. Is that information from those manuscripts?

A. No, no, no. The book, who has a title, the manuscripts of the Sonderkommando, I think that it is in this book that you have this information that I gave you.

Q. All right. And you were going to tell us —

A. Or perhaps it is in "Fighting Auschwitz", of Galinski.

Q. You were going to tell us something about Mr. Jankowski.

A. Yes.

Q. Go ahead.

A. Mr. Jankowski said that he was in Auschwitz politician [sic] inmate because he had been a communist, and he worked in Krema I of

Auschwitz I, and then he worked in Krema V, in Birkenau. In 1946, {2869|2870} in his affidavit, in Krakow, this is the story that he recounted. He said that the German used to bring victims. The victims would undress themselves, and then, at this very moment, the members of the Kommando, with Alter Fajnsylberg himself, would be locked into the cold room storage. Then, he said, the Germans would gas those people and the Sonderkommando would get out of the storage room and would have to take care of the bodies. So this man said that he did that in Krema I, Auschwitz I, and in Krema V, same scenario. They were put into the storage room so they didn't see anything by their eyes. But in 1980 he added one detail that he didn't give in 1945, '46. He said that once – it's always once – once he saw, on the top of Krema V, an S.S. throwing something by an opening into what he called a gas chamber. And that is, I think, a good sum-up of what he said. So this man was, I suppose, a very long time of his life, if we have to believe, in the storage. Filip Muller wrote a book. The title was, "Three years in the Gas Chamber". That's the French title. This man could have written, "Two years and a half in a cold room storage", more or less.

Q. And do any of the surviving men who worked in the crematoria describe the situation such as you've described it?

A. No. You have variation, yes, but I quoted this man because, in my trial, those nine associations were looking for a good witness, because I asked one witness, I suppose that it was their best witness, but it didn't come.

Q. But nobody came at your trial {2870|2871} because it was a trial based on documents that were filed with the Court.

A. They could have come, all the same.

Q. But nobody was testifying at your trial; it was based on documents.

A. Oh, but they could have come all the same. It is a written procedure.

Q. It was a written procedure. I am showing to you, sir, what I believe is a photocopy, and I will get the originals of page 192 and 193 of Arthur Butz' book, "The Hoax of the Twentieth Century" that we looked at earlier that has the Himmler speech, and would you look at that and tell me if that is a good photocopy of this?

A. Yes. Certainly.

Q. And there is one addition that wasn't in the book, and that is a little mark next to the beginning of the speech. I'm sorry, a little mark that I have put.

A. Oh, yes. Yes.

Q. Other than that it is the same as was in the book?

A. Yes. About this speech I would like to say something, if it is possible.

Q. Well, let's make it an exhibit.

THE COURT: Exhibit No. 39.

— EXHIBIT NO. 39: Photocopy of Himmler's speech.

Q. MR. GRIFFITHS: What is it you {2871|2872} want to say about the speech?

A. Among the people in the accused of Nuremberg, von Schirach was the Chief of the Hitler Youth, and in the Nuremberg cell he was like most of the others, he was completely disgusted by Hitler, meaning by that, what he had learned about Hitler once he was in a cell. And this man, in 1960 or 1961, wrote a book called, in French, translated in English, "I believed in Hitler", and in this book he talks about the Posen speech of Hitler – of Himmler. And what he says, I think, is important. He said, "I realize now, 1960, '61, the meaning of what Himmler told at this moment. There was an extermination, because he said that at that time. Now I realize", which means that at that time when he heard those words he heard those words like many German people heard all those speeches, when so many [many] of them had their own wives, children, family crushed under the bombings, people like Himmler, Hitler and Goebbels – Goebbels also was doing that kind of speech, saying, "We are going to destroy entirely our enemy. You cannot suppose, if somebody is in War, that he is going to say, "The people that you have to fight are human beings. They are like you. They have a job, perhaps the same as you." If you say that, they are going to put the gun down. You must make, from them, fanatics. I suppose that the Russian talk on the same way, eh?

Q. And what I believe you described this morning as warrior talk, that would apply to women and children as well, and civilians.

A. Sure. Women and children in Germany were treated the same, eh, by the bombings. {2872|2873}

Q. Yes, but Jewish women and children were treated the same way.

A. Oh, yes. But I don't say extermination, eh?

Q. No. I know you don't.

A. I know what is War, but I do not understand what is a crime of war. I don't understand that.

Q. You don't understand what a war crime is, Doctor?

A. No. Because I consider that war is a crime.

Q. So whatever happens in war is all right.

A. Is not all right. It's ugly. It's never different.

Q. During the recess Mr. Christie brought in a photocopy of the plans that he showed to you, I don't know whether it was yesterday or the day before, and this one in particular I am looking at is 38A, and that's the plan that you received from the Auschwitz Museum.

A. Yes. I was the first to publish this plan.

Q. And on the lefthand side is a German phrase. It's right near a compass there. And as you know by now, my German is terrible. Can you read that for me? Can you translate it?

A. You cannot translate it for me, really?

Q. Really. {2873|2874}

A. Project for crematorium. Project for the crematorium.

Q. The word here, the first word here.

A. Project, yes.

Q. Can it also be translated as draft?

A. Oh, I don't think we should say draft.

Q. You don't think we should say draft?

A. Architect project.

Q. I see. All right. Thank you.

A. Sometimes, yes.

Q. Or first draft of the plans?

A. A draft of a letter, but I don't think for an architectural design, I don't think.

Q. I wonder if it is a first draft of the plan.

A. First, I don't know. I know that I have many documents about those Krema, but I know also that the Poles have many others that are not shown to us, and I wish we could have them.

Q. All right. So my question was that the word that you translated as "project" can also mean "draft". And you said —

A. Draft —

Q. In the sense of a first draft, second draft, third draft.

A. I don't see if it is in English a proper term. In French would say prulion [brouillon]. That would be for a letter, for a text, but not for something like that, We call that project. {2874|2875}

Q. Okay. Thank you. Do you know anything about — you made it a matter of study — the system of indemnification for those people that suffered losses during the War? You are nodding your head.

A. Pardon?

Q. I'm sorry. For the Reporter, you are nodding your head. Does that mean yes, you have studied that?

A. A little, yes. I am not very competent about that.

Q. Then I won't ask you.

A. Yes, yes. I am interested by that.

Q. I have to ask you, you see, Doctor, your expert opinion. If it is not something you are expert in, I can't ask you your opinion.

A. But all the same I have studied this question.

Q. I see. All right. Well —

THE COURT: Just a minute. Ask him again if he considers himself to be competent, an expert in that field. If he is you may ask. If he isn't, he is repeating hearsay.

Q. MR. GRIFFITHS: Are you an expert in that field?

A. It is difficult for me to answer that, if I am an expert. I have worked on the topic.

THE COURT: Then the ruling is, unless I have heard from from [sic] the doctor, the ruling is, please don't ask him. {2875|2876}

MR. GRIFFITHS: Certainly, Your Honour.

Q. Dr. Faurisson, you can't tell us about, from what I understand, about the number of people who died, Jewish people who died outside of the concentration camps.

A. Mm-hmmm.

Q. And your figures that you gave us relate to concentration camps, and most of your studies have been about gas chambers. Have I got that all right so far?

A. Yes. Yes.

Q. All right. And I am wondering if you can tell us, or answer the question that I guess it was Dr. Vrba who asked: Where did all those people who were being trucked to Crematoria II and III, where are they today?

A. To answer your question, I need to know what it means exactly. You mean, I suppose, that millions of people came in this place. I think it means that, your question.

Q. Say one million.

A. If only 400,000, 405,222 people were in Auschwitz, we could certainly trace every one of them. I told you one method yesterday with the International Tracing Service. But there is another method to trace, and you nearly gave me this method one minute ago.

Q. I'm always glad to assist, Doctor. Tell me what I did.

A. If we study what Raul Hilberg calls {2876|2877} very well restitution, indemnification and reparation, in this case we could do a kind of cross-examination, taking the people who have a file in International Tracing Service, because we must – you know that the inmates were at least eight times registered, leaving their concentration camps, it was despatch to Oranienburg, etcetera. We have those documents, I suppose, many, many of them. And on the other side you could have the people receiving money from Germany today. And if you have the name of those people who might be former inmates, or parents of former inmates, you could have a possibility to double check. I am going to read you something, if you permit, about that.

Q. I don't know. What is it you are going to read? You cannot talk about reparations.

A. It is something coming from the Canadian Jewish News.

Q. What is it?

A. December 11, 1981.

THE COURT: Without reading it.

Q. MR. GRIFFITHS: Before you read further, can I see it, please?

A. For the figures. I cannot get them I want to be precise.

Q. I understand. No, Doctor, that deals with reparations or indemnification or compensation, and that's an area that I can't ask you about. I'm sorry.

We've heard a number of witnesses here testify as to large numbers of their own personal families that never survived, went back to their villages {2877|2878} and found that the village at the end of the War had maybe ten per cent of the population at the beginning of the War. And my question to you is, where are all those people?

A. Yes, I was interested by this question. I remember that I even studied a little bit of this question, perhaps already in '67. I meet people who told me, "I've lost all my family." Some would say twenty-three, fifty-seven, one hundred and twenty-seven, and I've always said to those people, "I must take notice of what you say there. You say that you have lost 127 people of your family. My name is Robert Faurisson. My address is ... And I give you a stamp." At that time I remember the stamp was 0.60. Now it's 2.10.

Q. It's the same with our Post Office, Doctor. Go ahead.

A. But to show you how old it was. And I told them, "Please, send me the list of those people." I can assure that very often, even to people who wrote, the people who wrote, "I have lost 127 people of my family", I never received any answer. So it is a work rather difficult to do when somebody tells you, "I've lost so many people." You must check. But to check you need some data. If those data are not given, it's difficult to work.

Q. Well, Mr. Leader, as an example, he is a Jew who testified here that he is the only member of his family who survived, that all his brothers and sisters, his mother and father, all his relatives on both sides —

{2878|2879}

A. I would be very recognisant to this witness.

Q. You would be ...

A. Recognisant, grateful, to this witness if he could give me the list, because it is his family, could give first name. Name, the place in Poland or whatsoever, the camp, perhaps. All what he could give me on one or two lines, not more, for every member of his family. And I can perhaps check. It was quite possible for me, a few years ago. It will be rather difficult now, but perhaps could also check the International Tracing Service by the channel of somebody else.

Q. Mr. Harwood has an explanation for where all those people are.

A. Mm-hmmm.

Q. He says they are all alive and gouging West Germany for reparations.

MR. CHRISTIE: Well, I might object, and I do, to an interpretation of my friend of the booklet. If he has a quote, I am glad to hear it, but when he makes his judgment on the contents, I think he errs in that regard.

Q. MR. GRIFFITHS: Would you agree with that, Dr. Faurisson?

A. Yes, I would like to, for you to show me the place.

Q. All right. On page 30 of the booklet, quoting from Rassinier at the top of the page, the heading, the big heading, the big words are, "Enormous Fraud". And Rassinier has been called editorially, in {2879|2880} this pamphlet, as the most important contributor to a truthful study of the extermination question. His chapter is, "The Truth at Last: The Work of Paul Rassinier". So we take this as the truth, Mr. Harwood, and he talks about "Enormous Fraud".

A. Oh, I spoke about enormous fraud myself, in my phrase, I said that the alleged gas chamber of Hitler and the alleged genocide of the Jews were one and the same historical lie.

Q. Yes, you told us that. My question —

A. Which opened the way to an English, to a gigantic —

THE COURT: To a what?

THE WITNESS: To a gigantic political financial fraud.

Q. MR. GRIFFITHS: All right. Now, who is committing this fraud?

A. Nahum Goldman, 1976, the man who told us how he open from Adenauer Treaty of Luxembourg.

THE COURT: I just missed that. Would you say that again, please?

Q. MR. GRIFFITHS: Naul Goldberg. Is that right.

A. Nahum Goldman.

THE COURT: Goldman is the last man?

THE WITNESS: Goldman, yes. He has been successively President of the War Jewish Congress of the World, Zionist organization.

Q. MR. GRIFFITHS: And he says what?

A. And he explains — this is the {2880|2881} reference.

Q. What are you reading from?

A. From my own book, the reference.

Q. Thank you.

A. Excuse me, I have not the reference there.

Q. No. I just want to know what you are reading from.

A. No. 624 of the magazine, "Nouvelle Observateur", 25 to 29 October, 1976, the title is "Nahum Goldman", in this interview Mr. Goldman says that those colossal reparations —

Q. Colossal ...

A. Colossal reparation constituted an extraordinary innovation in matters of international law. He said they were contrary to the German constitution. And we see by his, what he says, that he dictated his condition to Adenauer in 1950, and he explained how he obtained eight billions of Deutschmarks, and he says that is to say, ten to fourteen times more than the sum first hoped, and he says, without the German reparation the State of Israel would not have the half of its actual infrastructure

Q. Infrastructure, roads and —

A. He said all the trains in Israel are German. The ships are German, the electricity, a great part of the industry, and also there are those individual rents given to the survivors. Sometimes, some years, the money that Israel received from Germany was more important than the total of the collect of the international Jewish world. The multiplication

was by {2881|2882} two or three. And today I say the young German taxpayer, it was in 1979, who has no responsibility for the War of 1939, 1945, pays his part of that, and the way —

Q. Where does he say in there that it was an enormous fraud played on the German people?

A. He didn't say it was an enormous fraud. It was my judgment, and if we had the text there you could see, which cynicism Nahum Goldman explained this story.

Q. Was there anybody else who committed enormous fraud or just Nahum Goldman?

A. And Ben Gurion.

Q. And Ben Gurion. And those are the only two people involved?

A. It was the State of Israel and International Zionism.

Q. Who committed the enormous fraud?

A. Yes.

Q. And what is the nature of that fraud?

A. The fraud is to say six million, and after that to say, so we need a reparation which is relative to six million. It doesn't mean that they said how Rassinier said that. He said five thousand by people, and you had the reason for it.

Q. It is totally false.

A. That is an invention.

Q. All right.

A. But the sums are considerable, because today we have four million and something like 300,000 of people receiving money from Germany. It would {2882|2883} be interesting — forty percent of them, forty years after the War are in Israel. It would be interesting to have the name of those people.

Q. They are not all Jewish people that are receiving — I can't ask you that, I'm sorry. I don't want to go against His Honour's ruling.

What do you have to say, Doctor, about the phrase here — and I am on page 30 still, under "Imaginary Slaughter", what do you have to say about that?

A. He means genocide, extermination, a planned extermination. He doesn't mean that there were no slaughters at all. He talks about the big imaginary slaughter.

Q. I see.

A. The one called Holocaust.

Q. What role, if any, do you think the individual survivors played in all this?

A. I don't know. I don't know because I believe rather easily, perhaps I am naive, in the good faith of the people. They are convinced of what they say, of what they do, most of the time. So when I have somebody like Nahum Goldman and Ben Gurion, I don't hesitate, and I say, "No, that's impossible."

Q. So the survivors, like Mr. Urstein and Mr. Leader who are receiving a pension from West Germany, you have nothing to say about them?

A. Nothing against. Nothing. I wish that all the people who have suffered during their last War could receive reparations, yes. I think it would be fair. {2883|2884}

Q. Without telling us anything about the details of the reparations, and perhaps before you answer this, let His Honour indicate whether or not you can answer it, do you know whether the discussion about compensation was initiated by Germany, or by Israel?

Just a moment, Doctor.

THE COURT: Mr. Christie?

MR. CHRISTIE: I have no objection.

THE WITNESS: If it was —

THE COURT: Just a moment. No, he can't answer that. He is not an expert.

MR. CHRISTIE: Excuse me, Your Honour. It occurred to me that I have lapsed into the habit of not standing when I have been asked a question. I should have stood and I should have said then I have no objection.

THE COURT: Go ahead.

MR. GRIFFITHS: Thank you, Your Honour.

Q. Still under that paragraph of "Imaginary Slaughter", the last two

sentences, I'd ask you to comment on, again, as a text and document examiner —

THE COURT: The last two sentences of the passage?

MR. GRIFFITHS: Of the pamphlet, the passage headed, "Imaginary Slaughter".

THE COURT: Yes, I have it.

Q. "Surely this is enough grief for {2884|2885} the Jewish people? Who has the right to compound it with vast imaginary slaughter, marking with eternal shame a great European nation, as well as wringing fraudulent monetary compensation from them?"

The question, Doctor, is, would you agree with me that the last question there about imaginary slaughter and fraudulent monetary compensation refers to the Jewish people in the question before?

A. Yes.

Q. I think it does.

A. Could you recall me what means "compound"?

Q. "Who has the right to compound"? Make it worse is what it means.

MR. CHRISTIE: I agree.

THE WITNESS: To make it worse. Who has the right to make it worse?

Q. MR. GRIFFITHS: To make the grief worse.

A. It is a resounding confirmation of the fact that Jewish during Second World War can be estimated into a figure in thousands. I don't agree with that. I don't agree when he says that the Jewish casualty during the Second World War can be estimated at a figure in thousands. That is certainly impossible. I wouldn't say that. It's much more important. Surely this is enough grief for the Jewish people — "grief" means again?...

Q. Sadness.

A. Oh, yes. Who has the right to {2885|2886} compound it with imaginary slaughter. I would agree with who has the right to compound it with vast imaginary slaughter, but for the comment marking with eternal shame a great European nation as well as a wringing fraudulent monetary compensation from them, that is poetic, and I won't comment that that's a political consideration. Is Germany a great European nation? Do we have to care about white race or things like that? That's not my — I am not interested in that.

Q. Mr. Harwood is, though, isn't he?

A. Yes, he is interested. Myself, I am not interested. But I could say all the same ...

Q. Go ahead.

A. I think that it is a shame that a nation, no matter if it is Germany, China or whatsoever, could be at this point — slandered do you say?

Q. It's a good word. Defamed, slandered.

A. Defamed. I agree totally. Defamation of Germany, defamation of people who were on the side of Germany, defamation of the Red Cross accused of not having said or done anything, against the Pope Pius XII, defamation even now, since the years, of American Jewish community who is supposed not to have done enough during the War. And you know that in New York or Washington, perhaps, they constituted a kind of Commission of Inquiry, why did the American Jewry didn't believe in those things, those slaughters? How is it that they didn't do that? I think that there are many people who are accused. If you visit the Simon Wiesenthal Centre in Los Angeles, you see something which is very {2886|2887} interesting. So it is about the Holocaust. And you see photographs of German people, like Hitler, Himmler, Kaltenbrunner and so on, they are there in a corner. You waited for them. You are not surprised. And they do not occupy a big place. But suddenly you have, I think you call that a makeshift, a kind of construction or building in paper, you see, showing an inmate in his uniform of inmate, seven times like that, and his fingers is pointing to the real responsible of the genocide. Who are they? They are Churchill, Stalin and Roosevelt.

Q. Is that what it says on the caption of that picture, Doctor? Is that an interpretation of it?

A. There is no caption. There are accused, and then you have the Pope Pius XII. It's quite clear. You don't need any caption.

Q. Now, Doctor —

A. So I am not a defender of Germany, eh?

Q. I am a little puzzled. I hope you can help me. Individuals who claim compensation from the German Government, as I understand it, you are saying that you can't say that they are alive; you don't say that.

A. I would do exactly like they do if I was a Japanese, put in a Canadian concentration camps during the War. I would ask for compensation.

Q. Right and the only – the only fraud that you see is in the payment of monies to Israel; is that right?

A. It's all what Goldman and Ben {2887|2888} Gurion did to Adenauer. Recounted. You must read that line by line. Something more. Nahum Goldman, on the French radio, I have the reference – I don't know if this reference there, but I have the text of what he said. He qualified the reparation by Germany. He said, astronomical. But few people –

THE COURT: Just so the jury should know, was Konrad Adenauer the Chancellor of Germany at the time?

THE WITNESS: Yes.

Q. MR. GRIFFITHS: And would you call this the biggest money-making racket of all time?

A. No. I am not able. I must see if, in the past, there have been things like that. I cannot say it is a lie. I think it is a fantastic lie, all the same, yes.

Q. What's a fantastic lie?

A. When you see the lies of the First World War and you compare that with the lie of the Holocaust, you must admit that, with more modern means, we did a much more bigger lie, historical lie.

Q. We did a much more bigger lie. Well, there are much more people involved in this lie, aren't there – all the people who saw the gassings and all the people who were from the camps and saw the shootings in the East?

A. You have people who have seen, people who think they have seen; people who have smelled, thinks that they have smelled, etcetera. I am not able to judge an individual [sic]. I say only about our three men, Vrba, Gerstein, Hoess, the three pillars, I am going to {2888|2889} qualify everyone of the three men.

Q. I'm sorry, you are going to what?

A. To qualify, to give my opinion.

Q. I think you already have, Doctor. Thank you. I have no further questions.

THE COURT: Fifteen minutes.

— The jury retires. 3:35 p.m.

— The witness stands down.

— Short adjournment.

— Upon resuming.

— The jury returns. 3:54 p.m.

— The witness returns to the stand.

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: Thank you, Your Honour.

#### RE-EXAMINATION BY MR. CHRISTIE:

Q. My learned friend asked you if all the inmates are alive and gouging West Germany, and he asked you who are the liars, and you gave the answer about that, and he asked you who the liars were and you mentioned Nahum Goldman and Ben Gurion. I would like to ask you, who are the victims of this lie?

A. I would say that I do not agree with Richard Harwood when he says that it is only Germany. It would be, I should say, everybody. Those {2889|2890} who believe in that and those who do not believe. I could say that I am the victim of that. And what I wish, that the people could understand that in a historical lie there are so few liars, and so many people who are victims of a lie, brainwashed by first five years of war propaganda, then forty years of war propaganda during a time of peace. I think it would be good if we could go back to what I call the truth. The truth, for me, is not something that I write with a big "T". I don't know where the truth, in general, I talk generally speaking, I talk about the truth with a little "t", and about specific questions. Truth is what can be checked very favourable. We have other words for other

things, belief, etcetera, and sometime lie. I think we should need this truth. It would be easier to live. It will be better for peace, also.

When I consider the evolution of the mentality in France about this problem of the Holocaust, I see that there is, perhaps, a difference between France and Canada. I have many among my acquaintance Jewish friends.

MR. GRIFFITHS: Excuse me, Your Honour. I don't mean to interrupt Dr. Faurisson, but we are a long way away from who the victims are.

MR. CHRISTIE: Yes, but we are close to the social effects of this publication, and that is why I asked the question. I would like him to go on about the social implication of the subject.

THE COURT: Yes. Thank you.

THE WITNESS: So I noticed in France that this belief in the Holocaust was, perhaps, not very {2890|2891} strong just after the War, but very strong in the fifty and in the sixties. I say among the intellectual: I don't say in the medias, because the medias, they are not going with the intellectuals at this point. And the intellectual Jewish people, in the seventies, began to quit a little bit this belief of the Holocaust, and now, in France, in the eighties, I see that those intellectual Jews, most of them got rid of the religion of communism, and I think that they try to get rid also of this religion of Holocaust. And I think that it is a good thing.

Q. MR. CHRISTIE: In your opinion.

A. I don't say the media. The media repeat and they will repeat for years and years that there were for million killed in Auschwitz and so on.

Q. What is the solution to the problem of victims of lies, in your —

MR. GRIFFITHS: How is this – I'm sorry, finish the question.

Q. MR. CHRISTIE: In your opinion as a layman interested in study, that's my question.

MR. GRIFFITHS: Thank you. Two objections, Your Honour. One, this witness is not qualified as a layman, he is qualified as an expert, and that's the basis upon which he can give his opinion in a particular field. Secondly, I don't see how that arose out of cross-examination.

THE COURT: Yes.

MR. CHRISTIE: I'm satisfied. Thank you.

— The witness retires.

— {2891|2892}

MR. CHRISTIE: I am prepared to call my next witness.

THE COURT: Please do.

MR. CHRISTIE: My next witness is Dr. Russell William Barton. I would like to file, now, a curriculum vitae for the purpose of qualifying the witness as an expert in psychiatry.

THE COURT: Expert in what?

MR. CHRISTIE: Psychiatry. He is also the same Russell William Barton mentioned in the booklet, Your Honour.

MR. GRIFFITHS: Your Honour, my friend, just before Court opened, gave me the curriculum vitae, which is certainly impressive, and there are degrees of honours given to Dr. Barton, and I am content that he is an expert in psychiatry.

MR. CHRISTIE: Thank you. The portion of the text of "Did Six Million Really Die?" referable [sic] to this witness commences on page 25, in the paragraph. immediately above the photograph, and proceeds to the portion that says, "Fake photographs".

THE COURT: Down to and including the whole page? {2892|2893}

MR. CHRISTIE: No, sir. Just to the "Fake photograph".

#### RUSSELL WILLIAM BARTON, sworn

THE COURT: Mr. Christie, you are calling this witness in his capacity as an expert according to the curriculum vitae that has been presented; is that right?

MR. CHRISTIE: That's right.

THE COURT: That will be a lettered exhibit. Proceed. I am prepared to accept this witness as an expert within the confines as mentioned in the expertise.

— EXHIBIT "T": Curriculum vitae of Dr. Russell William Barton.



MR. CHRISTIE: Your Honour, I would like to go through it for the benefit of the jury.

EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. Dr. Barton, I am going to lead you, unless my friend objects ...

MR. GRIFFITHS: No objection. {2893|2894}

Q. ... on a number of points, and I would just like to ask confirmation if this is correct, sir. You, sir, I am informed, are a psychiatrist. You have, "Present Occupation – Consultant Psychiatrist – Private Practice" from April 1978 to the present. Is that right, sir?

A. Yes.

Q. And you are presently a Senior Associate psychiatrist, Strong Memorial Hospital, Rochester, New York since January 1971, and Senior Associate Attending Physician, Strong Memorial Hospital, Rochester, New York, since February 1978 to the present. Is that right, sir?

A. Yes.

Q. And your present faculty appointments are Clinical Professor in New York School of Psychiatry from September 1968 to the present, Clinical Associate Professor of Psychiatry, University of Rochester, New York, School of Medicine and Dentistry since January 1970; is that correct, sir?

A. Yes.

Q. And your previous appointments were as Registrar of Maudsley Hospital, London, England, from January 1953 to March 1956 ...

A. Yes. {2894|2895}

Q. ... Senior Assistant Psychiatrist, Shenley Hospital, St. Albans, United Kingdom, from April 1956 to December 1959. Is that right?

A. Yes, sir.

Q. Edgeware General Hospital, Outpatient Clinic one day per week, April 1956 to March 1957; and Central Middlesex Hospital, London, Outpatient Clinic psychiatrist one day per week, April 1957 to December 1959; and various hospitals in the United Kingdom until 1977. It's my understanding, sir – is that correct?

A. Yes.

Q. And you are an international consultant with the World Health Organization and have been in 1964?

A. Yes.

Q. And with the Department of public Welfare Mental Health in St. Paul, Minnesota, Consultant psychiatrist in 1965 for several months?

A. Yes.

Q. And the Director of Education at Pilgrim State Hospital, West Brentwood, New York, from March 1969 to September 1969, and May 1970 to October 1970: is that right, sir?

A. Yes. {2895|2896}

Q. You are a member, or a Fellow of the Royal Society of Medicine, London, a Fellow of the American Psychiatric Association, and you have, in that capacity, served throughout the world, is that right, sir?

A. Yes.

Q. You are, I understand, a member of several committees in Rochester and in New York as well as in England pertaining to psychiatry, as is indicated in the second page, is that right, sir?

A. Yes.

Q. And you have been a medical practitioner since 1974.

A. Yes.

Q. And a psychiatrist since, I believe – when, I'm sorry?

A. I would like to say since 1955, when I got the postgraduate with the Diploma in Psychiatric Medicine.

Q. It is my understanding, sir, that in addition you are a graduate of Eltham College in Kent, King's College in London, and Westminster University, and the Institute of Psychiatry in London, and you graduated with Honours from the competition exam in New York, I believe, {2896|2897} with the highest mark ever awarded. Is that right?

A. Yes.

Q. And going on to "Clinical Training", I understand you have been trained in several hospitals in England, the Institute of Psychiatry in London, the Institute of Neurology in Queen Square, London, Maudsley Hospital, London, and you have been researching in hypothalamic

disorders, postpartum mental disorders, schizophrenia and other mental disorders.

A. Yes.

Q. And you have published a book called, "Institutional Neurosis" in 1963 which is published in Dutch, Italian, Japanese, as well as Spanish, French, German and Greek. Is that right, sir?

A. Yes.

Q. And you have published, I believe, "A Short Practice of Clinical Psychiatry[]" in the United States, and contributed chapters to several medical journals in various related psychiatric concerns and interests. Is that right, sir?

A. Well, "A Short Practice of Clinical Psychiatry" was published in England, but it was distributed here, in America, by Year Book Publishers. {2897|2898}

Q. I see, sir. In terms of articles and research, you have contributed, as is set out in your curriculum vitae, two pages of publications, works and articles throughout the world: is that right – rather than go through them all?

A. Say a page, a page and a half.

Q. And I understand you were born in London, England, on April 21st, 1923?

A. Yes.

Q. You are married and have two children?

A. Yes.

Q. And the important part, I believe you served in the International Red Cross in Belsen, Germany.

A. Yes.

Q. How did you get to go to Belsen Concentration Camp?

A. They called for volunteers, when I was a medical student, to help the starving people in Holland.

Q. I see.

A. And I think most of us volunteered, and they selected those of us who were about twenty-two, twenty-one or twenty-two, because it was known that typhus was raging, and typhus is far less lethal if you are under {2898|2899} twenty-five than if you are over thirty.

Q. I would like, sir, if I may, to produce and show to you a book, Exhibit 1, "Did Six Million Really Die?", and turning to page 25, I would like to go through with you, sir, a portion of this book commencing at the words, "A surprisingly honest appraisal", and. I'd like to read it to you, and then I'd like to ask you some questions about it, sir. It says:

*"A surprisingly honest appraisal of the situation at Belsen in 1945 appeared in Purnell's 'History of the Second World War' (Vol. 7, No. 15) by Dr. Russell Barton, now superintendent and consultant psychiatrist at Severalls Hospital, Essex ..."*

Are you that person?

A. Yes, I am that person. I am no longer at Severalls Hospital, Essex.

Q. Were you in the seventies?

A. I left in 1970.

Q. Yes. It says:

*"... who spent one month at the camp as a medical student after the war. His {2899|2900} account vividly illustrates the true causes of the mortality that occurred in such camps towards the war's end, and how such extreme conditions came to prevail there. Dr. Barton explains that Brigadier Glyn Hughes, the British Medical Officer who took command of Belsen in 1945, 'did not think there had been any atrocities in the camp' despite discipline and hard work. 'Most people,' writes Dr. Barton, 'attributed the conditions of the inmates to deliberate intention on the part of the Germans ... Inmates were eager to cite examples of brutality and neglect, and visiting journalists from different countries interpreted the situation according to the needs of propaganda at home.'*

*However, Dr. Barton makes it quite clear that the conditions of starvation and disease were unavoidable in the circumstances, and that they occurred only {2900|2901} during the months of 1945. 'From discussions with prisoners it seemed that conditions in the camp were not too bad until late 1944. The huts were set among pine trees and each was provided with lavatories, wash basins, showers and stoves for heating.'*

*The cause of food shortage is also explained. 'German medical officers told me that it had been increasingly difficult to transport food to the camp for some months. Anything that moved on the autobahns was likely to be bombed ... I was surprised to find records, going back for two or three years, of large quantities of food cooked daily for distribution. At that time I became convinced, contrary to popular opinion, that there had never been a policy of deliberate starvation. This was confirmed by the large numbers of well-fed inmates. Why then were so many people suffering from malnutrition? ... {2901|2902} ... The major reasons for the state of Belsen were disease, gross overcrowding by central authority, lack of law and order within the huts, and inadequate supplies of food, water and drugs. The lack of order, which led to riots over food distribution, was quelled by British machine-gun fire and a display of force when British tanks and armoured cars toured the camp. Apart from the unavoidable deaths in these circumstances, Glyn Hughes estimated that about 1,000 were killed through the kindness of English soldiers giving them their own rations and chocolates.' As a man who was at Belsen, Dr. Barton is obviously very much alive to the falsehoods of concentration camp mythology, and he concludes: 'In trying to assess the causes of the conditions found in Belsen one must be alerted to the tremendous visual display, ripe for purposes of propaganda, {2902|2903} that masses of starved corpses presented.' To discuss such conditions naively in terms of 'goodness' and 'badness' is to ignore the constituent factors ..."*

Have I read that correctly, sir?

A. You have. It's not quite accurate, because I was there from May 2nd, and the War finished, officially, on May 8th. I was there before the war had ended.

Q. Is that passage that I read, however, a fair and accurate representation of what you saw and have published on occasion?

A. Yes. Yes.

Q. Now, Dr. Barton, tell us what was the scene you saw ...

A. Well, we arrived, I think it was a Friday, May 2nd, and we had a briefing. And the following morning we were driven to the horror camp – there were roughly three camps – and long before we got to the camp there was an awful smell which I later learned was decaying faeces, burning leather and rags; and in the camp itself there were still a large number of bodies, although the British had been in charge for two weeks; they were unburied and they were {2903|2904} naked.

When we went in our first hut, which was Hut No. 1, there were mainly men there who seemed to be able to cope. We went back to the Red Cross and said, "You've assigned us a hut that doesn't really need two students. Is there something more we should do?" And then we were assigned to another hut. I think it was 214. We went there, and I went inside the hut and my foot – my boot stuck in something sticky, and it was a mixture of feces and goo, and I went outside of the hut and I threw up, and then I had to go back in.

We worked our way down. There must have been three hundred people in an area about forty yards by eight lying on the floor, some of them dead in their own feces, because some of them are too weak to move. The smell was appalling. And they were calling out for help. And I was absolutely stunned. It was dreadful. When we got to the end of the hut we found two medical students who had pre-empted us, who got there first, so we had again been re-assigned a hut, and we went to another, and I got the hut I was to work in – I think it was hut 213 – and that, too, was in a frightful state. I think we had about four hundred people in there – women. Again, so many, many, many bodies {2904|2905} were there, and there was that mixture of feces and vomit, helplessness, and the people were dirty. There was nowhere for them to wash, and there were feces between their fingers and smeared on their faces, and they, too, called out and asked for help. "Herr Doktor. Herr Doktor", they would say. And so we really didn't know what to do immediately, and I said, "Does anybody speak English?" And we found a few inmates who spoke English; and I was fortunate to find one young lady who told me she had been to Britain in happier days, and she translated.

We had been given glucose, and there was no running water in the

camp, and we mixed that up and made a glucose drink which we handed around. A little while later we found that the inmates were vomiting. Subsequently – this was a very important observation, because when people vomit, when they are very malnourished they tend to die by inhalation or by losing electrolytes. So we then changed tack and started using – forty tons of powdered milk was delivered to the army kitchens, and I was asked to help out with the diet, and we made up a gruel of cane sugar, which has bigger molecular weight and is less likely to cause vomiting, or flour if it was available, and oatmeal and powdered milk, and this went round and was mucked up, and again some of the {2905|2906} inmates said it was too sweet, so we tried to get a sort of double menu; some people would have porridge, and some could have this gruel that we made. It was difficult to do more because there was so many to feed and so many could not feed themselves, and though no one recruited those who were able, you sort of had to stand over the situation.

And we went in on May 2nd, and I think it was by the 6th or 7th, certainly before the War ended, the death rate in the camp had dropped from about five hundred to about sixty.

THE COURT: Dropped from five hundred to about sixty.

THE WITNESS: To about sixty a day. We would be trucked over to the camp. We were living in the Wehrmacht headquarters, the old Panzer school, and we were trucked there in the morning and it was awful to see some of the patients, the inmates, just hurled outside the hut – it looked like they were hurled. They died. And we left about six or seven at night. But one didn't know what more one could have done at the time. We were medical students. We didn't have the skills or medical ability or medical knowledge. But I think the main contribution was to ensure that everybody got something to eat that wasn't going to kill them. {2906|2907}

You see, when people are malnourished and have typhus, their stomachs are as thin, not as tissue paper, but extremely thin, and if you give a meal, at best, that is the end of it; if you give them something that makes them vomit, then they are likely to die.

Q. MR. CHRISTIE: What was your initial reaction to the conditions in the camp?

A. Well, I was more horrified, of course, and I accepted that it was a deliberate and vicious inhumanity that had been perpetrated on mainly Jews. I mean, there were other people there, but the great majority were of the Jewish religion.

Q. Why did you come to that conclusion at that time?

A. Well, that's what everybody said. I mean, it was – you know, those first few days we put in ten or twelve hours a day. We didn't have much time to think. If you hand out something to four hundred people and you take a minute a time, that's four hundred minutes, and that's the best part of a day gone. And we didn't have much time to think those first few days.

Q. Did you later?

A. Well, then, yes, then questions began {2907|2908} to rise in my somewhat pedestrian brain. For example, there were showers in the hut that we had; there was a bank of about eight showers. They were all blocked and there was no running water, and I couldn't understand why they should be there. In the kitchens which I now had access to, because I was a sort of unofficial dietician, there were four hundred fifty kilo-vats steam-heated for cooking, and if what I had been told was the fact of the matter, I couldn't understand why it should be so well-equipped with stainless steel lining and all scrupulously clean. Although all the records were said to have been destroyed – and certainly records had been pulled up and gone over and stuffed back in a sort of block of pigeonholes, big pigeonholes – I fished out and looked through them as we had a little more time, and I found books, sort of standard printed books of food which had been cooked and distributed; and they went back, I think, to 1942 or '43.

It just made me think, well, food had been available. It had been cooked and it had been distributed. It increased my skepticism. And of course, we talked to medical students. It wasn't a very popular view.

Q. What view was that?

A. Well, that it was all very well to say that this had all been deliberately done and worked out {2908|2909} and was intentional, but as I saw it, the outbreak of typhus on the one hand, the transfer, as I understood, of some fifty or sixty thousand people from the eastern camps as the Russians moved in, the transfer of some fifty or sixty thousand people into Belsen-Bergen, which only had room for three thousand, was a monstrous thing to do because there was no room for them to sleep and all the facilities that there were were [sic] grossly overcrowded and, furthermore, there weren't the supplies of food.

Q. Did you make an inquiry of the inmates to determine why they had come to the —

A. Oh, yes.

MR. GRIFFITHS: Excuse me doctor. Pardon me. I think, Your Honour, as I understand, the doctor is testifying now as to his personal knowledge, and the inquiry might be hearsay. I am happy to hear about his personal observations, but they are hearsay.

THE COURT: Will you qualify that, Mr. Christie, please?

MR. CHRISTIE: I can only say that I understood the witness was qualified as an expert. He conducted an inquiry as a medical officer of the conditions in the camp, and I heard other experts give hearsay as to base {2909|2910} their opinion. I thought we went through that in the case of Dr. Hilberg to start with.

THE COURT: I think what you should do is, ask the doctor whether or not — what capacity he is here, and in what capacity he purports to testify. If he purports to testify as to what he saw, that is fine, or heard or smelled. If he purports to say what he heard from others, then I would want to hear that before I hear what others said, so that Crown can have an opportunity, along with yourself, to discuss the matter, before the doctor is permitted to give hearsay.

Opinions on books are one thing; opinions on history are one thing; opinions on what one saw, heard, smelled or felt, of course, are entirely another thing.

MR. CHRISTIE: Well, I am seeking to qualify the witness as an expert in the medical conditions in the camp and in the psychiatric questions which I propose to ask him at a later stage pertaining to a number of things; and it hasn't been my custom to specify the questions I intend to ask the witness to get permission from either the Court or my friend in advance, but it's my intention to ask the witness questions about the results of his inquiries into why the people were dying in the camp. That's why — {2910|2911}

THE COURT: There is a way of doing that without drawing hearsay.

MR. CHRISTIE: No, I don't think so.

THE COURT: I do. What I think is more important than what you think.

MR. CHRISTIE: Well, you asked me. I said what I thought. I won't answer questions unless I am asked. I won't give opinions unless I am asked. I won't say anything unless I am asked.

THE COURT: Perhaps you can go through with the witness that aspect, and when you get the psychiatric portion of it, Mr. Griffiths can object or not, as he wishes.

MR. CHRISTIE: The witness, Your Honour, is both an eye witness, a medical person qualified to give opinion evidence in the realm of medicine, he is a thoroughly qualified medical practitioner, he is a highly qualified psychiatrist — the Crown does not dispute his qualifications — and they then, I gather, and not Your Honour, but my friend objects that I may not lead hearsay. I am really quite surprised.

MR. GRIFFITHS: Well, I don't wish to surprise you, Mr. Christie. Dr. Barton is an eminently qualified psychiatrist, and I have no objection, and I would {2911|2912} welcome his opinion on psychiatric matters, and I have no objection to that at all; but he is also an eye witness, and there are two different roles that the doctor is hear to fulfil [sic], I'd suggest. And in one role he is entitled to give an opinion, would be my submission, Your Honour, and in the other role he is an eye witness and he is not entitled to give hearsay unless it relates to his psychiatric opinion.

MR. CHRISTIE: The realm of his medical expertise, as a qualified medical practitioner, is to express opinions on what he saw at the time.

THE COURT: He can do that.

MR. CHRISTIE: And to give the basis of his opinion from the sources he derived it, from.

THE COURT: You might ask him as to with whom, if anyone, he spoke, and as a result, what he heard, what are his opinions. You may not repeat hearsay. He may not repeat hearsay.

MR. CHRISTIE: You mean he may not repeat hearsay as —

THE COURT: Excuse us, members of the jury.

MR. CHRISTIE: I won't pursue the question. The jury don't have to — {2912|2913}

THE COURT: Excuse us, members of the jury.

— The jury retires. 4:30 p.m.

THE COURT: Mr. Christie, you will do precisely what I say. I have ruled, and you will not question it. That's the end of it. You will not draw hearsay from this witness, and that is the end of it.

Bring back the jury, please.

— The jury returns. 4:31 p.m.

THE COURT: Proceed, please.

Q. MR. CHRISTIE: What inquiries did you conduct to determine the cause of the conditions in the camp, other than you've described?

A. Well, I made, of course, clinical examinations of patients, and we had British medical officers and consultants; we roughly worked out, say in a hundred people, in my particular hut, twenty had typhus, about twenty had pulmonary tuberculosis from coughing, and another twenty had a mixture of things — I mean, they all had the same thing, but some had erysipelas, and there was scurvy, and malnutrition and, of course, dysentery, gastroenteritis, but there was no {2913|2914} typhoid.

Q. Did you form any opinion as to why the conditions in the camp had existed?

A. Well, I asked. I spoke to people who had been in the camp before 1945, and those who had come after 1945, and I asked them what had been going on.

THE COURT: And you formed an opinion.

THE WITNESS: And I formed an opinion, Your Honour, that, I think until the gross overcrowding, the camp had been run as a camp with reasonable administrative skill; but after the influx of some fifty or sixty thousand, the camp administration, particularly the director, Kramer, and his henchman, Dr. Klein, had sort of resented the extra fifty or sixty thousand people, and he had a sort of feeling that he had an obligation to look after the three thousand that were there, that he wasn't going to have much to do, or do more than was bureaucratically necessary for the rest.

Q. Do you know if there was a possibility of providing food for the fifty or sixty thousand?

A. There wasn't much food getting into the camp.

Q. Why is that?

A. I don't know if this is hearsay, but {2914|2915} I was told constantly that everything that moved on the road was strafed by the British or the Americans, or bombed, and that supplies simply couldn't be brought, that water —

Q. Did you conduct inquiry into the water supply?

A. Yes — why the water was not flowing, because we had already been there two weeks, and one would have thought it would have been chlorinated and fixed, but I was told that the sewage and the water had become polluted because some canal somewhere had been bombed, and the sewage and the water had mixed, and they were afraid of typhoid.

Q. Did you have medical, or reasons to inquire into the conduct of Dr. Klein that you've mentioned?

A. Yes.

Q. And what did you find?

A. Well, it would be hearsay, I suppose, if I told you what people told me, but there were mixed views about him. Some said that he was —

MR. GRIFFITHS: Excuse me. I agree with the doctor that it would be hearsay. I would like to hear what he found from his observations, but not what he found from other people.

THE COURT: I agree. {2915|2916}

Q. MR. CHRISTIE: Did you form an opinion. from his conduct as a

doctor?

A. Yes.

Q. What was your opinion?

A. Well, that he was a man of limited intelligence and so forth. He did what he could. Apparently he went to a hospital where Dr. Bruns was in charge, and he would take medicine back to the camp. I formed the opinion that he was conscientious [sic] within the limits that he felt applied to him because of a resentment, I think, they all had about the influx of this huge number of people.

Q. Did you, as a result of your inquiries, find out when that influx had arrived?

A. Yes.

Q. When?

A. It was as the Russian armies moved west. So the inmates of some of the camps there, Buchenwald, for example, were moved over to Belsen and to other camps.

Q. Do you know, why?

A. Well, at their choice. They told me, you know, that they were asked whether they wanted to stay or whether they wanted to move back to Germany, and somebody told me that the lesser of the evils was to go west. I think, {2916|2917} too, my opinion about the reason they were in Belsen and why it had been reasonably well-run was that there was, I understood, many of the people in Belsen had relatives over in America who had undertaken to give them a home or to send the money to pay the fare and so forth. And there were other rumours – I don't know if I should say this – that they could be traded —

THE COURT: Well —

MR. CHRISTIE: Your Honour

THE COURT: Go ahead, Mr. Christie, ask the questions.

THE WITNESS: There were rumours that they could be traded for trucks and things like that, which again was very horrifying for a man of twenty-two.

Q. MR. CHRISTIE: That obviously upset you very much at the time; is that right?

A. Yes.

Q. Did you, at first, have any opinion about the Germans and the people who administered the camp as a result?

A. Yes. I thought that they were a sort of typical, rather dull, uninspired group. I don't think that they kept adequate control of the junior members. The seniors {2917|2918} would leave the running of a hut, in my opinion, to the block leaders, who was one of the inmates, and they wouldn't scrutinize too carefully what happened. And I formed the opinion that the reason some of the inmates were relatively well-fed and others were almost starved, apart from typhus and illness, is that if there were a majority in a hut, or one more powerful group, they would take what they wanted from the rations as soon as they were delivered, and when they were finished, they would leave whatever was left to the remainder. There was a kind of terrible internal tyranny, and I think it was an obligation of the administration of the camp to ensure that food was adequately distributed to everybody. I think they had a responsibility which they neglected, quite frankly.

Q. Did your opinion of the administration become something – well, let me ask you, why are you here to testify?

A. You asked me would I be prepared to do so? I wrote this article, not particularly wishing to, but I was solicited. I was told that I was the only person that had the administrative, etcetera, to do so, never dreaming that it would create the response that it did. And I think once one has written an article, one's got to stand by one's {2918|2919} word. And that is why I agreed to come along today.

Q. What tremendous response did it get? First of all, what was the reaction to your article?

A. Well, I thought there was a very irresponsible heading. In the article I had written, from questioning inmates of the camp and the German doctors, I understood – and also some of the inmates, by the way, were doctors and they were wonderful, they helped – but by questioning them I understood that Belsen was not too bad until the end of 1944 and early 1945. This was a quote in my article. And the London

Times headlined an article, "Belsen not too bad says psychiatrist", which of course, was inflammatory and, I think, irresponsible. And then there were letters to The Times, which I have copies here.

Q. You could, perhaps, relate those and describe them, if you would, please.

A. Well, there was one from a man named Scrivener, who said, "It is", the article, "It is a triumph of scientific detachment. Dr. Barton is so detached he becomes almost adrift over elementary observations. For example, Dr. Barton mentions the masses of corpses whose ghastly appearance was ripe for the purposes of propaganda. However, he is far too detached to inquire how these unfor-{2919|2920}tunates came to be corpses."

Q. Had you inquired how those unfortunates came to be corpses?

A. Extensively, yes.

Q. And was it your opinion that these corpses were used for propaganda purposes?

A. Yes. That was a very unfortunate phrase I used. I mean "ripe" in the sense of mentally ripe in the time when irresponsible journalists again were going in and taking photographs and purporting that this was all deliberately intended, that it was calculated and worked out. I mean, it's true, I don't think anyone would deny, they had no business – the German party had no business to disenfranchise Jewish people and herd them into camps on arbitrary grounds without adequate hearings; it was a monstrous lack of law and decency. Having done so, I would have said they had a responsibility to feed them and so forth.

Q. From what you conceded, they made an effort to carry out that responsibility.

A. Well, yes. At first.

Q. In the chaos of the end of the War could you see some method by which they could have carried out that responsibility with the equipment available? {2920|2921}

A. Well, a letter from – no, I couldn't, to answer your question straightly, directly; but there is a letter from Dr. Glyn Hughes also very critical of me, and I knew Glyn Hughes in Belsen, and some of my article was given from a lecture that he gave us.

Q. Was he an officer there?

A. He was a medical officer-in-charge, and he says, "I am reluctant to write this letter, but hope I it will end the correspondence about Belsen. It is unfortunate but in the article in Purnell's History of the Second World War Dr. Barton's facts, figures, assumptions, dates are correct. He says for example Belsen was not handed over to the British on April 13th at twelve hours. The 11th Armament Division bypassed the camp on the morning of April 15th when the first British troops entered at seven minutes past three o'clock. Well, in fact, the camp was ceded on Himmler's orders, and Himmler didn't cede it because he was a nice guy, but because he was terrified that typhus was going to spread all over Germany. Typhus is carried by lice and it causes death. In that time... to over thirty or forty per cent of the people, especially if you are well-nourished. So the camp was ceded. First of all, the British wanted a large area to be neutralized. The German negotiators {2921|2922} refused and then finally they agreed that five by eight kilometers would be neutralized, and then that ceded at twelve o'clock." And I think the Brigadier is wrong in saying it wasn't ceded then, but the British didn't get in until three o'clock on April 15th, two days later. And then he goes on to say, "The medical students of whom Dr. Barton was one came sixteen days later and so saw none of the early scenes. I would like to pay tribute to the work they did. It was valuable and saved thousands of lives. At the time of their arrival there must have been fourteen thousand fewer inmates than on the day of liberation. Nine thousand had already been hospitalized, and at least five thousand must have died." He is meaning five thousand between April 15th and May 2nd. Then he goes on to say, "The almost well-nourished inmates mentioned must, in the main, have been those who arrived within a day or so of liberation. The fact remains that during the last five days the great majority of the prisoners had had neither food nor water." Then he goes on to say, "No one has accused the Germans of deliberate starvation. Nothing can excuse the bestiality, brutality and deliberate neglect. The bombing of

the roads did not really affect the situation. There were ample supplies in the immediate neighbourhood in bakeries and dairies. The British {2922|2923} Army used them straight away to feed the inmates. I could wish that these frightful incidents would cease, but let no one ever forget the example —

THE COURT: The last part again, Doctor, please?

THE WITNESS: "I could wish that", referring in print, "these frightful incidents would cease, but let no one ever forget this example and extent of man's inhumanity to man."

Q. MR. CHRISTIE: From your observations, was that your observation of food and the availability of supplies in the immediate area?

A. Well, I think — he made a concession when he said, "No one has accused the Germans of deliberate starvation" That is not accurate. Everyone had accused them, and when I went there I had thought that this was deliberate starvation and the proximal cause of death was intentional — withholding of food — but after I had got over my shock and after I had looked around, I had second thoughts and said, "Why are these cooking vats here? Why are these showers here? And why is there food distributed?" Then I began to think again and say, "Well, it's ghastly and it's horrible, but is that what really happened?" And Glyn Hughes {2923|2924} talks of "[n]othing can excuse the bestiality, brutality and deliberate neglect". I think there were incidents of the bestiality, as in any large institution thugs and bullies, if not adequately supervised will take out their sadistic impulses on inmates and patients. In fact, when we tried to give patients intravenous hydrolysate, which was a digested protein, we tried to give it to the inmates intravenously — nowadays it is called hyperalimentation and it is quite safe — in those days it was experimental, and when we gave it to them they would shriek and say, "No, no", and we were told this was because they had been injected with benzol and stuff; but I used to spend a lot of time talking to patients, and they would say, "We die from this, doctor. Every patient that have been given the injection have died. We don't want it." And it became quite clear to me that there were acute allergic reactions, and you couldn't just pour in a digested protein into somebody's body and not get an acute allergic response. So they developed asthma, some had heart attacks, and so forth, and they died. And that is really why they were refusing to have any more of the intravenous feeding. Again, this was very unpopular when I discussed it with my colleagues, my fellow students. I said, "I really think we should give up on this. It is not proven and it is {2924|2925} not helping."

Q. What wasn't?

A. The intravenous use of the protein hydrolysate. But that was considered, you know, what shall I say, non-supportive or, you know, not playing in the team, to criticize a treatment which they had presumed was going to help, and of course, it may have helped some. As I say, today there is no problem; you just shove a needle in and the hyperalimentation, without the body reaction, you can keep people alive intravenously; but forty years ago it was a very different picture.

Q. Was there this atmosphere of playing on the team at the time, so to speak, vis-a-vis the Germans in 1945?

A. I think — yes. There always is an overall feeling, a sort of primitive mass response, like animals running in a herd.

Q. And the German animals were retreating and the Allied animals were advancing, I suppose.

A. Yes. But you make me sound as though I am stereotyping. There were many Germans who were kind and sympathetic and who were very helpful in the camp.

Q. I am not stereotyping anybody. We are all animals, so to speak, in a sense. {2925|2926}

A. But there were some guys who are pretty vicious, given the chance; but on the whole there is an overall attitude, a sort of fashionable belief which prevails, and if one challenges it, I find one finds oneself in hot water.

Q. And so was there public reaction attacking you about this statement that the Germans had not systematically starved the inmates?

A. Yes. There was a very nice letter from a J.P. Taylor, who was a well-known historian who I went and talked to, who said that in the last three

months of the War, when the concentration camps in the east were evacuated, the Centre in Berlin directed all the prisoners to Belsen. Fifty-five thousand starving and diseased persons were thrust into a camp designed for three thousand. Food supplies, medical attention and sanitation broke down. The camp commander made some effort to look after the original inmates. He left the others to die. Thus the favourable accounts of Belsen are true and the unfavourable accounts are also true.

Q. Who was the commandant of Auschwitz?

A. Kramer.

Q. Did he leave the inmates to die? {2926|2927}

A. I don't know. I think he felt that his responsibility was to three thousand who were there. And I think he felt, like so many administrators do, that bureaucracy had messed things up and he couldn't help what happened to the rest. He hadn't been consulted; they had just been pushed on.

Q. Did he leave or run away and hide?

A. No. He stayed in the camp. This was amazing. I never actually met him, because he was ill, but my colleagues would say, "The nerve of him to stay." My opinion is that he thought he had been doing a job to the best of his ability, and that his administrative skills would be utilized by the occupying British and so forth. So that I don't think he thought for one moment that he was responsible for all the deaths.

Q. Could you see, from your own eyes, the condition of the roads and the canals and the water facilities around the camp?

A. Well, you could, but I mean, you could see into the camp through the barbed wire and through the huts where the guards were, but I don't think many people would go around there. There were no cars or anything. And you certainly wouldn't see what was going on in the huts. {2927|2928}

Q. So after your first impression of horror and looking around and seeing what was the real cause, what did you do about your observations? Anything?

A. Well, I made them known to the people in charge, to Captain Michael John, who is in the Royal Army Medical Corps, and I told them to, in our discussions, as to what more we should do. And then I shut up about them.

Q. Why?

A. Well, the whole business was determined at Nuremberg. I think both Kramer and Klein were hanged, and —

Q. They were hanged for —

MR. GRIFFITHS: Excuse me. Don't lead the witness.

THE COURT: I think, gentlemen, what we will do is, we will adjourn till tomorrow at nine-thirty.

— The jury retires. 4:55 p.m.

— The witness stands down.

— Whereupon the hearing is adjourned to February 8, 1985, at 9:30 a.m.

—— {2928|2929}

## FEBRUARY 8, 1985

— Upon the hearing resuming.

THE COURT: The jury please.

— The jury enters. 9:30 a.m.

## RUSSELL WILLIAM BARTON, previously sworn

THE COURT: Proceed, Mr. Christie.

## CONTINUED EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. Dr. Barton, yesterday we were discussing the article that was written in the History of the Second World War, which was authored by you, and I now produce and show to you what I believe is a copy made of the original article. Is that right, sir?

A. Yes. Yes.

MR. CHRISTIE: May I file that, please, Your Honour?

MR. GRIFFITHS: Your Honour, I am content that it be filed as a lettered exhibit, but not as a numbered exhibit.

THE COURT: Rather than hold it up now, gentlemen, why don't we file it as a lettered exhibit, and I can hear submissions on it later?

MR. CHRISTIE: I do want it as a numbered {2929|2930} exhibit.

THE COURT: I know you do. We will hear it later.

MR. CHRISTIE: Yes, sir.

Q. And does that article represent the truth to the best of your knowledge, sir?

A. Yes.

— EXHIBIT "U" Photocopy of article in "History of The Second World War" (Vol. 7, No. 15).

Q. Now, you were in the process of describing the response to and reaction from your publication of this observation about Belsen. Could you describe the general tenor of the response in the publications in the Times of London reacting to the article?

A. Yes. There was an exchange of letters over the following, I suppose, week or ten days, some of which were extremely derogatory, and saying that I got the whole thing mixed up and I was wrong and —

Q. Were there some favourable supporting views as well?

A. There were three letters that were favourable. Well, when I say "favourable" — but one was {2930|2931} favourable. The other was dispassionate. There was one from a man who was, I think, the President of the Jewish Institute, Dr. Arnsfeld (ph), who had written in The Times a critical letter to which I wrote to him personally and explained that I hadn't said that Belsen was not too bad. I thought it was a dreadful place, but that people had told me that, and had written it into the article, and irresponsibly it had been headlined.

Q. By whom had the headlines been attributed?

A. Well, "Belsen not too bad says psychiatrist" was the headline.

Q. And who authored the headline?

A. I don't know who the author was. He was a journalist.

Q. Did you learn, as a result of this, of other consequences of publishing this article?

A. Well, yes. At that time I was having a difference with the Scientology cult group, a religion, and they issued a news letter called, "Freedom", and in it they began to call me, "Belsen not so bad Barton".

Q. It became a nickname, did it?

A. Well, they attempted to smear it on {2931|2932} to me, yes. And then I thought it had all died down, and I was asked to discuss Scientology on Tom Snider's Tomorrow Show from Burbank, California. It was a national show in America. And I appeared with two ministers of the Church of Scientology who had the first six sessions. And then, when I appeared and said that I thought the church was wrong because it preyed on and profited from the emotionally unstable element and so forth, there was a tremendous explosion, and one of the ministers, name Whitmore, alleged that I had killed fifteen thousand Jews in Belsen.

Q. And did you consider taking some action as a result?

A. Yes. I saw the libel lawyer in Nixon, Hargraves — one of the leading firms in Rochester. I agreed that it was a gross libel, and that it would be a responsible action, and I thought it over, and I thought I would be spending the next three to five years, having some knowledge of the techniques and so forth, hopping from State to State, and there is only so much time in one's life, and I didn't want to spend five years of my time just defending that. So I didn't take action. I thought it was so absurd and so outrageous and so far from the truth.

Q. Could you evaluate the thousands of {2932|2933} deaths in Bergen-Belsen as to whether you, in your opinion, considered that it was related to a plan, deliberate extermination process?

A. Well, in my opinion it wasn't. As I've said before, typhus had broken out, and perhaps twenty per cent of the people there had typhus, and over fifty per cent of the people die with the disease. We had no chlorinephenocol or tetracycline to treat them, and there was no treatment, and secondly, a lot of people had tuberculosis, and the pneumonia that derived from typhus, and there were many other diseases, and the death rate continued over five hundred a day.

Q. Even after your arrival?

A. No. The inmates told me that the food we were giving them they

were vomiting, and when they vomited, they died. In short, we were giving them glucose, which is like taking salt, because it so so hypertonic, and we changed it and made a gruel of powdered milk and cane sugar, and this stopped the vomiting. Mind you, not everybody needed this tremendous care, but the ones that were emaciated through starvation and malnutrition and so forth couldn't take it without dying, and secondly, if they had a good meal, it was considered a kindness, and the British "tommies" {2933|2934} gave them their rations, and their stomach sac burst because it had atrophied over the previous three or four months.

Q. Having taken what was then, and perhaps later, was a stand that put you into some difficulties, have you considered the effect on persons — and I mean by this, in terms of your qualifications and expertise as a psychiatrist — do you think it's healthy for persons to be able to question widely held views of their time?

A. Did you say — the gist of the question, is it healthy for them?

Q. Yes. Mentally, for the mental health of the people to question the widely-held views of their time.

A. Yes. I think it's essential that views should be challenged. Whether it is healthy or not, it doesn't matter.

Q. Now, I'd like to ask you, in view of your experience as a psychiatrist and having studied in the area of psychiatry for so many years, in your experience and in your opinion is there such a thing as what we commonly call brainwashing?

A. Yes.

Q. I'd like to put to you a hypothetical {2934|2935} question. In your experience as a psychiatrist, when a person is subjected to an accusation, a horrible accusation such as a planned, deliberate mass murder accusation, supported by massive public repetition, coupled with fears for one's physical safety, imprisonment, the hanging or death of one's friend and/or superiors, one's family being in the hands of one's captors, the destruction of one's home and property, the destruction of the value system one has been previously used to, the desolation of one's country, would an innocent person with average intelligence be able to respond independently of his captors if they asked him for an admission of his guilt?

A. I can't really answer that yes or no without misleading you, but it would depend on the individual. There are many people who could stand out — we've heard of them in the Soviet Union — who in spite of most of the desolation of the country, have stood out with remarkable courage and suffering. We know there were such people in fascist Germany who stood out in spite of most of their situations, and — but on the whole, the average person would be brainwashed and would be making confessions, as did the people who were brainwashed in their career in North Korea, South Korea, and later in, Vietnam, the prisoners of war.

When there is sufficient influence and {2935|2936} threat, the situation will overcome the majority of people, but there are some who won't yield what they consider to be the truth under any circumstances.

Q. Would they be in the majority?

A. No. The minority.

Q. Could you give us an indication, from your knowledge of the subject, what percentage of society is able to withstand those types of pressures?

THE COURT: Why don't you ask him, first, whether or not he has knowledge of those numbers? Then you can ask him —

MR. CHRISTIE: Thank you.

Q. Do you have knowledge from your studies and experience of the percentage of the population?

A. I don't have numbers. I have impressions, that's it's small.

Q. Being both an eminent psychiatrist and a person who was present in Europe in 1945, how would you describe the mental condition of the men in the victorious armies in 1945 as to their capacity to impartially and objectively assess their enemies?

THE COURT: First of all, do you have that knowledge, Doctor? {2936|2937}

THE WITNESS: I don't have the knowledge of all, Your Honour.

THE COURT: i didn't think you would.

MR. CHRISTIE: Well, could I put a hypothetical question to the witness, then? Well, all right, I will withdraw the question.

Q. Have you studied the mental process known as brainwashing?

A. Yes.

Q. And what is brainwashing?

A. It's a process or a system which aims at suspending or repressing the normal critical faculty which we obtain through the experience of a lifetime, and accepting views or truths which normally we would challenge, and our judgment would say were untrue. And it's brought about in a fairly systematic way. Usually brainwashing is carried out on a group of people, and they depend on their captors for their sustenance, for their food, for their sleep and so forth. Anyone in a group who is a natural leader or who challenges it, who has that quality of independence of thought, or anybody who has a sense of humour, tends to be removed from the group. And then rumours are deliberately sown as to the fate of that person. It's whispered from the guards that he's been {2937|2938} castrated or that he's been killed, or something like that. And there is a repetition again and again and again of the views which are required to be accepted. There is a reward for those people who seem to accept the views superficially, inasmuch as they may be given extra rations, or extra freedom, and there are certain deterrents for those who seem to be slow to accept the views, or who challenge them, or whose facial expression, which may be very misleading – because a good actor stands a better chance than an honest man – those who seem to be resisting them tend to be punished, their restrictions are reduced, they are made to wait, and so forth. And the process may continue with bright lights and lack of sleep. And then the individual's mental apparatus of resistance is so weakened that they will make confessions, or they will accept beliefs that normally they would reject; but I must emphasize, there are people who, in spite of these horrors, maintain that wonderful independence of thought.

Q. What part does repetition play in brainwashing?

A. It's extremely important. If you say the same thing often enough, it's said that some of it will persist in the mind; but in moments of psychological free-wheeling, when one just wants, to take a rest or a pause, {2938|2939} what one has heard again and again subliminally asserts itself as the truth. By "subliminal" I mean that one isn't fully conscious of the process. But if, as we'll say in the Nazi regime, one is told perpetually that there is some mystical super race and people are encouraged to make an implicit assumption of a person's superiority and this is repeated and repeated and repeated, a certain number will believe it to be so. It's the repetition. And truth, then, is no longer truth which can be challenged and debated and discussed and modified according to the facts. The truth becomes something which will be believed, which is very different.

Q. Mm-hmmm. Could you describe the mental state of a brainwashed victim?

A. Usually there is a loyalty to the group who is supporting them – that is, the people who give them their food and are responsible for their continued existence. There is a strange loyalty, and sometimes sort of pseudo-[friendship towards them. They accept the views, and they tend to be impatient and irritable with views to the contrary. Sometimes they may look a little dazed, and sometimes they, of course, become very depressed because they are puzzled that they are doing and saying things which they know {2939|2940} are alien to their fundamental beliefs. But these are general descriptions and wouldn't necessarily apply to anyone person who has been brainwashed.

Q. Can you give us some examples of brainwashing of which you are aware through your studies and knowledge?

A. Well, I mentioned Scientology, which is a process, really, a very subtle form of brainwashing in which the individual is taken into isolation with a person who is called an auditor and is asked questions again and again, and automatic obedience is required.

THE COURT: Automatic ...

THE WITNESS: Obedience.

THE COURT: Thank you.

THE WITNESS: For an example, the auditor takes the individual into a room and repeatedly might ask, "Can pigs fly?" And the individual is required to say, "No". If he doesn't or if he doesn't do the right facial expression, then the question is asked again and again, and the instructions that are issued by the organization say that you must keep the individual there until you get a satisfactory response. And then there are various other requirements in Scientology. You ask all sorts of personal {2940|2941} questions, and in the thrall of the belief that your personality will improve and that your hangups, your emotional problems, which all of us have to some extent, will be cured, in the thrall of this belief the individual continues and eventually accepts the really absurd final conclusions of Ron Hubbard, who was the founder of Scientology – namely, that there is a thetan in the body which can be released, and this thetan can be released from the body and travel around freed from its physical form. And according to the gospel of Mr. Hubbard, many years ago volcanoes in the world were hydrogen bombed and thetans took over and inserted themselves in the bodies of human beings.

Q. So that is the example of current practices that you would call brainwashing?

A. It is an example of the absurd beliefs that could be inflicted on someone by this process of repetition of threat – because you didn't let me finish; having been asked these questions of, "Have you ever cheated on your income tax, and had a sexual alliance or cheated on your wife; give name of partners and telephone numbers", this is sent to Headquarters in East Grenstead [Grinstead], and then, if the individual steps out of line, the individual receives a threatening letter saying, "Be sure that anything you have {2941|2942} done wrong, or your crimes will be published and punished with the utmost rigors of the law". And this terrifies people, and I have seen people who have been through the process, and I've got into Scientology when I was a member of the National Association of Mental Health in England, and a doctor was going to meet the relatives of people who had been caught up in Scientology, and he was ill and I was asked to step in and to meet with these about two hundred people. And I discussed with them what could be done and what the process was and why it was the family was so divided and that they shouldn't be too hasty in cutting off the relationship. And from then on I was sort of attacked by Scientology.

Q. Mm-hmmm. So if you cross the types of people who do brainwashing, it gets a little dangerous, I suppose.

A. Well, the people who do brainwashing usually have an ulterior motive. I mean, the ulterior motive is a profit motive, because a tremendous amount of money changes hands. Brainwashing goes on in the Soviet Union. It seems to me the purpose is to obtain absolute, tyrannical control of the individual who must conform to the State rather than the State conform to him. This is very broad terms.

Q. Can you give us the description of {2942|2943} the faculties of the mind which are neutralized by brainwashing?

A. I would prefer "impaired" than "neutralized", because neutralized implies that there are two poles. There is a dimension of belief which varies from the absolute belief of hypnotism and schizophrenia through brainwashing, through normal credulity through openmindedness, which most of us believe we are, and we are most of the time in most topics, through the scientific skepticism and judicious distrust which are necessary to challenge science.

Thus, Galileo, through the bigoted and prejudiced views which discounts the other side and won't, entertain argument, "I know the answer; I don't want to hear anything about it", finally to the delusion which the psychotic person has and which rejects all contrary beliefs – this is a continuum. It doesn't apply to anyone person all the time.

For example, a physicist may be skeptical in his work, openminded with his family, bigoted in "his religious views or his political views, and yet, when he gets a pain in his back, he purchases the first part of rubbish he sees advertised on television, or goes to some quack therapist. So that our ability to withstand the onslaught of suggestion, {2943|2944} our ability to make independent belief varies according to the topic along the kind of scale I've indicated.



Now, brainwashing interferes and slides the scale towards credulity and belief. And this is what I mean by the critical faculty – the ability to say, “Hey, hang on a minute. That is not necessarily so.”

Q. Mm-hmmm. Would you describe, in relation to your first reaction to Belsen and your subsequent reaction to Belsen the change that occurs in people when they move from brainwashing away from it?

A. Well, I'd say I was mildly brainwashed when I went to Belsen. I assumed that all I'd heard was correct. We were led to think of ourselves as white knights in shining armour on white horses, implicitly superior to the people who had perpetrated these horrendous crimes. And as I say, that was the first view. And the English newspapers and the broadcasts and everything had confirmed this. But it was only seeing cooking facilities when I was told there had been deliberate starvations, finding books and records of food cooked and distributed, of seeing that there were showers in the huts that made me challenge it. I never – that changed from being very emotional, accepting too easily what I was being told. It was an example of coming out {2944|2945} of a brainwashed situation. And when people come out of a brainwash situation they become very depressed about what they may have done or how they may have misjudged situations.

Q. What, if any, is the antidote to a brainwashed state?

A. I wish I knew the answer, Mr. Christie. I think the old things such as vigilance, free speech, the social ideals of justice which is, perhaps, extremely the most important, and the second very close to it is compassion – without compassion and benignity justice can be very harsh, justice can always be misused as it was, for example, in Germany, as probably in Russia at the moment – but they are the jewels of our civilization – justice, benignity, fair dealing, fair play.

Q. You mentioned that the two types of people that are most difficult to brainwash would be those with a sense of humour and those with individualistic outlooks? Is that —

A. Yes. There are some people who seem to have an extremely independent approach to everything. They don't believe anything, really. I don't mean the pathologically iconoclastic who automatically, like the schizophrenic, will believe nothing, but there are people who challenge everything. {2945|2946} disputation is their sort of turn-on, their joy of living. This independence of spirit doesn't seem to be closely related to intelligence, because highly intelligent people can be brainwashed – I pointed that out with a physicist who may have extreme political views – and stupid, apparently peasant-like people with limited vocabulary can remain extremely independent, and although they are told this and that, they just won't believe it.

Q. What part, if any, does debate play in the process of an antidote to brainwashing?

A. Well, if debate is permitted, brainwashing isn't being practised, really and truly. Spurious debates are arranged sometimes in a brainwashing session, and the individuals who are acting the part of the adversary are made to look foolish, or are laughed at. This is the kind of little Courts that used to spring up in China, when an individual would be laughed at and jeered at and so forth because he perhaps kept a chicken back on the collective commune, or ate food on the side, and then there was an immediate tribunal – not quite a lynch, law, but an attempt to overcome the individual's challenging of the regulation of society that the State had imposed upon him.

As I see it, my personal view is, debate {2946|2947} and free speech is essential.

Q. Is there such a mental condition as mass hysteria?

A. Yes.

Q. Could you describe it for me?

A. Yes. It's a primitive mass sympathy in which a lot of people brought together under certain circumstances will behave in the same manner, best exemplified, perhaps, by the dancing manias which would go across Europe in the mediaval [sic] times. One person would start dancing, and perhaps a whole village would start dancing, or jumping about. The Tarantella, the musical piece is named after the bite of the tarantula, which doesn't really cause these convulsive, jerky movements.

THE COURT: The bite of the spider?

THE WITNESS: The bite of the spider, yes. But the group would be told, “The Tarantella is here”, and they would start dancing. Or if you take modern evangelism where everybody is told, “He wants you. He loves you. We need another hundred thousand dollars to do this or that.” You get the same kind of repetition and primitive mass sympathy in joining with another group of people who believe what they are told, that there is some immediate permanent {2947|2948} solution. This is the trick – immediate solution to the permanent problem of loneliness, whereas in fact the solution is promised in the next world and not this, but money is taken in this world. This is a form of repetition and primitive mass sympathy.

Q. In mass hysteria, does the media have a part?

A. Yes. The best example of primitive mass hysteria, I think, were the torchlight parades in Nazi Germany. In the evening one's defences are lowered and people were equipped with their insignia, they were given an identity, because there was a mass inferiority complex, there were torchlights, there was singing, and all the parts of the old German religion, the sort of services in Ravensbrück and places like that where there were torchlight parades used by Hitler to work up this primitive mass sympathy to the beliefs and support which were required of him.

Q. In view of your studies, knowledge and experience in psychiatry, do you think it is likely that the average person can maintain independent judgment of right and wrong if the media constantly press one view as right?

A. It is extremely difficult. Some would. Many wouldn't. {2948|2949}

Q. From your knowledge and experience, were any of the elements of mass hysteria evident in the attitude of the Allies after the War?

A. Well, I wouldn't call it mass hysteria. There was a tremendous elan. There was a feeling of personal superiority which was fostered, but I don't think it went to the extremes of mass hysteria. There may have been individual groups, but on the whole it was the feeling, I think, that any victorious army has, that it has succeeded, that its task was over.

Q. You, yourself, took an unpopular view on the issue of Belsen at the time. Were you under any pressure to recant?

A. Well, I mean, there were the letters in The Times which painted me as somebody who was a bit stupid, whose observations were incorrect, or was lying and I trying to whitewash the Nazi horrors. That was pressure, because it was so unfair. It made one appear to be biased, to have an ulterior motive. I wouldn't, for example, knowing what I know now, I wouldn't have published the article. I would have turned it down; but having written it, I have no option than to stand by it, as I said.

Q. Why would you stand by it? {2949|2950}

A. Well, I think if you write something, you have the responsibility of either explaining why you said what you have said and how it's correct, or else withdrawing it. I think that's the essence of science. We have to prove ourselves wrong as much as we prove ourselves right. And I wasn't anxious to prove myself right or wrong. I was anxious, having agreed to do the article, which I thought was a rather obscure publication, if I may say, and I was pressed to do it, I put down what I believed to be the facts from my observations, discussions, and I drew the conclusions which I thought were inevitable.

Q. Yes. Is there such a thing as a persecution complex?

A. Yes.

Q. Could you describe it, please?

A. Well, that's a condition in which an individual becomes abnormally suspicious – that is, they suspect that harm is going to occur to them on inadequate grounds. They believe that conspiracies may exist to damage them or to belittle them. They often become extremely self-conscious. They see harm and threat and geers [jeers] and sneers in ordinary, every-day trivial occurrences which, in the normal frame of mind, without the persecution complex, they may not {2950|2951} like it, they would dismiss it and say, “That's just too bad.” So it's a heightened awareness of possible harm which begins to erode the belief system until, eventually, the persecution complex may develop into the frank delusion in which the individual is convinced that there is harm plotted against him, and he has to take evasive action or protective



action.

Q. Can these persecution complexes have a collective or group form?

A. Yes. Yes, they can.

Q. Could you give us examples?

A. I suppose one example would be the example of the attitude that so many German people I've talked to have had. They are apologetic for their role in the War. One would say, is that a persecution complex, or is it a realistic appraisal of the horrors that were perpetrated? One would reply, if the individual had executive authority and assisted in the perpetration of these horrors, then they have every right to feel ashamed.

Q. Mm-hmmm.

A. If, on the other hand, they were born after the War was over and if they had no executive authority, it's not logical that they can then be held responsible for what happened. {2951|2952}

Q. In the historical development of Nazism, was there the exploitation of this persecution complex?

A. Yes. I think that was one of Hitler's main – if I am allowed to give the opinion – the Versailles Treaty, which most people thought unfair because of the tremendous reparations that were demanded of the defeated German armies, the country could never hope to rebuild itself, and it was used as a fulcrum in order to get these bullies into power.

THE COURT: You say the Versailles Treaty. Do you refer to the Treaty that ended the First World War about 1919?

THE WITNESS: Yes, Your Honour.

THE COURT: Thank you.

Q. MR. CHRISTIE: Could the use of a persecution complex enforce or reinforce a group identity and create cohesion?

A. It could do, but I would say that adversity was a much more socially cohesive influence. If you have a common enemy or a common problem, it's more likely to draw people together, and thus, the identification of common enemies, or common problems in people who want to get people together for a certain course of action. {2952|2953}

Q. Mm-hmmm. Do you, having seen what you saw at Belsen, do you believe that those deaths were the result of a planned, deliberate extermination process?

A. No. But Your Honour, I can't account for all the deaths. I went there on May 2nd, and I don't know what happened before May 2nd. I know Red Cross parcels went in from March in '43, and Red Cross visitors were permitted from March '45, before the camp was ceded to the Allies, but I can't say whether or not people were clubbed to death or whether they were shot; but I suspect that this was the case. And the grounds for my suspicion are my experience as being —

THE COURT: You suspect what?

THE WITNESS: That there were incidents of brutality and murder. And the reason I suspect is, in running mental hospitals, one in England and one over here, I came across incidents of brutality which one wouldn't think would occur in a civilized country; but in both countries and it is usually some bully or sadist who wasn't adequately supervised who took their — exaggerated their own personal problem into a crusade, saying, "I did this for therapy", in striking an old person of eighty. It is vicious and most untherapeutic, but people can rationalize their rottenness {2953|2954} in this way.

MR. CHRISTIE: Were the deaths in Belsen, as you described, a deliberate extermination process in excess of fifty thousand casualties?

A. No, I don't think so.

Q. Can you give us an approximation?

A. A guesstimate would be between twenty and thirty thousand.

THE COURT: What is a guesstimate?

THE WITNESS: Well, Your Honour, I know that by April seventeen thousand bodies had been buried. I know that we lost about five thousand, which would make twenty-two thousand. I suspect that there were other deaths which were not recorded, so I would have said that it was about fifty thousand but I don't think anybody has the figures. We know that between fifty and sixty thousand people were transferred from the east, but we don't know exactly how many. Those that started out, many died on the way side but I would have said that that is the

area — the approximate number, I mean, by "area".

Q. MR. CHRISTIE: Yeah. Are you anti-semitic?

A. No. I think that — I think that was {2954|2955} one of the terrible things about the German episode. And people still make this mistake. They talk about Germans persecuting Jews, but they should talk about Germans persecuting Germans, because they were all German people who had been born there. And the Jewish people carried the traditions and the values and made, perhaps, very good contribution to society in literature, arts, science and so forth. Or you should talk about the non-Jewish versus the Jewish, but I can't really mix apples and oranges and say Germans and Jews. Again, anti-semitism is fearing, presumably, from one's point of view, enemies in oneself which one projects. And Hitler was very anti-semitic from writings and things he did, and he projected this to the people and he found it very helpful, because there had been anti-semitic programmes in Germany for thousands of years, but ultimately, if one allows anti-semitism and its difference, to know what a semite is, and one is never sure, but I know the concept, but ultimately, if one admits or permits such a situation to exist, it is going to rebound against any group — lawyers, doctors, blacks, whites and so forth. And therefore, if people have antisemitic feelings, and many do, it is essential that they should be aired and the true source of those feelings should be revealed to them. I never have been anti-semitic. Of {2955|2956} course, one has to examine oneself, and there are scales which measure degrees of anti-semitism.

Q. Yes. Have you been asked the question, or had you considered whether six million Jews were gassed to death?

A. I have never been asked, were six million gassed to death, no, I don't think so.

Q. And do you, have you — in your opinion are any of us immune from brainwashing?

A. Yes. Some are.

Q. Some are. Did you have personal knowledge of any other camp but Belsen?

A. No. Only hearsay. I mean, I believed and still do what is generally held. I believed that six million people died, six million Jewish people, and I think the concentration of the fury and the viciousness was on the people of Jewish religion; but I don't know that it was all deliberate. I think there was criminal negligence. I think there was bureaucratic bungling. I think there was dreadful disregard for a human being's needs and rights, but as I said earlier, just to ascribe it to gothic badness is to slip over the real causal chain of events, and when one does that, it is a very slippery slope, meaning that decency {2956|2957} normal decency of average people gets lulled into a sense of false security and gets mixed up where the bad is with the black hats. It could never happen again.

Q. Is there any historical event that is more frequently repeated to people than the six million figure?

THE COURT: Just a moment.

MR. CHRISTIE: I will withdraw the question. Those are my questions.

THE COURT: Yes, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

#### CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Dr. Barton, when you were in Belsen I gather that from what people said to you and from the condition of the camp and what you found in the kitchen records you understood that there was a great influx of people towards the end of the War the last four, five, six months.

A. Yes.

Q. Do you know from your own knowledge what the camp was used for, what Belsen was established for?

A. I understood that it was a camp {2957|2958} where people who could be transferred to another country, or come over to America, could be concentrated.

Q. In exchange for Germans being repatriated back to Germany?

A. I didn't think that, no. I think it was just mercenary. It, was for money, that if somebody guaranteed the money and the fare —

Q. And did you form any opinion as to whether or not it would be in the Germans' benefit to have people in better shape when they were shipped out to other countries?

A. Oh, yes. I think that, as you say it, it was said that the idea was to feed them up so that it would give a better impression, yes.

Q. And as the trainloads of people came in at the end of the War, would you agree with me that it would be possible that people got in to get food in, too?

A. Yes.

Q. How long were you at Belsen for, Doctor?

A. From May 2nd to June 1st.

Q. About a month?

A. Yes. Until we had emptied the horror {2958|2959} camp and it had been burned down.

Q. The whole camp was burned to the ground?

A. Well, there were three camps, and the horror camp was the original Belsen with the wooden huts that I described, and the cemetery at the far end, and that was burned down May 21st.

Q. Did you ever have occasion to personally see Kramer —

A. No.

Q. — the Kommandant? Do you have any personal knowledge of any other camps that Kramer was a Kommandant of?

A. No.

Q. Or worked in?

A. No.

Q. Have you had occasion to read, guess out of curiosity, having been there, about the Belsen trial?

A. Yes.

Q. Okay.

A. You mean the Nuremberg trial, the military trial at Nuremberg, I presume. {2959|2960}

Q. Yeah. I have a volume here. It's called the Belsen trial, edited by R. Phillips.

A. Yes. I haven't read this, no, not this one.

Q. Then I won't show you that. Thank you.

A. I've read the military trial at Nuremberg, which applies to Belsen.

Q. All right. But this trial I am showing you applies to Kommandant Kramer in particular.

A. Oh, I haven't read that.

Q. So that is it — on what did you base your opinion that Kommandant Kramer thought he was doing the job to the best of his ability?

A. Well, when I was in the camp, I talked to various people, including doctors who were interned. There was no love for Kramer; there was no praise for him; whereas Klein, the medical director, there were mixed views. Kramer was thought to be —

Q. I am going to stop you. Your opinion of Kramer is based on information that you got from other people.

A. Yes. {2960|2961}

Q. I was very interested in your comments about brainwashing this morning. Is that a process that continues over a long period of time, or is it a short term process?

A. Well, it —

Q. Or does it vary?

A. It varies. It can be an acute, intensive process. Usually it is over weeks, if it is politically instituted.

Q. How long do the effects of the brainwashing last?

A. It depends on the individual, and the reinforcement that the individual believes is given.

Q. Have you done studies on, yourself, or read the literature on the outcome of the Nuremberg trials — many, many books, articles that are written, not just about Nuremberg but about the annihilation of European Jewry during World War II?

A. Yes.

Q. And although the question wasn't asked you directly by Mr. Christie, the implication was there that we were all brainwashed about the annihilation of European Jewry from World War II. I can't ask you about the facts {2961|2962} because you are not a historian, but as a psychiatrist

what would your response be to that?

A. I think there was a deliberate attempt on the part of certain groups of the S.S. — that is the Schutzstaffel or Gestapo under Himmler — I think there was an attempt to dispose of Jews who had property or land that they wanted. At one time I understand the plan was to ship them all to Madagascar. This fell through and that fell through.

Q. I'm sorry, I am going to have to stop you. Perhaps if I can make it clear, I can't ask you questions about history, although you probably know more than I do, but my question really is whether all those books and trials that we all heard of, whether those were all the product of brainwashing, or whether you had ever formed any opinion on it.

A. No, I don't think they were all the product of brainwashing. No. I don't think they were justice in the sense that we know it, however.

Q. I'm sorry. The phenomena you described of mass hysteria — and you gave two examples of the dancing mania and mass evangelism, and both of those appear to me to have immediacy to them, same as the torch-{2962|2963}light parade, a temporary giving up of your facilities but it may only be for an hour or two hours, it is not for an extended time — is that fair to say?

A. That is fair to say. Those are examples. But I did add that there was reinforcement, which is important to understand why people could be whipped up into a fervour. If people who would normally have achieved very little in life were suddenly handed the house and property belonging, say, to a Jewish merchant and told, "This really belongs to you", if they were given offices that neither their ability, their integrity or education entitled them to, then they would begin to develop a loyalty to the source of their bread.

It was a kind of dispossession of Jewish people and handing it over to enlist support and to keep up this concept of Germany and race and all that stuff.

Q. What happens when you dehumanize people, when you refer to them as lice, germs, something subhuman, and over an extended period of time? What happens to the view of those people within that society, their being denigrated in that fashion?

A. There is a very characteristic reaction that affects most, but not all. They become cowed {2963|2964} and timid, sometimes mute. They tend to develop a characteristic gait — that is, they walk with their hands across their body, and their eyes lowered. Eye contact is poor. There tends to develop a sort of pathological, prolonged procrastination; everything is put off. The individual tends to rely on hopes for the future which, of course, without effort, may never come. And sometimes they even resist changes to the dreadful state, mental state that they've got into. You call it the institutionalization; I call it institutional neurosis.

Q. And that is one of your specialties.

A. That is one of my specialties, and that interest arose from my experience in Belsen.

Q. And is that how the Jewish people looked at Belsen?

A. Some of them did, yes, but I think that all you need me to give an answer, there were people that had tremendous courage that remained brave, and in spite of all the pressures and all the horrors, they still had the independence of thought and action.

Q. You have been very fair, Dr. Barton, and I think I understand what we are talking about as a group experience, and as with any group experience, there are {2964|2965} extreme ends that can apply. Is that true?

A. That's so, but if we take the mean, the sixty-six per cent of deviation that can apply to either side, if you can apply such terms, that is what we are talking about. Then there are exceptions.

Q. The persecution complex my friend spoke of next, have you done any studies or any work of whether, over the last forty years, people were subjected to a persecution complex to make them believe that large numbers of their faith were slaughtered in World War II?

A. No. There have not been any studies, but I would have thought that went without challenge. vast numbers died. And of those vast numbers there's no question in my mind, some were slaughtereded. How many, I have no idea.

Q. The principal features of brainwashing I think you mentioned were

repetition and threats.

A. Yes. Repetition, threats. Could I add rewards and punishment, implied or explicit.

Q. What if the repetition and the threats are designed to get you to say something that you know, both in your regular state and in your brainwashed state, will bring about your death? Wouldn't that be very difficult to do? {2965|2966}

A. Difficult, but I think the fanaticism of the man who drives a truck full of explosives into an embassy is an example of brainwashing, where the individual will die for what he believes to be a cause. So I agree, it's difficult. The kamikaze pilots in Japan, it is a dreadful thing that they did, but it was an example of brainwashing, plus courage, although they were on the other side.

Q. Well, I think that part of the suggestion may be that people who testified were accused of various trials, war crime trials ...

A. Yes.

Q. ... were brainwashed, saying whatever they said in their confessions, or in their testimony before the Court. And my question, first of all, is whether you have read the material or the background, or done any studies on that yourself to form an opinion.

A. I've read, and as I said earlier, I don't think it is the kind of justice we expect and take for granted. Witnesses were not available, or access to the witnesses wasn't given. Admissible evidence in the sense that it mustn't be hearsay, that the credibility of the person giving the evidence can be established by challenging him and seeing if he tells lies and so forth, well, I think these {2966|2967} processes, these refinements which enable whoever has to judge to make the judgment were not used to the extent that they should have been. And I think that the executions, quite frankly, should have been carried out without the trials.

Q. Okay. You are British by birth and American by persuasion?

A. Well, I am still an alien resident in America. I haven't quite made up my mind.

Q. Are you familiar with the judicial systems of France and Russia, the other two members of the tribunal other than Britain [sic] and the United States?

A. I don't know much about them.

Q. And do you know what went into the production of the rules of evidence for the International Military Tribunal as an amalgamation of those justice systems?

A. Well, what was considered a brilliant stroke, the guilt by belonging to a criminal organization, was one of those rules. My problem there is that this wasn't formulated prior to the trials, and I think retroactive legislation, although it's very attractive to the victor, isn't necessarily fair play.

Q. Are you familiar with the London Agreement of 1942? {2967|2968}

A. I don't know that.

Q. And going off the topic, you weren't happy with the rules, as I understand it, of evidence and courtroom procedure. My question was whether all of those people who testified at their own trial and provided statements were brainwashed.

A. I don't think all of them were. I don't think Goering was ever brainwashed; he was an evil example of a person who remained immune. But I think whoever had the responsibility of defending people in those trials came up against insurmountable barriers – some of the witnesses were in the Russian section; others had disappeared; and I think they had a nightmare in trying to collect together a case, that they had been able to present a case with the facility that any civilized group has. I don't know that the outcome would have been that different, but I think one is then slipping over to the sort of Nazi-appointed judges who tend to make their own rules and tended to disregard what didn't suit them, and maybe it was infectious, but I agree with your Senator Governor Taft who, in Kennedy's "Profiles of Courage", expresses the opinion so beautifully.

Q. Are you aware that the prosecution – I'm sorry, that the defence as well as the prosecution were {2968|2969} entitled to file affidavits and witness statements without having the witnesses there to testify?

A. No. No, I wasn't aware.

Q. And there have been quite a number of trials since, after 1950 ...

A. Yes.

Q. ... in West Germany and in other countries; and are you aware of the basis on which they are held, for example in West Germany?

A. Not the full basis, but I believe that it is a very different situation now, that evidence is sought and permitted by both sides, and both sides are facilitated to present their point so that you get a true adversarial action.

Q. So that in your opinion, was brainwashing the least likely to be ineffective for people, say, being tried in the 1950s and sixties and seventies for war crimes?

A. You see, in some people the threat of dispossession, of loss of pensions which were part of the penalties that were to be exacted, whilst not constituting brainwashing, would play a very important role in their state of mind. {2969|2970}

Q. I guess we can say that about anybody who comes before any court – the threat of losing their job or if somebody is charged with sexual assault, their wife or community finding out would be very traumatic for them.

A. Oh, yes. Yes.

Q. That is the same in any trial.

A. Yes.

Q. But not everybody, surely, is brainwashed.

A. No. I was saying, it wasn't exactly brainwashing, but there were pressures, persuasion.

Q. Excuse me just a minute.

THE COURT: Sorry to interject, but just while counsel is looking for something, Doctor, do I gather that what you say on the subject of brainwashing is that there is a difference between being under pressure and being brainwashed?

THE WITNESS: Yes, Your Honour.

THE COURT: All right. Thank you.

MR. GRIFFITHS: Thank you, Doctor. I have no further questions – oh, excuse me just a minute.

Q. Is it – just going back for a moment to Belsen and your experiences at Belsen, were you able to {2970|2971} observe the physical condition of the S.S. and the various groups that were running the camp?

A. No. Most of them had gone –

Q. Of course. You were –

A. – as of May 2nd.

Q. So you have no way of comparing their physical condition with the inmates.

A. No.

Q. And is there anything – your article on Belsen was written in 1965?

A. Sixty-eight.

Q. Sixty-eight. Sorry. And is there anything that day, in retrospect – and I am not talking about the pressure, just the letters from The Times and what-have-you, but from your own research and thoughts on the matter, is there anything today that you would change in that article?

A. Nothing material, no. I mean, I think the important things are the facts that I witnessed directly. The conclusions, oddly enough – I mean, Glyn Hughes, the medical officer who took over, was very aggressive in a television interchange that we had about that time, but he admitted, frankly, in his letter to The Times that nobody said there was any deliberate policy of starvation. Of course, {2971|2972} people did say that, but he was saying nobody had made that statement.

MR. GRIFFITHS: Thank you very much, Doctor.

THE COURT: Mr. Christie?

#### RE-EXAMINATION BY MR. CHRISTIE:

Q. Doctor, my friend brought up the question of the S.S. guards. Do you know how some of those guards disappeared?

A. Not for certain. Some, presumably, found their way back –

MR. GRIFFITHS: My understanding is they weren't there when Dr. Barton got there, so I don't see how he can say that through hearsay.

MR. CHRISTIE: He could have seen the bodies.

THE COURT: Did you see any S.S. bodies?

THE WITNESS: No.

MR. CHRISTIE: Could I ask him his medical opinion on the matter? {2972|2973}

THE COURT: On what?

MR. CHRISTIE: On the matter of how the guards disappeared.

THE COURT: If they disappeared, how could he give a medical opinion?

MR. CHRISTIE: Well, Your Honour, he conducted a medical inquiry of certain things. He might be able to give that. I don't know. I don't want to have the jury go out if I can avoid it. Can Your Honour tell me your feeling on the matter?

THE COURT: Well you ask the question and then I will decide whether it is the proper one.

MR. CHRISTIE: Yes, sir.

Q. Do you have knowledge of an incident in which S.S. guards were murdered?

A. Only hearsay evidence, but there were rumours that —

THE COURT: That answers that.

MR. CHRISTIE: Thank you.

THE COURT: Thank you, Doctor.

— The witness retires.

MR. CHRISTIE: Could we take the morning break, please, Your Honour? {2973|2974}

THE COURT: Yes, certainly.

— The jury retires. 11:00 a.m.

— Short adjournment.

— Upon resuming.

MR. CHRISTIE: Your Honour, I have a difficulty which I could explain in the presence of the jury, but I thought I should mention first, Your Honour, I have a witness coming from out of the country to follow Dr. Barton, but I have a short witness and he won't be here — the first person I mentioned won't be here until Monday. I have a short witness to fill in in the event of this type of contingency, but I found out just a few moments ago, a half an hour ago now that he, for some reason, has wandered off from where expected him to be.

THE COURT: I've had that problem many times.

MR. CHRISTIE: Yes, sir. I suggest, if possible, we could adjourn perhaps for two hours till one thirty, take an early lunch and I will be happy to {2974|2975} start then than later and get our short witness through today, if possible, as soon as possible.

Would that be convenient, Your Honour?

THE COURT: Sounds like the only reasonable approach to the whole matter. Do you want me to explain that to the jury or do you want to do it? I am in your hands for a change.

MR. CHRISTIE: I would be glad to say that, sir, because it is my fault, and perhaps I should acknowledge that.

THE COURT: Thank you. Bring in the jury.

— The jury enters. 11:32 a.m.

MR. CHRISTIE: Your Honour, I anticipated that I would call another witness from out of the country on Monday. I have a short witness that I can call in the meantime, but at the present moment he is unavailable. I wonder if I might ask to take an early lunch adjournment from this moment of eleven thirty until, perhaps, one thirty, when I believe I can have my witness available.

I'm sorry for the inconvenience, Your {2975|2976} Honour, but I didn't know how long the matter this morning would take.

THE COURT: Members of the jury, what you have just heard is a problem that's been happening for decades. It has happened to me. It happens to everybody who practises in our Courts.

The only reasonable approach to take is to ask your stomachs to accept an early lunch and please be back here at one thirty;

— The jury retires. 11:33 a.m.

— Luncheon adjournment.

— Upon resuming.

MR. CHRISTIE: Your Honour, I have, first of all, to swear the witness to qualify him as an interpreter from the English language to the German language and vice versa. I also have something to — should I do that in front of the jury?

THE COURT: Yes. Bring in the jury, please.

— The jury enters. 1:35 p.m. {2976|2977}

MR. CHRISTIE: I would like to qualify him, Your Honour.

THE COURT: Is this the person who is going to translate?

MR. CHRISTIE: Yes, sir, but I thought I should have to qualify him first so I can —

THE COURT: No. He can take the oath as a translator and then qualify him.

#### **HANS VON DER HEIDE, sworn as interpreter**

MR. CHRISTIE: I propose to lead the witness a bit, sir.

Q. You are Hans von der Heide, born on the 3rd of December, 1944, and you reside in West Germany and employed by the Canadian National Armed Forces from 16th of April, 1956, until the 30th of September, 1965, and you worked as a translator and clerk administrator for the Fourth Platoon of the Canadian Armed Forces as an interpreter; is that correct, sir?

A. That is correct.

Q. And you progressed to a court interpreter and senior interpreter at the —

A. Yes.

Q. And it was said by Captain Lucier in his letter of 30th of September, 1965, that — well, never mind. You were a translator from English to German and German to English, and you worked for the Military Police and local and regional police authorities of the Allied administration; is that right, sir? {2977|2978}

A. That is correct.

MR. GRIFFITHS: I am content, Your Honour.

THE COURT: All right. Do you want to call the witness?

MR. CHRISTIE: The witness is Mr. Thies Christopherson [Christophersen].

#### **THIES CHRISTOPHERSON [Christophersen], affirmed through interpreter**

##### **EXAMINATION-IN-CHIEF BY MR. CHRISTIE:**

THE COURT: (To the Interpreter): Would you please say to the witness that, even if he understands the English language, if he proposes to speak in the German language, he will speak only that language. Please tell him that.

Mr. Interpreter, I say to you, sir, that you will please repeat each and every word the witness employs in the German language, and you will repeat it as you heard it in that language into the English language. Do you understand?

THE INTERPRETER: I understand.

THE COURT: Proceed.

Q. MR. CHRISTIE: Mr. Christopherson, have you read the Harwood book, "Did Six Million Really Die?" in the German language?

A. Yes, in the German language.

Q. Please turn to page 17.

MR. CHRISTIE: Could the jury have a copy? {2978|2979}

— Exhibit 1 handed out to the jury.

Q. Where do you live, sir?

A. In Germany.

Q. Where?

A. In the Province of Angeln, Schleswig-Holstein [Schleswig-...].

Q. How old are you?

A. Sixty-seven.

Q. Were you in the German Army during the War?

A. Yes.

THE COURT: What War?

THE WITNESS: In the Second World War.

Q. MR. CHRISTIE: Were you injured in the Second World War?

- A. Yes.
- Q. In what part of the world did that injury occur?
- A. South of Sabruken [Saarbrücken], when the Maginot line was over-run.
- Q. When was that?
- A. In 1940.
- Q. And how were you injured?
- A. I got a shrapnel in my forehead.
- Q. What happened to you as a result of that injury?
- A. He was no longer considered fit for frontline services and spent a lot of time in military hospitals. {2979|2980}
- Q. Did you take any military training after that?
- A. He was —
- THE COURT: No. What was the answer?
- A. He was given —
- THE COURT: That's not the answer.
- A. I was given a holiday for studies to do studies in.
- MR. CHRISTIE: What studies?
- A. Agriculture.
- Q. Where?
- A. In Lan[d]sberg unde Varthe [an der Warthe].
- Q. After studying there where did you go.
- A. I was sent to the Ukraine as an expert for the planting for the plantation of Kok-Sagis?
- Q. Is there an English word for Kok-Sagis?
- A. The internationally known Latin expression.
- THE INTERPRETER: He doesn't know of an English expression for this.
- Q. MR. CHRISTIE: What was the purpose of this plant?
- A. This plant contained a white latex which contains India rubber.
- Q. Where did you go to develop this plant?
- A. At first into the Ukraine.
- Q. And then?
- A. And then we were expelled from {2980|2981} the Ukraine and I was posted to the Kaiser Wilhelm Institute in Berlin. It was in Berlin, but also had a branch in Auschwitz, because Kaiser Wilhelm had a branch in Auschwitz.
- Q. Did you write the book, "Die Auschwitz-Luge ..." (German title)
- A. Yeah.
- Q. Was it an account of your own experiences?
- A. Yes.
- Q. Was it published in 1973?
- A. The first edition, yes.
- Q. Was it published by the German lawyer Dr. Manfred Roeder?
- A. The first edition, yes.
- Q. And the periodical Deutsche Berger Initiativ (phonetic) [Bürgerinitiativ]?
- A. Yes.
- Q. Is it an eye witness account?
- ANSWER BY THE WITNESS: Yes.
- Q. Of Auschwitz?
- A. Yes.
- Q. Did you work in laboratories at Auschwitz?
- A. Yeah.
- Q. Were you researching into the production of synthetic rubber for the Kaiser Wilhelm Institute?
- A. Yes. We checked the India rubber content of these plants.
- Q. Why?
- A. Because we had to select the best {2981|2982} plants out for further development.
- Q. Were you in the Auschwitz area in 1944?
- A. Yes. From January to December.
- Q. During that time did you visit the camps, the separate camps comprising the large Auschwitz complex?
- A. Yes.
- Q. Did you visit on occasion Auschwitz-Birkenau?
- A. Yes.
- Q. Was it alleged, after the War, that massacres of Jews took place there, to your knowledge?
- A. Yes. I only heard it myself after the War.
- THE COURT: "I only heard" what? I missed part of that.
- Would you ask him again, Mr. Christie, please? He only heard something. I missed what he heard.
- MR. CHRISTIE: I'm sorry.
- Q. Was it alleged, after the War, that there were wholesale massacres of Jews in Auschwitz Birkenau to your knowledge?
- A. Yes. This was contended.
- Q. From your experiences there do you believe those stories?
- A. Absolutely impossible.
- Q. When you heard those stories after the War, what did you think?
- A. Propaganda. {2982|2983}
- Q. How many times did you speak to inmates from Birkenau in the year you were working there?
- A. Almost every day.
- Q. Have you read all the newspaper stories and radio broadcasts in Birkenau?
- A. Yeah.
- Q. Do you believe them today?
- A. No.
- Q. Have you said that in many times and places?
- A. Yes.
- Q. To what purpose?
- A. I wished to rehabilitate myself and my generation.
- Q. Have you ever been, believed?
- THE INTERPRETER: I beg your pardon? Would you say that again?
- Q. MR. CHRISTIE: Were you ever believed?
- A. Yes and no. Many people believed me and many people didn't.
- Q. During your whole time at Auschwitz did you ever observe the slightest evidence of mass gassings?
- A. No.
- Q. Have you ever smelled the smell of burning flesh in the area?
- A. No the air in Auschwitz was very clear, very clean.
- Q. Did you ever see flames shooting {2983|2984} from any chimneys?
- A. No. But people told me something to that effect, and I checked into this.
- Q. What was it people told you?
- A. My housemaid told me that people are being burned in this area.
- Q. What did you do when you heard these rumours?
- A. At first I questioned the maid, and she told me there was a —
- THE COURT: Just a moment. We want to hear what the maid told him?
- MR. CHRISTIE: Well —
- THE COURT: As a result of what the maid told him you might ask him what he did. It's hearsay.
- MR. CHRISTIE: Yes, sir. It is hearsay.
- THE COURT: Well, then, please conduct it the way that you know it should be conducted.
- MR. CHRISTIE: There are exceptions to the hearsay rule.
- THE COURT: This is not one of them, Mr. Christie. If I am wrong, you can correct me elsewhere.
- Q. MR. CHRISTIE: As a result of the conversation with your maid what investigations did you make?
- A. I take my bicycle and moved around all the camp and looked for fireplaces.
- Q. Did you find any?
- A. Yes, there were fireplaces, but {2984|2985} certainly not burning of human beings.
- Q. In the vicinity of the main camp of Auschwitz was there a large farrier's works?
- A. Yeah.
- Q. Was there a smell of molten iron there?
- MR. GRIFFITHS: Excuse me. If Mr. Christie wants to get up and give the evidence, we don't need Mr. Christopherson. It is his witness. He is leading him.

MR. CHRISTIE: Well, I suggest that there are occasions when the text of a book is in issue that that is inevitable and unavoidable.

THE COURT: The text of the book is not in issue.

MR. CHRISTIE: Yes, sir.

THE COURT: No, it is not.

MR. CHRISTIE: The case is about the text of the book.

THE COURT: It may be, but that is not one of the issues. Please lead the evidence in the same way as you object when the Crown does that.

MR. CHRISTIE: Well, there are exceptional cases.

THE COURT: This is not one of them. Proceed.

MR. CHRISTIE: Sir.

Q. How many people lived in the area of Auschwitz, both prisoners and civilians?

A. My estimation is 140,000 to 200,000. {2985|2986}

THE COURT: Is the word for "thousand" the same in English as it is in German, Mr. Interpreter?

THE INTERPRETER: It is the same in English as it is in German.

Q. MR. CHRISTIE: Did you ever find out if there was a crematorium in Auschwitz?

A. Yes. I was told there was one.

Q. Did you know anyone who died and was cremated there?

A. The wife of my superior officer, Obersturmführer [sic] Stier (phonetic) died in Auschwitz of typhus and was cremated there.

Q. Were there any restrictions on your travelling in the area of Auschwitz I or Birkenau?

A. No. I was completely at liberty, and I was even allowed to receive visitors from my relatives.

Q. Were you in the S.S.?

A. No.

Q. Were you in the Army?

A. Yeah.

Q. Did you have a rank?

A. Yeah.

Q. What was it?

A. It is a special officer, special officer and the letter "Z".

Q. Do you have any personal knowledge of the Red Cross in the area of the camp?

A. I saw they were there.

Q. When were they there? {2986|2987}

A. In the summer of 1944.

Q. How many of your relatives visited you while you were there?

A. My wife visited me every month, and my mother visited me once in the summer, once during the summer.

Q. How often did you meet inmates from Birkenau while you worked in that area?

A. There was a group of female inmates from Birkenau that arrived every morning at arise call and I had to detail these women for field work.

Q. Were you friends with any of these women?

A. I listened to their complaints, if there were, and I did my best to help these people. I behaved myself correctly.

Q. I didn't mean personal friendships. I meant did you have friendships such as conversations?

A. Yes, we had conversations.

Q. Did the inmates appear happy?

THE INTERPRETER: Say that again, please.

Q. MR. CHRISTIE: Did the inmates appear happy?

A. Yes, they did. Which camp are you referring to now?

Q. From Birkenau.

A. Yes, I can say so.

Q. Were there, from those inmates, {2987|2988} any complaints or stories of mass gassings?

A. No.

Q. If you had heard such complaints, what would you have done?

A. I heard these stories about a fire and I immediately informed my superior officer of it.

Q. Did you work with a Russian agronomist?

A. There was quite a number of Russian specialists there.

Q. Do you recall anything happening to one of them?

A. He had a close relationship with a female inmate which did not remain without results or consequences.

Q. What were the consequences?

A. He married – the inmate became pregnant

Q. And what happened after that?

A. The female prisoner was released from the camp and the Russian agronomist married her and I met both of them later in Halle in Germany.

Q. From what camp was the inmate?

A. From Raisko

Q. How far from Auschwitz?

A. About two kilometers.

Q. Was Raisko a satellite of Auschwitz?

A. Yes.

Q. Did you have any knowledge of {2988|2989} religious services held in the camps?

A. Yes.

Q. Were there any held for Jews?

A. There was one special room reserved in Raisko in which every religious denomination, including the Jews, could hold their ceremonies.

Q. Was there a cinema for prisoners?

A. Sometimes every week, sometimes every two weeks cinema van arrived at Raisko camp.

Q. What was Kommando "F" from Birkenau?

A. It was the working group that arrived every day in Raisko to help us at various tasks which we had to perform there.

Q. How many were in that group?

A. About two hundred persons.

Q. Were they men or women?

A. Only women.

Q. Where did they go at night?

A. Back to the camp in Birkenau.

Q. Did you get to know them by face?

A. Very many of them.

Q. Did you get to know them by name?

A. We called them generally by their first names, but we called them Mrs. or Miss, whatever was the case.

Q. To your knowledge did prisoners unofficially leave Birkenau at any time?

A. Yes, they did.

Q. How did they do this?

A. So they did not go into the camp. {2989|2990} They were hiding someplace, but in order that a number of the roll call was correct, a different person sleeping in their place. And because the other person had opportunity to slip into the camp during the night.

Q. Was the camp of Birkenau guarded at night?

A. Yeah.

Q. Was it guarded by day?

A. Okay. During the day a very large area was surrounded by picket guards, and within this area the people were allowed, could move about freely.

Q. From whence did the people come who took their places?

A. I suppose that they were from the nearest vicinity or the environment of the camp.

Q. In your book did you express views about the Frankfurt trial?

A. No, I didn't.

Q. Did you express views about Richard Baer?

A. Yes, I did.

Q. What did you say in your book about —

A. I quoted Paul Rassinier —

MR. GRIFFITHS: Excuse me just a minute, sir.

I don't believe there is any reference to the Frankfurt trial or Richard Baer in the pamphlet. If Mr. Christopherson was there, or if this is something he saw himself, I would be happy to hear it. If it is {2990|2991} something he heard from somebody else, it is hearsay

and I don't think it is admissible.

THE COURT: There is mention on page 18.

MR. CHRISTIE: Yes. I am following through on the article. I am on the last paragraph before the Warsaw Ghetto issue, and it's there said:

*"Finally, the account of Mr. Christopherson draws attention to a very curious circumstance. The only defendant who did not appear at the Frankfurt Auschwitz Trial in 1963 was Richard Baer, the successor of Rudolf Hoess as commandant of Auschwitz."*

Now, I want to ask the witness whether he made reference [sic] in his book to Richard Baer, not for the truth of what he said, but —

THE COURT: Go ahead.

MR. GRIFFITHS: I beg your pardon, Mr. Christie.

Q. MR. CHRISTIE: Did you, in your book, discuss Richard Baer?

A. Yes.

Q. What did you say about the manner in which he died? Do you have a copy of your book? You'll have to translate. (To the Interpreter): You have to translate everything the witness says.

Maybe I can put the question another way and obviate the necessity of searching the book.

A. I did say in my book that he has {2991|2992} been questioned and that he denied any knowledge of gassings and that he died in prison.

Q. Was there any reference in your book to how he had died?

A. I think I expressed a kind of a suspicion that he died at Auschwitz in the "Deutsche Bürger-Ini[t]iative." (phonetic)

THE INTERPRETER: May I quote what he said in the book?

THE COURT: Not unless counsel asks you.

MR. CHRISTIE: In view of the fact that the portion is found, may the Interpreter read from the book? I would like the witness to say in the book —

THE COURT: About how somebody called Baer died?

MR. CHRISTIE: Yes, sir, because, "Did Six Million Really Die?" said that the book that is in the witness' hand, his book, says something. I would like to know —

THE COURT: What does page 18 say?

MR. CHRISTIE: Yes, whether the book that is quoted on page 18, I believe, says that page 18 says what it says. That is what I want to know.

THE COURT: Well, why don't you ask the witness what page 18 says? Then you can ask the witness whether the book concerns it, and that's the end of it.

MR. CHRISTIE: I was, Your Honour, but I thought that was leading. {2992|2993}

THE COURT: No, it isn't leading.

MR. CHRISTIE: Very well.

Q. Now, did you say, in your book, that Richard Baer died, "in a highly mysterious way"?

A. Although only fourteen days before he was very, very healthy, Richard Baer died very, very suddenly on the 17th of June, 1963, in prison where the preliminary hearing took place.

Q. Do you say, in your book, that, "During the whole time in which he governed Auschwitz ..."

CHRISTIE: Translate that, please?

INTERPRETER: Will you say that again, please?

MR. CHRISTIE: Do you say in your book that, "During the whole time in which he governed Auschwitz ..."

MR. CHRISTIE: Translate, please.

A. Yes, he quoted —

MR. CHRISTIE: Just translate what he said, please.

A. Yes. In quotation that during the whole time in which he was running Auschwitz, that he has never seen gas chamber nor even known that such gas chambers existed.

Q. And does your book say that, from this statement, nothing would dissuade him?

A. Yes.

Q. How many satellite camps were there to the Auschwitz complex?

A. That is a question which I cannot {2993|2994} precisely answer.

Q. Were they divided by the main — well, were there more than Ausch-

witz I and Birkenau?

A. Yes. I already spoke about Raisko.

Q. What other? Name others.

A. And Monowitz was another one.

Q. Name others if you can.

A. I do not know other names, but I know there were several more camps.

Q. Were they divided by the main Krakow-Vienna railway line? camps?

A. Yes.

Q. What was the purpose of these camps?

A. It was an internment camp.

Q. Was anything produced there?

A. Yes.

Q. What?

A. For instance, Buna, artificial.

Q. Was the labour of the inmates compulsory?

A. I only can say how it was with us in Raisko, and there it was not compulsory work.

Q. From your observations of the camp of Birkenau and your experience as an agronomist, did you have any personal ...

MR. CHRISTIE: Translate that.

Q. ... first hand knowledge of the ground water level?

A. Yes. {2994|2995}

Q. How far down was the ground water level?

A. In many places it was already at one meter depth.

Q. How was the lay of the land around Birkenau camp?

A. Behind the camp of Birkenau there was a swamp and some bushes with trees in between.

THE COURT: With what?

A. Trees. And a very high ground water level. And there were also a number of fish ponds, and they were a little bit further to the south.

Q. MR. CHRISTIE: If you dug a hole into the ground around Birkenau camp six meters wide, six meters long and six meters deep, what, from your experience, would happen?

THE COURT: Just a moment. Let's hear if he's had any experience in doing that.

MR. CHRISTIE: Yes, sir.

Q. Did you have experience digging in the ground around Birkenau?

A. Yes.

Q. From your experience if you dug a hole six meters long, six meters deep, what would happen?

A. This was not possible because of the subsoil water.

Q. What would happen?

A. The embankment would slide down.

Q. And what would happen to the hole?

A. It would immediately run full of water. {2995|2996}

Q. Were there any hills in the immediate vicinity of Birkenau?

A. Yes, there was, but that was some distance away.

Q. How far?

A. About one kilometer away from that area.

Q. Could there have been a million people go into Birkenau without your being aware from your own experience?

A. It's impossible. One million people?

Q. Could a hundred thousand people have gone into Birkenau? Please listen to my question, witness, till I finish my question. Could a hundred thousand people go into Birkenau without your being aware, from your daily observations?

THE INTERPRETER: He doesn't quite understand the question. In what time, daily or in what time?

Q. MR. CHRISTIE: During the time that you were in the area, over the year that you were there, did a hundred thousand people —

A. I cannot answer this question.

Q. The inmates that you saw daily from Birkenau, when they arrived to work each day, what were they doing?

A. They were detailed for work.

Q. Did any of the women with you appear too sick to work?

A. I saw in the beginning that some {2996|2997} people appear to be a little weak, but once they had worked for us, after they had worked for a couple of weeks, they had regained their strength.

MR. CHRISTIE: Those are my questions. Thank you.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour.

#### CROSS EXAMINATION BY MR. GRIFFITHS:

Q. Mr. Christopherson [Christophersen], do you have a criminal record?

A. Yes.

Q. You've been convicted in Denmark?

A. No.

Q. Were you convicted in 1981 in West Germany of inciting hatred against Jews?

A. No.

Q. Of disseminating Nazi propaganda?

A. No.

Q. Were you convicted of anything in 1981?

A. Yes.

Q. What were you convicted of?

A. Defamation of the State.

Q. Defamation of what State?

A. The State of Germany.

Q. That had to do with these matters {2997|2998} you were telling us about?

MR. CHRISTIE: I think there is something I should discuss in the absence of the jury.

THE COURT: Excuse us, please, members of the jury.

— The jury retires. 2:40 p.m.

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: I want to put on some the record the usual procedure of putting criminal records to the witness. First of all, I think my friend has an obligation to check to see that his alleged record is correct. It has now been put to the witness in the presence of the jury that he was charged with or convicted of, in fact, allegedly something which he has denied.

I am of the opinion that that is an improper method of putting that issue to a witness in front of the jury, and the witness has admitted the only conviction, defamation of the State. Two others were alluded to and I just want to put on record my belief and opinion that that's improper.

THE COURT: I could be wrong, Mr. Christie, but my view of it is that counsel for either the defence or for the Crown can put to a witness and ask {2998|2999} the witness whether or not the witness was convicted of a certain offence. If the witness accepts and agrees that that is so, then it becomes evidence of conviction for the offence. If the witness denies it, however, then it's incumbent upon the Crown, if he chooses to do so, or the defence, as the case may be, to prove the conviction that was suggested. Now, do you disagree with that?

MR. CHRISTIE: Your Honour, I felt that putting — I don't think it's proper to put a conviction to someone for which there is no evidence, present proof. I mean, if I was to say to a Crown witness, haven't you been convicted of child molesting, or something of that nature, in front of the jury and not have the proof for it, I think I would be in serious trouble. I may be wrong.

THE COURT: I think you probably would. It all depends on whether or not you had reasonable and probable grounds to believe that that was the case.

MR. CHRISTIE: I would like to see the Crown's reasonable and probable grounds for a conviction to exist. I have no indication. {2999|3000}

MR. GRIFFITHS: Well, I had indication of this witness one hour before he testified. I have newspaper articles to indicate that. Now, if this witness wasn't convicted, I'm sorry. That is the indication that I have. If I have a list of the names of witnesses, then I can be more thorough on the research.

THE COURT: I don't know whether you are entitled to that.

MR. GRIFFITHS: I don't know either. I am saying that I don't think the criticism is fair; that I had reasonable and probable ground from newspaper articles that this witness had these convictions, or I would not have put them to him. To have the proof when I have one hour's notice of testifying, that is not fair criticism, either.

MR. CHRISTIE: Well, I suggest it is improper to put something to a witness on the basis of newspaper articles. I happen to have no reason to believe that they are regarded as some kind of judicial authority. And if my friend had asked me these questions in a confidential manner, I would have given him the opportunity to ask the witness and given him an answer. {3000|3001}

I just think that — I am not trying to criticize my friend. I think that we all have difficulties and I realize that he didn't have a great deal of time. I am not trying to imply some kind of, any kind of dishonesty on my friend's part. I just think it is an unfortunate thing that should not have happened, that it would have been better to confirm or check these newspaper clippings before putting them to him.

MR. GRIFFITHS: If Mr. Christie wants to provide me with the record of convictions of his witnesses, I will be —

THE COURT: Are you prepared to do that?

MR. CHRISTIE: At his request, yes. If I have any knowledge of a criminal record, I will.

THE COURT: Then there is no further trouble.

MR. CHRISTIE: I didn't think it was obligatory of the defence either to advise the Crown in advance of witnesses, as Your Honour intimated, or, furthermore, to advise of criminal records. I think, really, that is putting a fairly large obligation on {3001|3002} the defence.

THE COURT: Oh, nobody is putting that allegation.

MR. CHRISTIE: I am not suggesting Your Honour was.

THE COURT: Nobody is. If you want to, you may; if you don't chose to do so, please don't, let me make that clear.

MR. CHRISTIE: In the interest of fairness, I would be glad to have this matter checked before the jury is confronted with what I think is quite clearly a mistaken belief on my friend's part.

I just felt that it was appropriate to point out that, before such things are put to a witness, I suggest it is customary to have a reason to believe that they are true.

I recall myself in earlier days getting into serious problems by putting to the witnesses under cross-examination in the presence of the jury facts for which I was not prepared or able to prove, and I think this is unfortunately the same situation.

THE COURT: Bring back the jury, please. {3002|3003}

MR. GRIFFITHS: Excuse me, before the jury comes back in, maybe in the absence of the jury I can clarify exactly what it is that Mr. Christopherson has in the way of a record, if anything — get some other information with regard to that. I haven't been able to test it. If it is not true, I will not put it to the jury; if it is [I] will.

THE COURT: In my view, the Crown had reasonable and probable grounds for the information he had in the time he had to get it to ask the questions he did. I see nothing wrong from a legal point of view. The jury will be reminded of all this when defence addresses the jury, so I do not foresee any unfairness at all.

Do you agree with what the Crown proposes to do now, Mr. Christie, to ask this witness what defamation against the State of Germany means, or do you want to ask him in front of the jury?

MR. CHRISTIE: No. I didn't hear him to say that, but I am glad that he do that in the absence of the jury.

— {3003|3004}

Q. MR. GRIFFITHS: Mr. Christopherson, what is defamation against the German Democratic State mean?

A. I have the judgment of the Federal Court here in front of me, and I don't understand it myself.

Q. Is it in German that you have it here?

A. It is in German.

Q. How long is it?

A. It's about ten pages, but he would like to have his original retain his original.



Q. Thank you. And 1976, were you fined 400 pounds in Denmark?  
 A. No.  
 Q. As a result of your conviction in West Germany were you sentenced to nine months in jail?  
 A. It was eleven months, not quite a year, not quite twelve. A little more than eleven months.  
 Q. Did you flee West Germany before serving that sentence?  
 THE INTERPRETER: Would you say that again?  
 Q. MR. GRIFFITHS: Did you flee West Germany before serving that sentence?  
 A. I lived for two years in exile in Belgium.  
 Q. After the sentence was made by the Court and before serving the sentence you left. {3004|3005}  
 A. It was before. It was prior to the sentence.  
 Q. Prior to the sentence. When was it in relation to your conviction?  
 A. Until the 26th of August in '83.  
 Q. That's when you returned.  
 A. I was kidnapped.  
 Q. By Israeli Police?  
 A. I still had a permit to stay which allowed me to stay in Belgium but I was picked up by the Belgium Police and taken to the border.  
 Q. Deported.  
 A. And they took me down in handcuffs to the border.  
 THE COURT: To what border?  
 A. In the City of Aachen.  
 MR. GRIFFITHS: Your Honour, before I am able to cross-examine further Mr. Christopherson into the presence of the jury, I need to know what it was that he is convicted of in West Germany. We have a ten page German judgment which may or may not contain the things that I indicated in my questions, and I would like to have the opportunity to have that translated so that I could properly cross-examine Mr. Christopherson on Monday.  
 MR. CHRISTIE: Well, first of all, I never heard it said before that a witness is obliged to produce for the Crown the evidence that he needs to cross-examine him. That, to me, is novel. I am always subject to correction, but I think, with respect to this {3005|3006} particular judgment it's the property of Mr. Christopherson. I don't know that he is obliged to hand it over to my friend. I don't know that he's obliged to translate it to help my friend to prove his point.  
 THE COURT: Even though he just offered to do that?  
 MR. CHRISTIE: Well, he is a generous man. I don't know that he is obliged to do that. And I am suggesting that it does not seem to me proper to ask the witness to wait for cross-examination until the Crown can find, from his hands, something more to cross-examine with. It just strikes me as a rather unusual procedure, and I object to it because I think the accused's right to proceed with all due diligence is the issue.  
 THE COURT: Perhaps I should have obliged you to proceed two hours ago, this morning, when you asked for an adjournment.  
 MR. CHRISTIE: Well, I think, perhaps, that was a slightly different situation.  
 COURT: What's different about it? You didn't have a witness and you were indulged.  
 CHRISTIE: The difference is {3006|3007} that I think my friend is asking the witness to help him from himself.  
 THE COURT: You don't want that to happen?  
 MR. CHRISTIE: If that's Your Honour's ruling.  
 THE COURT: I am not making a ruling. I am not ruling that way. I am just interested in your views.  
 MR. CHRISTIE: Well, I am endeavouring to express them, sir. And I just find it unusual that my friend goes on a sort of fishing expedition in the absence of the jury —  
 THE COURT: I thought you just agreed to that.  
 MR. CHRISTIE: Well, I think my friend should have his case in order before it comes here, and he has the available resources.  
 THE COURT: Did you tell Crown counsel the name of this witness at all before the witness arrived here?  
 MR. CHRISTIE: Yes.

THE COURT: When? {3007|3008}  
 MR. CHRISTIE: Just as we broke for lunch.  
 THE COURT: As we broke for lunch. Do you feel that that is reasonable time to prepare one's cross-examination?  
 MR. CHRISTIE: I've had to do it myself.  
 THE COURT: So have I. It isn't, as you know it and I know it. What do you propose, that he just proceed on now?  
 MR. CHRISTIE: Well, I think that this is the situation, that if my friend is cross-examining a witness, he has to have his material at the time he undertakes the cross-examination. He should not expect the witness to provide him with available resources for the cross-examination. I have never heard that done before. If Your Honour feels that it's appropriate, then I am sure it will be done.  
 THE COURT: I say nothing. What is your proposal, Mr. Griffiths?  
 MR. GRIFFITHS: Your Honour, I can certainly carry on cross-examining Mr. Christopherson {3008|3009} this afternoon. There is an abundance of material that he's provided in his testimony for me to cross-examine him on.  
 One of the matters that was raised by my friend, quite properly, I would have raised it as well, I am sure, is that I unfairly put to the witness certain matters that I was alleging he had been convicted of, and in questioning Mr. Christopherson about what the matter is that he was convicted of, he says he doesn't understand it but he has a judgment here. I asked him if he is prepared to share that with me and he said yes.  
 Now, I don't see anything improper in that at all. If he is prepared to share it with me, then we can all find out what defaming the National Democratic State means.  
 THE COURT: Otherwise I will issue an order that you call somebody from the West German embassy here with legal knowledge, or somebody else with legal knowledge to impart that to the jury. So you have your choice.  
 Gentlemen, if you can't work it out so that justice appears to be done in the next fifteen {3009|3010} minutes, you can indicate that, and if you want an adjournment, you can get it.  
 MR. CHRISTIE: Your Honour, maybe I can expedite matters. I have instructions that if it is available to the witness, which it appears to be, and if it is convenient to the Crown, then the witness can provide the translation to him.  
 THE COURT: When?  
 MR. CHRISTIE: Well, perhaps tomorrow, and my friend can carry on. I have been instructed to take a position.  
 THE COURT: I would have to think that that would be the only civilized way of proceeding. However, your objections are noted. I take no part in this. I always thought that when someone asked for an adjournment or needs some time, if it is reasonable one should get it. You got it this morning. He will get it this afternoon if he wants it. As simple as that. It is a question of simple, civilized decency.  
 Twenty minutes.  
 — Short adjournment.  
 — The witness stands down.  
 — {3010|3011}  
 — Upon resuming.  
 MR. GRIFFITHS: Your Honour, during the recess — at the outset, I apologize for losing my temper earlier — but during the recess Mr. Christie and I have discussed this matter and he has very kindly provided me with the German copy of the judgment, and I will make use of the weekend to translate that, and before returning to that with the jury I am indicating to Mr. Christie I would speak with him again and see what we have. My preference — but I am in Your Honour's hands — would be to reconvene on Monday to do that. I am prepared to commence cross-examination this afternoon. My preference is to recommence on Monday, though, because the last thing that the jury heard from me and from the witness was reference to a criminal record, and I would rather have that cleared up the next time that they come back into court, and if my information is wrong, then I would like

to be able to say something to that effect so that the wrong impression is not left with the jury. And that's the reason why I would rather wait until Monday when this can be sorted out, but I am in Your Honour's hands. {3011|3012}

THE COURT: Mr. Christie?

MR. CHRISTIE: Yes, sir. I can certainly understand my friend's frustration. I have consulted with the translator that we have available and he would have translated it, but he said it is more than a language problem. It is a legal problem. He can't put it into logical sense because he is not a lawyer, and I, with the greatest respect, think that the proper procedure probably should be to get some body who is qualified in these subjects.

Now, I think my friend and I are both groping in the dark. I don't know German law, I don't know French law, and the difficulty that arises is that they don't appear to function in the way we do, guilty or not guilty. It appears, somehow, they seem to, well, with judges alone we get reasons for judgment, but I can't even get a clear answer out of this from my translator. So I am suggesting, and only suggesting this, but perhaps if my friend wishes to prove this conviction in some way to contradict the witness or to clarify it, I shouldn't necessarily contradict, I would request, and I, suggest, perhaps, that the proper way to do it is to call somebody who is really {3012|3013} qualified in this, and I suggest that perhaps the Legal Secretary of the German Consulate would be able – I think Your Honour mentioned that.

THE COURT: It is either that or there are one or two lawyers who are known to me in town who are lawyers as well as having German as their mother tongue who have a knowledge of German law. If those names are requested, I will consider providing either or both. If they are not, then I won't. It is as simple as that.

MR. CHRISTIE: I appreciate that, Your Honour. I think it takes someone to understand German law today to understand this.

I can say that Dr. Faurisson – and it is not in the presence of the jury so it doesn't ...

Dr. Faurisson was deeply hurt by the suggestion that he had falsified history that proliferated throughout Toronto. In France no one has said that he is convicted of falsifying history, and I don't know whether that is right or wrong, but to be fair to these people, that someone who really does know the law, not myself, in respect to France, not my friend, in respect to France or Germany, that someone who is qualified {3013|3014} should be called.

If these types of things are to be put to foreign witnesses, and I don't blame my friend for this, but I think we are struggling in an area that we don't do every day, that the proper procedure really should be to get a qualified person, and that hasn't been done in the case of Dr. Faurisson.

I'd like, if it is to be proceeded with, I'd like it to be done here, certainly to my client who will pay the price of a misunderstanding, perhaps.

That's my position, Your Honour. Thank you.

THE COURT: What do you have to say with respect to Crown's request for adjournment till Monday?

MR. CHRISTIE: I am quite content with that. It throws my scheduling into a bit of a disarray, but I told my friend I can understand he wants time, and that's quite all [right].

Would it be possible to proceed with my friend's cross-examination with the exception of that, and then we don't waste the afternoon? I don't {3014|3015} know if that's – you know, I just feel that we could carry on with what we are doing without getting into this legal matter. I think that maybe my friend's point is well taken. I leave it to Your Honour with respect to that, but I would like to see if we could proceed. That's my only concern.

THE COURT: Bring back the jury.

— The jury enters. 3:40 p.m.

THE COURT: Members of the jury, a matter has arisen in a rather unexpected way that requires certain research to be done. A number of matters have been worked

out in your absence. This one is going to require some time until Monday morning. Rather than have you wait in that nice jury room of yours

until four thirty or whatever it is, I thought it an act of mercy would be to let you go now till nine thirty Monday morning.

Have a good weekend and please don't come to any conclusions. Keep an open mind and keep resisting the temptation to follow this case in the Press. Thank you.

— The jury retires. 3:41 p.m.

— Whereupon the hearing is adjourned to February 11, 1985.

(VOLUME XIV FOLLOWS) {3015|3016}

## VOLUME XIV

### FEBRUARY 11, 1985

— Upon the hearing resuming.

MR. GRIFFITHS: Good morning, Your Honour. If I may, sir, just before the jury comes back in, I have had an opportunity to have the judgment of Mr. Christopherson [Christophersen] translated, and it would appear from the judgment, which is written in a very formal style of German, that Mr. Christopherson was originally convicted of three different counts, and when he ultimately returned to Germany he appealed those convictions and his sentence on those convictions. Part of the basis of his appeal was the manner of his return to Germany, that he felt he had been improperly returned by Belgian authorities, and although it's not very clear, I think there were also substantial grounds of appeal that he would bring as well, the outcome of which was that two out of the three convictions were overturned and the third one in relation to the West German Government remains.

So in the event I will go through some of this, certainly not all the prior convictions will be indicated to the jury, and my apologies to Mr. Christopherson for incorrectly setting out his record. {3016|3017}

THE COURT: What is defamation of the State? What does that all mean? And has Mr. Christie seen the translation?

MR. GRIFFITHS: Well, Mr. Christie has done his own work on the judgment as well. As near as I can tell, Your Honour, there is an area in which the individual was not permitted to speak in West Germany by constitutional authority, and Mr. Christopherson stepped over that line in some comments that he made. I don't think that it goes so far as the equivalent of sedition in our Code, but he was speaking against the West German authority.

Is that fair enough, Mr. Christie?

MR. CHRISTIE: Your Honour, I can't speak with any authority at all on the West German law. I can say that my best efforts in the translation from Mr. van der Heide is that it was clear as mud to him, and he couldn't actually translate many parts of it because he said that he couldn't translate it.

I think my friend's explanation would probably be a good one that it is in the very high German. My translator simply said that you have to understand the thing in order to be able to translate it into {3017|3018} another language, and he couldn't understand it.

I don't feel any more competent than anybody else to understand this judgment. I think the clearest that I can understand from it is that it was defamation of the State. What that means or why that is, I don't know. Thank you, sir.

THE COURT: Is there anything further before I call the jury in? Call in the jury, please.

— The jury enters. 9:41 a.m.

THE COURT: Yes, Mr. Griffiths.

**HANS VON DER HEIDE, previously sworn as interpreter**

**THIES CHRISTOPHERSON [Christophersen], previously affirmed**

**CONTINUED CROSS-EXAMINATION BY MR. GRIFFITHS:**

Q. Sir, on Friday I asked you about criminal convictions that you had.

A. Yes.

Q. And in forming my question to you I asked you about things that you have not been convicted of.

A. Yes. {3018|3019}

Q. Before I go further, I wish to apologize for doing that. You have one conviction for defamation of the West German State.

A. I would like to add that in earlier years I was also convicted for defamation of the Third Reich, and I was put in close custody for three days at that time.

Q. When was that?

A. During the War.

Q. Okay. Did you receive some medals or declarations for your wounds?

A. I was wounded very early in the War, and I did not participate in any further combat.

Q. My question was whether you received any decorations or medals.

A. No.

Q. And what was your rank?

A. I was a lance corporal in the Army, and later a special officer of the Wehrmacht.

Q. As a special officer did you have a rank – Captain, or —

A. It was a rank of a Lieutenant.

Q. And was that your rank when you were at Raisko?

A. Yes.

Q. Was that your rank the entire time you were at Raisko?

A. Yes.

Q. While you were at Raisko, it's unclear from your testimony where you were living.

Where were you living? {3019|3020}

A. Later on – first of all in Raisko I lived in an empty building, empty dwelling house, and later on in the greenhouse of Raisko.

Q. All right. So you did not live in the main camp of Auschwitz.

A. No.

Q. And was Raisko being used for anything else besides Kok-Sagis, this plant you were growing?

A. There was also a garden.

Q. A food garden or flowers, or what kind of garden?

A. It was everything. Vegetables and flowers.

Q. All right. And were the guards at Raisko from the S.S.?

THE INTERPRETER: Would you say that again, please?

Q. MR. GRIFFITHS: Were the guards at Raisko from the S.S.?

A. Yes.

Q. Okay. And were they part of the – forgive my German – totenkopf?

A. I cannot say this any more with any amount of certainty.

Q. What camps did you visit when you were at Raisko?

A. I visited the main camp and Birkenau, and a number of smaller satellite camps who were also working on agriculture.

Q. All right. How many times did you {3020|3021} go to Birkenau?

A. I don't know exactly. I will say five, six or seven times.

Q. And what would take you to Birkenau? Why would you be going there?

A. In most of these cases it was to fetch something out of Birkenau, either from Kanada, or from these airplane dismantling factory.

Q. Either from Kanada or the air plane ...

A. The airplane dismantling. There was an airplane dismantling factory.

Q. In Birkenau there was?

A. Yes.

Q. And you were there for a year. Were those visits spread out all during the year or at any particular time?

THE INTERPRETER: Would you say that again, please?

Q. MR. GRIFFITHS: Were those five, six, seven times in Birkenau spread out all during the year that you were there?

A. That's right.

Q. Okay. Did you ever see a crematorium at Birkenau?

A. No, but I knew that there was one.

Q. But you did go to Kanada to get some material or goods.

A. Yes.

Q. Do you think you could show us where the airplane dismantling

factory is on a map of {3021|3022} Birkenau?

A. Yes, I believe I can.

MR. GRIFFITHS: Exhibit 21, please.

Q. I am showing to you Exhibit No. 21.

A. Yes. There was a railway line here, and it was close to the railroad line.

Q. Was it in the camp?

A. It was just outside of the camp.

Q. And can you show us where Kanada stores are on this map?

A. This here in my opinion was Kanada.

THE COURT: Would you get him to mark his initials "TC", please, wherever he says, "These places are in there"?

THE WITNESS: I believe that this was Kanada.

Q. All right. Would you put your initials over here, please?

Now, I thought I heard you say, although I did not hear the translation, that this was the crematoria, and you are pointing to KIII.

A. These two here, these were the crematoria, but I was not inside. I was never inside the crematoria.

Q. What about these buildings over here marked KIV, KV?

A. I never was there

Q. Well, do you have your book here, Mr. Christopherson? All right. Now, you've got a German and {3022|3023} I have an English, so we have a problem. On page 37 —

THE INTERPRETER: Of the English version?

Q. MR. GRIFFITHS: Do you have a page 37?

A. In this German version, yes, I have page 37.

Q. I tell you what, I show you page 18 of Exhibit No. 1 where your book is quoted, and I will read you this and you tell me if this is accurately from your book. Okay? And Mr. van der Heide will translate. Okay, sir? I guess, before I do that, page 18, column one, the last paragraph starting with the words, "After the War".

A. Yes.

Q. All right.

"After the war, Christopherson came to hear of the alleged existence of a camp.

A. Yes. Does he say "hear", or "saw"?

Q. "Came to hear".

A. Yes.

Q. Quote: "This was supposed to be the crematorium. However, I must record the fact that when I left the camp at Auschwitz in December 1944, I had not seen this building there (p.37)".

Do you remember the crematorium now? {3023|3024}

A. It says, "In the vicinity of the main camp".

Q. Well, you are just talking about the main camp here, not about Birkenau.

A. Here, in this quotation, I am talking about the main camp and not of Birkenau.

Q. All right. Do you talk in another quotation in your book about Birkenau, or is that all you say in your pamphlet about the crematorium?

A. No. I mentioned in my book somebody has told me that it was a crematorium.

Q. But you saw it yourself.

A. I never was inside the crematorium.

Q. You saw it from the outside, though?

A. Yes, I have certainly seen it, but I can no longer remember what it was.

Q. I see. And was the crematorium working while you were there?

A. I don't know.

Q. May I see your book, please? Thank you.

You've told us that you never heard gunfire. Do you remember saying that on Friday?

A. Gunfire?

Q. Gunfire.

A. He did not say gunfire.

THE COURT: No, Mr. Interpreter. The answer as you heard, please, not what you say he said.

A. Rifle fire not gun fire.

Q. MR. GRIFFITHS: Did he ever hear rifle fire? {3024|3025}

A. I did hear rifle fire in the same way as you normally used to hear when you find yourself in a military establishment. It was, to me, nothing suspicious about this.

Q. Did prisoners ever try to escape from Birkenau by way of Raisko?

THE INTERPRETER: Did you say prisoners ever tried to escape from Raisko?

Q. MR. GRIFFITHS: Did they ever try to escape from Birkenau?

A. As a witness I can only say here what I heard and saw myself, and I did not see anything of that nature myself.

Q. What kind of soil does Kok-Sagis grow well in?

THE INTERPRETER: Would you say that again, please?

Q. MR. GRIFFITHS: What kind of soil does the plant Kok-Sagis grow well in?

A. We planted Kok-Sagis outside of the camp, and there was a ground with plenty of humus soil.

Q. Is that the ground that it grows best in?

THE INTERPRETER: I didn't understand, I'm sorry.

Q. MR. GRIFFITHS: Is that the ground that it grows best in, plenty of humus? Does Kok-Sagis grow best in land with plenty of humus? {3025|3026}

A. That is where it grows best, yes.

Q. Tell us what the prisoners would have for a midday meal.

A. The command No. 11 from Birkenau, they had one hot meal, a dinner, with a soup, a kind of soup with meat in it, meat condensed in it.

Q. Would that be at the noon hour?

A. Yes.

Q. Was there anything else for lunch?

A. They occasionally took some sandwiches along with them from Birkenau for lunch. I only wished that it was also handed out these care parcels.

Q. Now, when did the Red Cross come to Raisko?

A. Late in the summer.

Q. And how many people came?

THE INTERPRETER: I beg your pardon?

MR. GRIFFITHS: How many people came?

A. All I saw was the vehicles, a white vehicle with a red cross on it.

Q. Did they stop at Raisko?

A. They did not appear to be very interested in Raisko. They wanted to see Birkenau mainly, but we always liked to show them Raisko as well.

Q. Did they stop in Raisko?

A. Yes.

Q. Did you talk to them?

A. No.

Q. How many were there? {3026|3027}

A. I don't know.

Q. Do you know their names?

A. No.

Q. Did you go with the Red Cross to Birkenau?

A. No.

Q. So you don't know where they left after they left Raisko?

A. No.

Q. Is that the only time that you saw the Red Cross in the time you were at Raisko?

A. Yes. I, myself, saw only once, but I heard that there were several times.

Q. No. Don't tell us what you heard. Do you know of any report of that visit to Raisko?

A. I only know the report which was also published in one of the later editions of my book.

Q. Is this a report from your own research, or somebody else's research?

A. I can no longer say with certainty where I obtained this report.

Q. Go ahead.

A. It is printed here in one of these issues.

Q. Is this an edition written in English here in this German book? There is a facsimile of a Red Cross report on that page.

THE INTERPRETER: This passage is in French.

Q. MR. GRIFFITHS: In French. Do you speak French, Mr. Christopherson? {3027|3028}

A. No.

Q. And you speak no English?

A. Not very well.

Q. You'd have a hard time saying what is said there, then, wouldn't you?

MR. CHRISTIE: Excuse me, Your Honour. If it is of any assistance to my friend, Mr. van der Heide also translates in French, if you wish.

MR. GRIFFITHS: Thank you. I am not concerned about Mr. van der Heide's knowledge. I am concerned about Mr. Christopherson's knowledge.

Q. Your publisher is referred to in this pamphlet on page 17, and I believe the top of page 18, Dr. Manfred Roeder. Do you still have contact with Dr. Manfred Roeder?

A. Manfred Roeder was the one who issued the first edition of my book, and this is edition number six.

Q. All right. My question was, do you still have contact with Manfred Roeder?

A. No. He is, at the moment, he is in prison right now.

Q. How long is he in prison for, do you know?

A. How long?

Q. How long is the sentence?

A. He was sentenced to thirteen years of imprisonment.

Q. And do you know what he was convicted of?

A. Co-knowledge in a fire incident. {3028|3029}

THE COURT: I'm sorry, I didn't hear that.

A. He had co-knowledge of a fire incident.

Q. MR. GRIFFITHS: Of a fire?

A. It was a fire incident on a home of the people that took refuge there, of people, of refugees, the home of refugees was a fire attack on it.

Q. And did anybody die in that fire attack?

THE COURT: Just a moment.

MR. CHRISTIE: Is this relevant?

THE COURT: I have it, Mr. Christie. Just a moment. We will wait for the next question.

Q. MR. GRIFFITHS: The weekly movies, where would you see them, in Birkenau or in Raisko?

A. In Raisko we had a room of our own where films were shown.

Q. And would the prisoners and the guards all get together once a week to watch the movies?

A. If there was a film, ever a film shown, then the guards had to come along because it was outside of the camp.

Q. I'm sorry, were there prisoners watching these movies?

A. The camp was guarded only during the nighttime.

Q. What camp?

A. The women's camp of Raisko.

Q. Well, you told us on Friday that the {3029|3030} women came in from Birkenau each day; they weren't staying at Raisko; is that right?

A. Yes.

Q. So who were they guarding at nighttime, you?

A. There was also a women's camp in Raisko.

Q. So not everybody came in from Birkenau.

A. Nein.

Q. And how big was the women's camp in Raisko?

THE INTERPRETER: Would you say that again, please?

Q. How many women in the women's camp?

A. Over a hundred. Over a hundred persons.

Q. And were those women, would they have come and watched the movies with you once a week?

A. Yes.

Q. And all the same room together?

A. Yes.

Q. Do you speak Polish, Mr. Christopherson?

A. No.

Q. Do you speak any language other than German?

A. No, not actually, no. Not correctly.

Q. So when you told us on Friday that prisoners would speak with you, the language would always {3030|3031} be German.

A. In German.

Q. All right. Was there an electric fence around the women's camp in Raisko?

A. I only saw an electrically-charged fence in the main camp.

Q. That's Auschwitz I.

A. The number I don't know. I am talking about the main camp.

Q. All right. And did you see an electrically-charged fence around Birkenau?

A. I must apologize, sir. I can no longer remember exactly what condition, how these fences around these different camps were.

Q. So you don't know what the fence around the camp at Raisko was, electric or not.

A. I know exactly that there was a barbed[-]wire fence around the women's camp in Raisko, and that sunflowers were planted in front of this fence, and that on the outside there was a sentry at each corner.

Q. And in the daytime – that would be at nighttime, a sentry at each corner?

A. It was only during the nighttime.

Q. All right. And then, in the daytime, were the sentries pulled back to a picket[ ]line around a larger area?

A. Yes. That is correct.

Q. So the camp would still be surrounded by guards, although they might not be seen?

A. Oh, yes, they could be seen because they were on the tower, on the watchtower. {3031|3032}

Q. How far apart would these watch towers be?

A. I think it was less than one hundred meters.

Q. Did you ever see anybody try to walk by those watch towers at any time?

A. No, I did not see that myself, but I often walked by there myself and to have some prisoners with me.

Q. You walked through the line with some prisoners.

A. Yes.

Q. And you had guards with you as well?

A. No.

Q. Were you armed?

A. I had a pistol, yes.

Q. And where would you be going with prisoners alone?

A. It was different. It differed. For instance, to pick up blackberries near the fish ponds.

Q. Anything else you'd go out for?

A. Yes. For instance, I used to go to the field where the command No. 11 from Birkenau were working.

Q. Well, that would still be inside the picket line, would it not?

A. No. The fields for the Kok-Sagis were outside of this picket line.

Q. I see. And were there guards over {3032|3033} these women, or did they come in voluntarily every night?

A. They were guarded. No, they were guarded.

THE INTERPRETER: Excuse me, he just pointed out a picture where one of the guards can be seen on the picture.

Q. MR. GRIFFITHS: Oh, do you have pictures in this book?

A. These are the India rubber fields there, and this is a prisoner. You can see him wearing striped pants, and the guard is here.

Q. You have a number of pictures in here.

A. This is command No. 11 when they are doing the hoeing work. And this was taken in the Ukraine. This is myself and my colleague Schattenberg. That's myself and my wife.

Q. Is that in Raisko?

A. Nein. That was after our wedding in Berlin on the 20th of April, 1943.

Q. I see. So when it says here 1944, under the picture, that's not right?

A. That's not correct no. That's an error, printing error. This was in '43.

Q. The uniform that you indicated 1943, I don't see any campaign ribbons.

THE INTERPRETER: . Would you say that again, please?

Q. MR. GRIFFITHS: I don't see any campaign ribbons. If you fought in France, why don't you {3033|3034} have campaign ribbons?

A. At that time they were not issued yet in France.

Q. Three years later they still had not been issued?

A. No. It's the first time I hear about it.

Q. And you never received any wound medal?

A. Nein.

Q. Or the Iron Cross Second Class?

A. No. No. I have no decorations whatsoever.

Q. Okay. Thank you. The little room that everybody would go to for their worship, the prisoners would go to, was that in Birkenau or in Raisko?

A. In Birkenau. No, excuse me. I made a mistake. In Raisko.

Q. Well, did you ever see a room like that in Birkenau?

THE INTERPRETER: I beg your pardon?

Q. MR. GRIFFITHS: Did you ever see a room like that —

A. No, I did not see such a room in Birkenau, but in the vicinity of the main camp.

Q. You saw such a room in the main camp as well, in the area of the main camp?

A. In the vicinity of the main camp, yes.

Q. I show you Exhibit 24. {3034|3035}

A. This is the administration building. It must have been in this area right there.

THE COURT: Mark it with the same initials, please.

Q. MR. GRIFFITHS: Would you mark it, please?

A. I think it was here.

Q. And did you ever attend that room for your own spiritual enlightenment?

A. Yes. We celebrated our thanksgiving day, and this performance was carried out by the prisoners.

Q. I see. And this is in Raisko you are talking about, or ...

A. No. This was also in the vicinity of the main camp.

Q. It must have been a very large service.

A. Yes, it was a very large performance.

Q. And the prisoners presided over this service? Is that what I understand?

A. They, for instance, would provide the decorations and also the orchestra.

Q. And then were the prisoners entitled to attend as well?

THE INTERPRETER: Would you say that again, please?

Q. MR. GRIFFITHS: Were the prisoners able to attend the service?

A. I saw prisoners who were doing {3035|3036} some ordinance work, like for example waiter service.

Q. At this thanksgiving service.

A. Yes.

Q. They weren't sitting down being waited on, though?

A. No. They did carry out these services themselves, waiters services. They acted as waiters, and what is called ordinance duty. It is a military term. I also had a prisoner as a maid.

Q. And did you notice anything unusual about the smell of Birkenau?

A. No.

Q. How often would the prisoners at Raisko have roll call?

A. Every morning and every evening the number of prisoners was established by roll call.

Q. And were the prisoners at Raisko tattooed on their left arm?

THE INTERPRETER: Would you say that again, please?

Q. MR. GRIFFITHS: Were the prisoners at Raisko tattooed on their left arms?

A. I did not pay any attention to the tattoo, but they had a number sewed on their sleeve, a number sewed on their sleeves.

Q. All right. And the number on their sleeves or on their clothes would be the same as the number on their arm.

A. This is a question to which I cannot answer because I did not observe this myself.

Q. What did you not observe yourself? {3036|3037}

A. That they had the number on their sleeves, but I did not look at their

tattoos [sic].

Q. I see. But they did have tattoos [sic]?

A. Other people would be more predestined to answer this question. I did not carry out the physical checks on the prisoners. I did not see them. I did not see the tattoos [sic].

Q. I see. And did you see how a roll call took place first of all in the morning? What time in the morning and what happened?

A. Yes, I did see these occasionally. Occasionally we also detailed people for work from the roll call.

Q. And what time in the morning would the roll call be?

A. I think it was around seven o'clock.

Q. And would breakfast be over by seven o'clock?

A. Yes, because the work started after roll call.

Q. All right. And was there somebody at the women's camp in Raisko, a prisoner who would be the block[ä]ltester, the block senior?

A. Yes. We had a Kapo.

Q. And was there also somebody who was a block scribe, block recorder?

A. I can no longer say this.

Q. You can't remember that.

A. No.

Q. What would happen if at roll call {3037|3038} at Raisko someone was missing?

A. In that case the picket chain, another of the pickets were not withdrawn unless the number of prisoners was found to be correct.

Q. And did you ever see prisoners exchanging with somebody from the local village or town so that the prisoner could have a day off?

A. I did not see it myself, but I was aware that something like this was taking place.

Q. Do you think it would be difficult for somebody to come in through the pickets, get through roll call, and not have a tattoo on their arm; do you think that will be difficult?

A. It was a bit of an effort, but it was done all the same.

Q. And after a couple of days the prisoner would have enough of life outside and would come back.

A. Yes. It was a kind of bail.

Q. Can you tell us whether the barbed wire fence around your camp was to keep people out or to keep people in?

A. There was only a barbed wire fence around the camp which was guarded at night, otherwise there was no barbed wire fence.

THE COURT: What's the answer to the question?

Q. MR. GRIFFITHS: Was the fence to keep people out or to keep people in?

A. It served both purposes, most likely. I did not construct the camp so I don't know.

Q. Thank you.

—— {3038|3039}

THE COURT: Mr. Christie.

#### RE-EXAMINATION BY MR. CHRISTIE:

Q. What did you do or what did you say to cause yourself to be charged with the crime of defaming the German State?

A. I insulted the symbol of the Afwart —

THE COURT: I'm sorry, I missed that. Would you say that again, please? "I insulted the symbol ..."

A. I insulted the symbol of the after War period in Germany, which is Mr. Staufenberg (phonetic).

Q. MR. GRIFFITHS: What did you say?

A. I said that he was a traitor.

Q. Anything else?

A. No. Nothing more. This was sufficient.

Q. Thank you.

——

THE COURT: I have a question, if I may. Did everyone of the equivalent rank of Lieutenant in the German forces, military forces, have a maid.

A. Every officer was entitled to have a batmen.

THE COURT: I didn't ask about batmen. I asked about maids. {3039|3040}

A. We had maids, yes.

THE COURT: Did you have the same maid for the whole year?

A. No.

THE COURT: How many?

A. This girl by the name of Olga whom I mentioned in my book, she was with me for approximately four months.

THE COURT: Is Olga the one that told you about the rumours about chimneys and flames from the chimneys that caused you to take your bicycle?

A. She said this to my mother, and my mother accordingly told me.

THE COURT: Was it then that you took your bicycle and —

A. At first I questioned Olga herself.

THE COURT: Yes. Did you then take your bicycle?

A. Yes.

THE COURT: And did I get you down correctly when you said you looked for fireplaces but you couldn't find anything regarding cremation, crematoriums?

A. That's correct.

THE COURT: The maids that you had were prisoners, were they?

A. Yes. They were inmates, but one of them was a Bible researcher, and these Bible researchers were not guarded.

THE COURT: What were the duties of the maid? {3040|3041}

A. They did normally the ordinary call of a maid like similar to a hotel.

THE COURT: What does that mean?

A. They clean the room and brush the clothes and also wash the windows, and Stefa also fixed some decorations in the room, hang up pictures and things like that.

THE COURT: Is it your experience as a soldier in the German armed forces that officers had batmen, males, not maids?

A. Invariably the officers would have a batman working for them.

THE COURT: Thank you.

Mr. Christie, any questions arising from mine?

MR. CHRISTIE: No.

THE COURT: I'm sorry?

MR. CHRISTIE: No, sir.

THE COURT: Thank you.

MR. GRIFFITHS: Nothing arising out of that, sir.

THE COURT: Thank you.

— The witness retires.

MR. CHRISTIE: Your Honour, I have had a witness waiting all morning, but in another place, and it will take me twenty-five minutes to have that person here.

THE COURT: How far away?

MR. CHRISTIE: Not that far, Your {3041|3042} Honour. I think he can be here in fifteen minutes. May we have a short break to do that?

THE COURT: Fifteen minutes, members of the jury.

— The jury retires. 10:45 a.m.

MR. CHRISTIE: Excuse me, Your Honour. Could I provide you with the curriculum vitae of the next witness? I have given my friend a copy.

—— {3042|3043}

— Upon resuming.

MR. CHRISTIE: Your Honour, I have Dr. William Lindsey here, and I'd like to call him, if I may, and proceed to qualify him in the area he claims in his curriculum vitae.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: I am content, Your Honour.

THE COURT: Bring in the jury.

— The jury returns. 11:20 a.m.

#### **WILLIAM B. LINDSEY, affirmed**

THE COURT: Go ahead, Mr. Christie.

#### EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. Dr. Lindsey, where are you from, sir?

A. I am presently from Clinton, Iowa, in the United States.

Q. And could you give us a little indication of your background?

A. Well, I was born in Texas, first of all. I stayed there until I had finished my study in the {3043|3044} University of Texas. After that, I went to Bloomington, Indiana, where I had my Masters and Doctors degrees in chemistry. After that I accepted employment in one of the large chemical firms in the United States, and I've been there for thirty-three years.

Q. And what progressive titles have you held in the employment in which you are?

A. I started out as a research chemist. I was then promoted to a senior research chemist, and then I was made a research associate.

Q. Mm-hmmm. And have you worked in the development of a number of industrial processes?

A. Yes, I have.

Q. Could you describe your research work in those fields, sir?

A. Well, generally they are related to the field of polymers.

THE COURT: Polymers?

THE WITNESS: Yes, sir. And in general, industrial chemists have to make decisions in just about all the parts of chemistry – organic, analytical and that sort of thing.

Q. Have you, at some stage, been involved {3044|3045} in the development of chemicals for the rocket programme in the United States?

A. Yes. I worked on a programme that involved the development of wire wrappings for cables that would be used in the rocket programme.

Q. And could you give us some indication of other types of research work that you have done?

A. Well, I worked on new methods for preparing viscose. This is used in the manufacture of rayon, things of that sort. I also worked on coatings, lacquer coatings for various polymers film and things like that. They have utility in commerce, packaging food, that sort of thing.

Q. Are you listed in "American Men of Science"?

A. Yes, I am.

Q. What is that journal, sir?

A. I beg your pardon?

Q. What is "American Men of Science"?

A. "American Men of Science" is published, I believe, every ten years and is basically a survey of all the men in the United States, perhaps also Canada, I'm just not certain, that have anything to do in the physical or {3045|3046} social sciences and medical sciences, too, I believe, are included.

Q. And you've been married for thirty-seven years and you have two sons; is that right?

A. That's right.

Q. Have you, in the course of time, developed an interest in a particular subject, relating chemistry to history?

A. Yes. I have always been interested in history. Much of what I've heard since World War II, in particular, seems to me could be helped a great deal by applying some sort of a technical approach to this thing, testing, for example, just how reasonable some of the thesis that have been advanced would be if they were looked at more or less from the standpoint of a chemist.

Q. Mm-hmmm. And in the course of such studies, what have you done to prepare yourself to understand the thesis that is put forward?

A. Well —

Q. And specifically, what thesis?

A. Well, the basic problem here, of course, is the vast number of charges made under the generalized heading of the Holocaust. In order to understand this {3046|3047} properly, it seems to me that one would have to know, first of all, what the basic accusations are. If you ask various authorities, you very often get various answers. They have apparently arisen from different places at different times from different people.

So in an attempt to, — perhaps, get rid of [of] some of my ignorance, at least, I proceeded to review first of all the volumes that were published at Nuremberg, basically, under the — not the authorship, but certainly the supervision of Robert H. Jackson, who was the American prosecutor at Nuremberg.

Subsequent to reading and looking over these forty-two volumes, I proceeded to the volumes that were supervised by Telford Taylor, who was the man who took Jackson's place after Nuremberg. Then I proceeded to read a number of popular books. One was, of course, Mr. Vrba's, "I Cannot Forgive". There were many others. I think there's "Four Chimneys in Auschwitz". I also read the book by Dr. Raul Hilberg and Mr. Reitlinger's book. These are really a small number. I read these many years ago and there really must have been dozens of books that went through my hands.

Q. Did you study the book of Philip Friedman? {3047|3048}

A. Yes. Professor Friedman originally originated in Poland. There is apparently no record of his ever having been incarcerated by the Germans, but after the War he became a member of the Polish Central Committee for the investigation of war crimes in Poland. At that time he spelled his name P-H-I-L-I-P, as I remember. He then, after publishing, "This was Auschwitz" — I believe that was published in Argentina, in Yiddish, it was then translated into the English, which version I read; and after that he came to the United States and was at Columbia University, closely attached to YIVO.

Q. What is YIVO?

A. That is a Jewish organization in New York which is basically concerned with studies of the Holocaust and that sort of thing.

Q. Are you familiar with the author Jan Sehn?

A. Yes. A Judge Jan Sehn, I believe was from Cracow, and it is to him that some people, at least, are indebted for the original documentation of the charges at Auschwitz-Birkenau. For example, he is the one who put forward the idea that Auschwitz was the swampiest place in Poland. I believe he is also the one that speaks of this {3048|3049} German S.S. orderly who was supposed to have dumped this, Zyklon-B on top of the inmates.

Q. Are you familiar with the work of Charles Sigismund Bendel?

A. Charles Sigismund Bendel testified at the Luenenberg [Lüneburg] trials, and he also testified at the trial in Hamburg.

Q. How are those two trials, the Luenenberg trial and the Hamburg trial, related to Auschwitz?

A. First of all, the Luenenberg trial was the trial of the Auschwitz-Birkenau staff, S.S. staff that had walked from Auschwitz to Bergen-Belsen where they were captured by the British. They were then put before a tribunal at Luenenberg and most of them were tried and condemned to death. Dr. Bendel and Dr. Aidenbenko [Ada Bimko] (ph) — well, those two in particular testified at that trial. Later on, Dr. Tesch and Karl Weinbacher, who were accused of having supplied the Zyklon-B which was used to kill the people, allegedly, at Auschwitz, were tried by a second tribunal. I think, as I remember, it was the same judge advocate in charge of both trials. Dr. Tesch was found guilty along with Karl Weinbacher, and they were both hanged by the British occupation force. {3049|3050}

Q. Are you also familiar with — and I am going to lead here because I have provided this information to the Crown — the published works of Perry Broad, Alexander Donat, Hermann Langbein, Kurt Gerstein — you mentioned Reitlinger and Hilberg — the Jewish Black Book Committee, the New York Times, and the works of Shirer, Garlinski, Gray, Hoggan, Austin, Harwood, which is the book in question, and Professor Arthur Butz? Are you familiar with all those works?

A. Yes, I read those books, and I figured that if I were planning to have an opinion in this area, I owed it to myself to look into them.

Q. And how many years have you spent studying this information?

A. I have been studying this, I'd say, more or less intensively for the last ten to twelve years, and my interest, of course; goes back even beyond that.

Q. Have you, in the course of your studies, pursued the observation of some original documents?

A. Yes. It seemed to me that the best way to get at this entire series of accusations was to go back to the original accusations and see where most of these stories arose. As a result of that, I was particularly {3050|3051} interested, of course, in first of all a report by Judge Sehn, who gave the basic information from the Polish investigation in Poland;

after that, of course, I was interested in the accusations that were made at Nuremberg by the trial there; but the thing, it seemed to me, to be a very, very important part was the trial of Dr. Tesch and Herr Weinbacher, because the entire series, the entire set of charges of the Holocaust seemed to me to be somewhat of a chain.

You had to have, first of all, the people there. You had to have killed these people with a certain agent, and this agent was supplied by Dr. Tesch, allegedly.

Q. What was the agent alleged?

A. This agent was Zyklon-B, or basically, hydrogen cyanide. Zyklon-B, I would like to explain, is really a commercial product. It consists of about one part liquid hydrogen cyanide —

THE COURT: Just a moment, please.

MR. CHRISTIE: I will carry on, if I may, with the ...

THE COURT: Please do.

MR. CHRISTIE: ... with the questions in regard to qualification.

Q. Now, to explain, witness, before we {3051|3052} can get into any opinion, we want to deal with your qualifications in relation to your research. So this is the questions that I will be asking. So you described having looked for original documents, you discussed the report of Judge Sehn. Did you do any other research into primary sources?

A. Yes. As I said, I was interested in the trial of Dr. Tesch & Herr Weinbacher. I got the transcript of that from the public records office in London. It took me some years to actually locate this. When I did locate it, I found out it had been sequestered or sealed for some thirty years during which time, of course, a great deal of history had been written; but by the time I located them, the time had expired and I was allowed to buy a transcript of the entire proceedings of the Tesch and Weinbacher trial.

Incidentally, [sic] the trial was against Dr. Tesch, Weinbacher, and a third man by the name of Runstedt [Drohsin], who was completely exonerated [sic]. Dr. Tesch and Herr Weinbacher were hanged. After looking at that, it was obvious to me, at least —

Q. Excuse me, you can't give an opinion until after you have been examined by the Crown.

A. Well, what I did was to proceed to {3052|3053} the Luenenberg [Lünenburg] trial, because it was obvious that much of the testimony that had been given in Dr. Tesch's trial had originally been given in the Luenenberg [sic] trial. As a matter of fact, Dr. Ada Benko (ph) was not able to testify in person at Dr. Tesch's trial, and her affidavits had been taken from the Luenenberg [sic] trial and used for a second time at Dr. Tesch's tribunal. So I wanted to get the transcript of that.

I immediately found that that was much too voluminous to buy as one piece. I am rather limited in how much I can expend in this. So I arranged to go to England and was allowed once more to look at these documents. And they also had been sealed. And fortunately for me, the time had run out, although there were certain volumes where the time had not run out and I was not allowed to see them; but I did go over and I got copies of what I considered pertinent parts of the trial.

Q. Right. Are there any other original documents that you've obtained in the course of your research?

A. Well, I have spent some time in the National Archives in Washington, D.C. I got a number of the original documents there. I have written to Nuremberg and I got documents from Nuremberg. I also got documents from the Institute fuer Zeitgeschichte — {3053|3054}

Q. Where is that?

A. In Munich. As a matter of fact, every time I went on vacation, I looked for documents wherever I might be able to find them.

Q. Have you had an opportunity to look over the curriculum vitae that you have signed?

A. Yes.

Q. And although it's in two different type faces, have you determined that the statements contained therein are true?

A. That's right.

Q. All right. What other original documents have you perused in the formation of your research on this topic?

A. Well, there are certain properties of compounds, chemical properties

of compounds and building materials and things like that, so I found it was necessary to acquaint myself, at least, with the basic knowledge of these things.

Q. And so what did you do?

A. Well, after looking these over —

Q. Looking what over, sir?

A. Well, there are certain basic {3054|3055} properties of compounds such as building materials, hydrogen cyanide, for example, after acquainting myself with these, I then attempted to look at the accusations that had been made and see just how reasonable some of these accusations were.

Q. And did you go to the camps to conduct the search?

A. Oh, yes. I have visited all of the camps that were alleged to have been murder camps. I've been to Maidanek, which is in Lublin, Poland, on three different occasions.

Q. Can you tell us when you first went to the camps and what camps you first went to?

A. Well, the first camp I visited was in 1978, as I remember, and that was in Lublin, Poland, and Maidanek, and from there, in the same year, I went down and visited the three camps at Auschwitz I, II and III.

Q. What is Auschwitz II?

A. Auschwitz II is Birkenau.

Q. And how long did you visit Birkenau in 1978?

A. I was there for the better part of an afternoon. {3055|3056}

Q. And have you visited Birkenau since then?

A. Yes. After visiting Birkenau in '78, I came back, thought on what I had seen, and of course, read a great deal more, and decided that there were things that should be there that, if the stories were true, that I should have seen and, apparently, had missed. So I went back again in 1980. I think I had a lot more knowledge than I had when I was there originally in '78. I looked for some of these things. Some of these I found. I came away in '80 thinking I had seen just about everything, and I suppose —

Q. How long did you spend in 1980 visiting Birkenau?

A. I was in Auschwitz in '80. I was there for one day and a fraction of a second.

Q. And did you consider your investigation of the site complete at that time?

A. At the time I thought perhaps I had seen everything. I came back believing that I wouldn't go again, but then, after reading some more, I decided that a third trip would be necessary.

Q. And did you do so?

A. Yes. I took the last trip last {3056|3057} spring, in June.

Q. And what time did you spend in research at the site, then?

A. I spent well over two days there. At least, well over one. I have forgotten the exact dates, now, that I was there. I arrived one afternoon and I left. I must have spent a day and a half there, anyway.

Q. What did you do on these occasions in the course of your research?

A. Well, on the very first occasion, of course, the tendency is to take the more or less prescribed path through camps that they have for the normal visitors, and there is quite a large group of visitors going through them all the time. The second time you tend, or I tended, at least, to branch out and look for things other than what is shown to every visitor there, and this was true also of the third time.

Q. What were you looking for particularly on the second and third visits?

A. Well, I was, in the second time in particular, I decided to get a little bit north of the crematories, Crematories II and III, using the German designation, and at this particular time I discovered that what {3057|3058} is known as the sauna, which is right across the street from the waterworks and water disposal, this was, apparently, their major disinfection, or delousing station for new arrivals.

Of course, I also saw the pond there that's been mentioned in a lot of the literature, and I saw the buildings that are referred to at Crematories IV and V.

Q. So did you conduct any other inquiries at those occasions?

A. I'm sorry?



Q. Did you conduct any other inquiries on those occasions?

A. Well, do you mean as the personnel at Auschwitz?

Q. No. The site itself.

A. Well, after I came back, I read some more, and I decided I'd go back again.

Q. Did you conduct inquiries from the personnel at Auschwitz?

A. I was the only English speaking person on the site on two occasions, and as a result, they didn't show me their film and I didn't really get a chance to talk to too many of the people there. {3058|3059}

Q. How many sites have you visited of what are known as extermination camps? Have you visited Belzec?

A. Yes.

Q. Have you visited Chelmno?

A. That's right.

Q. Have you visited Dachau?

A. That's right.

Q. When?

A. Well, Dachau, technically speaking, is not considered an extermination camp any more. The extermination camps that are recognized, the camps that are recognized as extermination camps are, first of all, Chelmno, and then you go to Treblinka and Sobibor, and then Belzec and Maidanek.

THE COURT: Could I have those again a little more slowly, please?

THE WITNESS: First of all there's Chelmno, and then, secondly is Treblinka, which is north and east of Warsaw, and then Sobibor, which is located near the Bug River, and then Belzec is down in the south-eastern corner of, presently, Poland, and Maidanek is at Lublin. And then, the final one is the Auschwitz-Birkenau camp, although there {3059|3060} have been allegations that people were killed also at Auschwitz-Stammlager, or Auschwitz I.

Q. You, you visited – in 1978 did you visit Auschwitz-Birkenau?

A. 1978?

Q. Yes.

A. Yes.

Q. Did you visit Monowitz in 1978?

A. Yes.

Q. Did you visit the main camp, Auschwitz I, which you've called Auschwitz-Stammlager, in 1978?

A. That's right.

Q. Did you visit Dachau in 1978?

A. Yes.

Q. Did you visit Maidanek, Lublin in 1978?

A. Yes.

Q. Did you visit Mathausen in 1978?

A. Yes.

Q. Did you visit Auschwitz I in 1980?

A. Yes.

Q. Did you visit Belsen in 1980?

A. Yes. {3060|3061}

Q. Did you visit Chelmno ...

A. Yes.

Q. ... Maidanek, Lublin ...

A. Yes.

Q. Sobibor ...

A. Yes.

Q. Treblinka ...

A. Yes.

Q. In 1980 did you visit Birkenau?

A. Yes.

Q. Did you visit the Auschwitz I or the Stammlager?

A. Yes.

Q. Maidanek, Lublin?

A. That's right.

Q. In 1984 did you visit any other camps?

A. No.

Q. Have you done reading in respect to the authorities on both sides of this question of the Holocaust?

A. Well, of course, when you start reading about this, the people that support the Holocaust far outnumber the people that are arriving, saying that {3061|3062} something can still be questioned or outright doubt this. So I would say most of my reading has been – I've read, of course, Hilberg and Reitlinger and Vrba, and almost any number – well, of course, the entire Nuremberg volumes are in support of this thing.

Q. Mm-hmmm. So that your reading would be more heavily represented in that area.

A. I would say that well over three-quarters has been reading that involve the people that were supporting these charges.

Q. Yes. After having read that much literature and made those observations, what position do you feel you're in?

A. You mean as far as conclusions are concerned?

Q. Yes. Do you feel – why do you feel you are qualified to express an opinion?

A. Well, I think first of all I have put myself in the position of knowing what these accusations are, for the most part, why they were brought. Then I think I am technically qualified from the standpoint of a chemist with the knowledge that I obtained from all of this reading to more or less decide how reasonable these things are, how {3062|3063} reasonable the charges are.

Q. Mm-hmmm. Are you familiar with the chemical properties of the substance known as Zyklon-B, or HCN?

A. Yes. Well, now, properly speaking, Zyklon-B is a commercial product. Hydrogen cyanide is a part of this commercial product.

Q. And are you familiar with the effects of intense heat on mortar and cement?

A. Yes.

Q. And you are familiar with the factual framework of the allegation of mass deaths from your research?

A. Yes. That's right.

Q. And have you endeavoured to assess the chemical consequences of the use of Zyklon-B, or HCN, for the execution of persons?

A. Yes, I have.

Q. Have you studied what might be known as side effects of the use of this substance in relation to those who handle it or be around it at the time?

A. Hydrogen cyanide is a very, very useful industrial chemical, but it is, at the same time, a very deadly poison. Though I am acquainted with the safety {3063|3064} measures that are necessary to utilize this material in order to make a vast array of chemicals that we use, basically, every day in the country.

Q. Have you studied the chemical use of hydrogen cyanide gas in exterminations in other situations?

A. Yes. It's used – it is actually an excellent agent for exterminating both warm-blooded animals and insects, and they have been wishing or wanting to use this material for, I suppose, well over eighty or ninety years. The big problem is that it was so very, very deadly, and they had to develop practical safety measures in order to be able to use this.

Q. Are you familiar with those safety measures?

A. Yes.

Q. Have you conducted research into the use of hydrogen cyanide in the execution processes of United States?

A. I have.

Q. Do you consider those relevant to your research in regard to the mass gassings allegations?

A. I believe so.

Q. Why? {3064|3065}

A. The thing is, the safety measures have to be the same, regardless of whatever use you are using. The primary concern, of course, is the safety of the people who are using this material. It is very unforgiving poison. You need something like fifty to seventy milligrams to kill a person, and it is very, very fast-acting. Consequently, there is no chance for a second try. You have to do it right the first time.

Q. Have you studied the safety measures exercised in the United States in the execution of prisoners there?

A. I have.

Q. And are the chemical properties of Zyklon-B different from the chemical properties of the HCN used in that process?

A. No. Hydrogen cyanide is hydrogen cyanide. Zyklon-B is basically a means of conveying hydrogen cyanide to a certain site for a particular use.

Q. So, sir, I must permit your cross-examination by the Crown on your qualifications.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour.

—— {3065|3066}

#### CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Dr. Lindsey, in addition to your reading in the properties of Zyklon-B and hydrogen cyanide, have you ever had any direct personal research with the chemical itself?

A. Yes. As a matter of fact, I used some liquid hydrogen cyanide myself. As I said, it is a very useful chemical. It not only is useful in making plastics as such, but at one time it was necessary for me to synthesize what we refer to as an initiator for polymerisation, and that is a group of materials that utilizes hydrogen cyanide with ketones.

Q. I take it your answer is yes, Doctor.

A. Yes. That's right.

Q. It is beyond my high school chemistry. And have you had occasion, when you are at these various sites that you've told us of, to take samples of those sites? Is that what I understood you?

A. Well, I have taken souvenirs. I have taken samples. The Poles, I suppose, were somewhat like everyone else. They hate very much for people to go around mishandling their national monuments, and these things are {3066|3067} certainly in every sense national monuments to the Poles.

Q. So the answer to that would be no?

A. No, I have not taken samples and analyzed them

Q. Okay. And have you ever had occasion to use Zyklon-B?

A. No, I haven't.

Q. Have you ever had occasion, yourself, to analyze it as part of your hobby, to get a hold of some Zyklon-B and analyze it?

A. No. I have never analyzed Zyklon-B.

Q. So is it fair, then, that your knowledge of that would come from your reading?

A. That's true.

MR. GRIFFITHS: I have no further questions, and I am content, Your Honour, that the Doctor has handled hydrogen cyanide in the past.

THE COURT: I thought you would. Thank you. Proceed.

MR. GRIFFITHS: Just so that I am clear, Your Honour, I am content with Dr. Lindsey being qualified as an expert in chemistry. I am not content to proceed further if he is being presented as an expert in {3067|3068} history.

THE COURT: Are you presenting him as an expert in history?

MR. CHRISTIE: Only to the extent that he used historical sources to examine the chemical data to be the basis of his opinion of the accusations and charges made —

THE COURT: You will be putting questions to him about the opinions of all these authors he's read?

MR. CHRISTIE: Not historic opinions, no. They do express some chemical opinions, I am sure, that the doctor will be —

THE COURT: So that you propose this witness to be qualified in the field of chemistry.

MR. CHRISTIE: Yes, sir. I tried to articulate as concisely as possible on page 7 of the curriculum vitae —

THE COURT: I've read it.

MR. CHRISTIE: Yes. That's the area in which I hope my friend if he wishes to cross-examine on those particular areas I tried to deal with those, but those are the areas I seek his opinion on. {3068|3069}

THE COURT: Anything further, Mr. Griffiths?

MR. GRIFFITHS: No, Your Honour. I think, if my friend expresses, as is the usual case, questions in the hypotheticals, then that resolves any

difficulty I would have with Dr. Lindsey as a historian. I am content with him as a chemist.

THE COURT: On the basis that both counsel have agreed that this witness may testify, and namely as a chemist with respect to the chemical properties of various substances and the processes connected therewith, he may testify and give his opinion as an expert within the confines of that field.

MR. CHRISTIE: Thank you, Your Honour.

#### CONTINUED EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. Dr. Lindsey, I would now like you to tell us what are the chemical properties of Zyklon-B, or hydrogen cyanide. First of all, Zyklon-B.

A. Well, Zyklon-B, as I said, is a commercial product. It is composed of one-third hydrogen {3069|3070} cyanide that contains a stabilizer, a chemical stabilizer that keeps it from polymerizing ...

THE COURT: Just a moment. It is one-third hydrogen cyanide

THE WITNESS: Yes, sir.

THE COURT: Stabilizer.

THE WITNESS: Stabilizer. And then you also have a small amount of a warning agent. This is normally a lacrimeter [lacrimator] which makes your eyes burn, or your nose burn.

THE COURT: A warning agent.

THE WITNESS: Yes. This was usually included, but not always.

THE COURT: To alert someone to the danger.

THE WITNESS: Yes, to the fact that hydrogen cyanide is present. Now, the remaining two-thirds was basically an inert filler which made the liquid hydrogen cyanide soak into the filler so that you dealt with a solid rather than a liquid. Liquids are notoriously bad to use for chemists, and anyone else for that matter.

THE COURT: An inert filler. What does an inert filler mean? {3070|3071}

THE WITNESS: Well, the inert filler varied quite a bit. You could have such things as diatomaceous earth. This is basically the same as fuller's earth, I believe. You can use pellets of anything that has any mass or is porous. Things got so desperate in Germany that they were using such things as waste cellulose, shredded paper, and that sort of thing, towards the end. As a matter of fact, American Cyanamid had a patent where they used nothing but paper discs, white paper discs to absorb the hydrogen cyanide. This material was then put into a large can and soldered shut, and it stayed soldered shut until you decided to use it. When you decided to use it, you then had to use a special opener which cut the entire top out of the can, and then you used every bit of the contents without trying to save any of it. You could not close the can up again for later use. You could, maybe, delay it for a minute or so by putting in a rubber top on there, but that was basically to go from, say, one part of the room to the other part of the room in the de-lousing procedure.

Q. MR. CHRISTIE: Could you tell us whether Zyklon-B would be lighter than air, or heavier than air?

A. Hydrogen cyanide has a molecular {3071|3072} weight that would make it lighter than air.

Q. So if hydrogen cyanide was in crystal form dropped into a room, where would the best air be?

A. Well, first of all, hydrogen cyanide under no circumstances can ever be crystalline unless it is below its freezing point, which is — it's down somewhere within ten degrees or so of zero centigrade; but when hydrogen cyanide vaporizes off the surface, its normal tendency would be for it to rise, consequently, if you were at the top of the room, you would get the greatest amount of hydrogen cyanide. The purest air would be — unless you had your nose in the hydrogen cyanide on the floor — it would be on the floor as far away from the hydrogen cyanide as you could possibly be.

Q. So if we have a statement from someone to the effect that persons gassed with hydrogen cyanide or Zyklon-B crystals appear to have climbed over top of each other to get to the highest point, would that sound logical with your knowledge?

A. I would say that that should be extremely unlikely, because there is

no fresh air. The air at the top is the air that is contaminated. The air at the {3072|3073} bottom is the air that is pure.

I want to state again, apparently there is some confusion in the mind of many people that Zyklon-B was crystalline. The only thing that was conceivably crystalline was the filler that contained the liquid hydrogen cyanide.

Q. In your studies of the use of hydrogen cyanide to kill people you indicated earlier that you had studied the uses made of it in the American gas chambers in the States.

A. Yes.

Q. Can you tell us what safety precautions are necessary to protect against the dangers to, say, for example, physicians, guards or others handling an executed prisoner?

A. Well, it's a very extensive procedure. I think there's something like forty or more steps that have to be made in making the preparations and carrying out the execution afterwards. After the felon has been executed, they attempt, as best they can, to ventilate the gas chamber, after which time it is still considered much too toxic for anyone to enter. They then can wash the thing down, the gas chamber, and they have to take special precautions about {3073|3074} getting rid of the water, because they don't want polluters or poison in the water supply to which this would be running. After they have done that, they normally admit gaseous ammonia.

Q. Why is that?

A. And the gaseous ammonia has an effect that is really very, very necessary here because, as I said earlier, Zyklon-B has a stabilizer in it which is acidic. Well, ammonia is basic, and the reason you want your Zyklon-B or hydrogen cyanide to be slightly acidic is that when it is basic, it can polymerize. This means several molecules will get together and form a larger molecule which is basically not volatile, and in this case, fortunately, not toxic.

Q. So the ammonia changes the toxicity to non-toxicity.

A. It does a great deal, but they normally are not even satisfied with this, because first of all they have an indicator in there to be certain that the entire area is toxic, and after that they do this. They then aerate [sic] again to get rid of the ammonia, and they usually check it with copper benzodine acetate test paper and, depending on the colour change on this test paper, they then decide it is safe to enter or not, or they may have to continue on {3074|3075} beyond this.

Q. If simply water was sprayed into a room where hydrogen cyanide had been used in fatal what would happen to the hydrogen cyanide?

A. Well, of course, hydrogen and water is mixable [miscible]. That is, each is completely soluble in the other. That is, if you had water spraying into a chamber that had hydrogen cyanide in it, the water would immediately dissolve, form a solution of hydrocyanic [acid] in the water, and this material would be devastatingly toxic and lethal to anyone who would get this on their skin since hydrogen cyanide is easily absorbed on the skin. As a matter of fact, if I may add, the protective clothing is, under the circumstances, the best they can do.

Q. What protective clothing, sir?

A. You normally have to wear rubber boots and rubber gloves and rubber coats and rubber pants to be sure that this material doesn't get on you; but even there you have spaces between the various garments and the gas can get through the spaces into your skin; and as I say, you need only about fifty to seventy milligrams, and unless you get help in a hurry, you're gonna die in about ten minutes or less. {3075|3076}

Q. So in respect to the evidence of a witness who said that he handled some number of corpses that were recently gassed and wet, what would you say would be the consequences of doing that?

A. It seems to me that this would be highly unlikely. I would be much more prone to believe this if you would let this man stick his hand into a solution of hydrogen cyanide in water, say a one per cent solution, and he were alive ten minutes later, I might be more prone to believe it. He might be just lucky. You can absorb hydrogen cyanide through your hands very, very easily, and I would say that if you got something like that on your hands, unless you washed it off in very short order you would certainly join the alleged pile of victims that you were carrying

out.

Q. We have been told that Zyklon-B was used in the gas chambers in such quantities that it killed hundreds of people at a time. Can you comment on what venting system would be necessary for those quantities?

A. Well, as I say, you would need for each person you would need something like fifty to seventy milligrams, but what you would need over and above that is, you would need enough to saturate the air up to a level, {3076|3077} probably, of three hundred parts per million, which increases the amount of hydrogen cyanide you'd need. That means it's got to be three hundred parts per million, and over and above that you must have sufficient, above this amount, to carry out the killing procedure. This means that you would need, in a very, very poorly ventilated room, you would need a rather large exhausting system. I am not aware that there was such a thing at Auschwitz-Birkenau.

Q. Have you had an opportunity, in your observations of the crematoria at Auschwitz-Birkenau, to determine how it was located in relation to the ground in your own personal examination?

A. Yes. I've seen the crematorium and the so-called Leichenkellers, as I said, three times. Today, perhaps, it is not as obvious as it was back in those days. I have also examined the aerial [sic] photographs which the CIA put out some years ago ...

Q. Which are in evidence here somewhere.

A. ... and I have come to the conclusion that, well, first of all, in order to function as a mortuary [sic], as the German plans called them, it was located purposely underground so that the entire volume under there would be cooled for the preservation of bodies before they {3077|3078} would be cremated. So normally you would expect this to be as far underground as possible. And if you look at the remains of the foundations today, they were, of course – maybe dirt or something is filled in since then, but as I remember, they weren't more than maybe two or certainly no more than three feet above the surrounding landscape.

Q. What were the relationship of heat to the evaporation of hydrogen cyanide from the crystals? Would you need heat, or would you want it cool?

A. Well, I have – I don't like the word "crystals", perhaps because this is, this, in chemistry, we don't use the word "crystal" unless it is a crystallite salt, like —

Q. Pardon me, but I think you described it as the agent in which the HCN is absorbed.

A. Yes. The inert matter. But so far as heat is concerned, every substance, when you have a change of phase, that is, from solid to liquid or liquid to gas, that sort of thing, you have what you call a latent heat of phase change. Now, when you change from liquid to gas, this is called a latent heat of vaporization and you need a certain amount of heat to be put into the substance to make it turn into vapours, like boiling water. You have to boil {3078|3079} water on the fire, or you don't get steam. Well, this is true also of hydrogen cyanide. Hydrogen cyanide is a rather unique substance. It is, perhaps, not as unique as water because water needs a very large – has a very large latent heat of vaporization. Hydrogen cyanide is not as high as water. It is, nevertheless, higher than a lot of other organic material. So when you go to vaporize hydrogen cyanide you have to provide sufficient heat to change it from the liquid to the gaseous phase, and if you do not have this heat available it will either lie there as a kind of puddle – of course, in the case of Zyklon-B it will remain in the inert filler and will not vaporize any more than the amount that would be necessary to saturate the air, but that heat would still have to be taken out of the air, out of the floor or something else, and basically, it would cool the surrounding area.

Q. We have been told also, Mr. Lindsey, about chimneys burning with flames shooting out of them, or flame shooting out of them forty or so feet, in some cases fifteen feet, sometimes day and night. Do you have any chemical knowledge of the effect of intense heat on interlocking crystals of calcium magnesium silicates usually found in water? {3079|3080}

A. Yes.

Q. Can you tell us when mortar holds and when it doesn't?

A. Mortar is made from a mixture of calcium oxide, cement and sand, and the cement is rather a complex mixture of calcium magnesium silicates, sometimes perhaps a little aluminum in addition. Now, to make cement, which is basically the major binding element of mortar, we have to heat this to a very high temperature, and what we do in this case is to drive off what we call water crystallization and we have to heat it to a high temperature to get this water to come out, and this is – well, it depends. You can do it at a higher temperature for a much shorter time, or you can do it at a lower temperature for a longer time. Now, when you mix mortar, you mix cement that has been heated, and what you do, basically, is to add this water back to the material from which you've driven the water initially, and when you do this, you mix it with lime, cement and sand and then, as I say, this cement reabsorbs the water, kind of like plaster of paris, and you form interlocking crystals of this calcium magnesium silicate hydrates, and this gives you the binding force.

It isn't a real good binding force, but {3080|3081} it's sufficient for mortar. Most of your problem with mortar is compression rather than tension, anyway.

Now, if you go ahead and build your chimney with bricks which have been fired, the bricks fare all right at almost any temperature, but the mortar material there —

Q. If, for example, the deposits provide a hypothetical in which there is a fire in a chimney that shoots flames twelve feet high day and night, what do you – what happens

A. Well, what you do basically is, you force the cement to go to its original dehydrated state, and this would be, basically, like you would have – well, you would have basically the same strength as a result of that, for your mortar, as you would have if you mix the cement and lime and sand without any water, and your chimney would fall apart. I understand that if you have a fire in a chimney in Canada, we don't – I don't have a chimney, like a masonry chimney in Iowa, but I understand that if you have a fire in a chimney, the chimney will be condemned until you rebuild it.

Q. Now, you've read the literature pertaining to mass gassings, and I put to you a couple of {3081|3082} hypothetical questions about the handling of those who were allegedly gassed. I would like to ask you if a person handled the corpse of a person in an American gas chamber without rubber gloves, without the ammonia process of neutralizing the Zyklon or, rather, HCN, what would happen if a person touched such a corpse?

A. The normal procedure is to not find out what would happen. The fact is it seems like such a dangerous thing that they make every precaution that you can think of to be certain that nobody does touch this. You might say they bend over backwards in order to be certain that every last bit of hydrogen cyanide is purged from the system before anyone goes in there.

If I may add, some of the safety procedures, are on the basis of work that was done by Dr. Tesch and Dr. Gerhard Peters of the DEGESCH in Germany, and these procedures were absolutely necessary before they could use hydrogen cyanide for fumigating purposes.

Q. Is hydrogen cyanide used for fumigating purposes today?

A. It is used in some places. Apparently, its use in the United States has become less popular. I understand it is citrus fruit that is imported {3082|3083} into Japan, it is still used. I understand there is one small company in Virginia, it is representative of the DEGESCH in the United States, but I believe it has stopped selling the Zyklon discolorant because they have other material now that they use for this purpose.

Q. Have you done a study of all the literature pertaining to Zyklon and its use during the times of the German Government in the Third Reich?

A. Well, I have made a survey of the literature that goes back as far as seventy or eighty years ago, and everything in between that. That material was first suggested as a fumigating material by a man by the name of Bell in the United States, but its toxicity —

THE COURT: Stop there. Doctor, if you have studied the material, or if you have surveyed it, is there a difference between surveyed and stud-

ied? There may not be. I don't know.

THE WITNESS: Well, in chemistry, what we do is survey the literature.

THE COURT: Does that mean studied it?

THE WITNESS: Yes. We go through the chemistry books about abstracts and we find all the articles that have been written on that subject at a certain time. {3083|3084} This is basically, a survey.

THE COURT: All right. Sorry to interrupt. Go ahead.

Q. MR. CHRISTIE: Have you come to any conclusions about the alleged mass gassings in the concentration camps from all the literature you've read, from all the Holocaust literature you've read and from the literature on other sources of the chemical agent?

A. Well, after I have looked basically everything I can get my hands on to read subject, I have been forced to the conclusion that it certainly is just as impossible for it to have happened the way it's described.

Q. And why do you say that, sir?

A. Well, there are too many inconsistencies, I think. First of all, the people had to be brought in. The number of people who were brought into Birkenau, for example, and registered, they kept a very good record of all that – these records were captured by the Russians when the Auschwitz complex was captured.

Q. But let me put to you the hypothetical situation alleged by, here in this Court, by Dr. Vrba, Dr. Hilberg and those who had testified, that 2.5 million, or {3084|3085} one million people were gassed in crematoria II, III, IV and V. What do you say about that?

A. I find it, from my point of view, I find it is absolutely impossible to believe that. The method as described, the rate at which they can burn these bodies and carry out the gassing procedure, I find it's impossible. Even the fact that they could cram, as I remember, two thousand people into a room that size – this was challenged at, I believe it was Dr. Tesch's trial in Hamburg, and Dr. Bendel said, well, the Germans could do it – but the fact is that the volume considerations were just all out of order there.

Q. And Dr. Bendel was whom?

A. Dr. Sigismund Bendel was the man who gave testimony at both the Luenen trial, and also – this was where they tried the S.S. staff from Birkenau – and he also gave testimony at Dr. Tesch's trial against Dr. Tesch and Karl Weinbacher. He was a physician who, apparently, worked at the camp there, I believe at two of the camps in the Auschwitz complex, and seemed to at least claim knowledge of some of the goings on in so-called Stammlager, or Auschwitz I.

Q. In your examinations, for example, of the so-called Stammlager, or Auschwitz I, were you directed {3085|3086} to what was an alleged gas chamber?

A. Originally, they, in the Auschwitz I, they – well, first of all I might explain that the entire crematorium in Auschwitz I is apparently the remnant of the old Austrian munitions magazine which was converted into a crematorium that had two positions in it. Later it was converted into a crematorium with four positions, but it had a large underground room just to the north, I believe, of the cremation sites, and this was given as a gas chamber. In fact, to this very day, you go in there and the Poles maintain steadfastly that this is a gas chamber, and they have a hole in about the centre of the room where the Zyklon-B allegedly dropped down from up above, and if you go up above, as I did, you will find that that is an old ventilator that apparently has been removed. So that was considered to be a gas chamber. They have also claimed that the one block there – I can't think of the number right now but I can certainly supply it if it is necessary – this was basically the political block where prisoners were interrogated – they claimed that people were gassed in the cellar down there.

Q. Can people be gassed with Zyklon-B in an unsealed room? {3086|3087}

A. Well, it would be very, very – I think it would be rather hazardous for the people doing the gassing. It's kind of like the so-called S.S. men's room at Maydanek [sic] where they had a hole that big cut between the S.S. men's cabin, where he supposedly was observing the gassing of prisoners in the gas chamber, and there was nothing in that hole but about four pieces of quarter-inch steel, and I don't suppose the S.S.

man would have fared too well if he had looked through that hole too long.

Now, you take no chances with hydrogen cyanide. You must be absolutely certain that it doesn't get out and get you.

Q. When you have been shown the places that now are allegedly gas chambers in Auschwitz I called the Stammlager, and the remnants of Auschwitz II called Birkenau, what volumes of gas would have been necessary to kill people in those areas, and what would have become of that gas if it escaped without a chimney at great height? All right. What volumes of gas would be necessary to kill people in those areas?

A. Well, you normally need something like three hundred parts per million to kill within a half an hour. What volume of gas they — {3087|3088}

Q. How large are these areas is what I am getting at, so the jury can understand.

A. You see, I've — I have to admit that the volumes have escaped me. It was — these things were about two — a little over two meters high, and one is about fifty meters long, and the other is seventy meters long, and I think it's about eight meters wide.

Q. How big is the gas chamber in the U.S. execution process?

A. Well, that was a hexagon, and I have calculated that volume out, but I don't have it on my tongue right now. I can get it out of my briefcase if you ...

Q. Can you give us an approximate estimate of the gas chamber, the size of the gas chamber used to execute, and the gas chamber in Birkenau and Auschwitz I?

A. I'm sorry, would you ask that again?

Q. I said, would you give us a description of the difference in size between what purports to be the gas chamber in Auschwitz I, or Birkenau, and the size of what is known to be the gas chamber in the United States?

A. Well, the gas chamber in the United States is big enough for three men to enter, basically. They are big enough for two people to go in with a prisoner. {3088|3089} Consequently it is eight, nine, ten feet high and it must have a diameter of around eight feet.

Q. What's the size of — well, you described the size of what is alleged to be the gas chamber in Birkenau and Krema II and III. Is that right?

A. Mm-hmmm.

Q. Just give those figures again so the jury can compare.

A. Well, there's one about 1.2 meters high. No. About 2.2 meters high. And it's about — the one, or the room that is called the gas chamber is about fifty meters long, and as I remember, about eight meters wide.

Q. Okay. Now, to have a room that large filled with sufficient quantities of gas to kill people in it, allegedly in the number of two thousand at a time, what would be the effect of the escape of a volume of gas that large into the air around it and with people around it?

A. Well, you would probably have, since this is lighter than air — you see, hydrogen cyanide was at one time considered for a war gas, but it was not considered to be a persistent gas like mustard or phosgene. Consequently its use was banned very, very early. The reason {3089|3090} is, it rises and the wind sweeps it away.

My feeling here is that it would be dissipated by the air once it got outside of the room, but once you look at that room you find that it would be exceedingly difficult to get any sort of ventilating in a room, built as that was, all underground, with only one small door.

Q. In relation to your research and as a result of your research and knowledge of chemistry have you concluded an opinion in relation to the accuracy of the six million figure and the mass gassing allegation?

A. Well, I have come to the conclusion that, as I said, that no one was wilfully [sic] and purposefully killed with Zyklon-B in this manner. Now, the six million figure, it seems to me, from considerations that I've made of population figures in Poland from the —

MR. CHRISTIE: There will be an objection to that, so we can't go analyzing population figures, sir; but can you, from your chemical knowledge and your knowledge of the sites where these things were supposed to have happened, express your opinion as to the likelihood of gassing six million people, or four million, or 2.5 million, or one mil-

lion, or seven hundred thousand in the complex at Auschwitz-Birkenau? {3090|3091}

A. I consider it completely impossible there again.

Q. Having considered the same question, not the numbers, at Auschwitz I, having seen what you were told there was the gas chamber, do you consider it feasible that any numbers of people could have been gassed in that?

A. No, I do not.

Q. Why?

A. Well, one of the problems is, as I said, what I have tried to do is go back to the original accusations and get information from the people who contributed, certainly in my opinion, to the establishment of these principles, or these ideas. One of the men who gave testimony that gassing was going on at the Stammlager, or Auschwitz I, was a man by the name of Percy Broad.

Q. Who is he?

A. Percy Broad was a member of the S.S. He was a Brazilian citizen, and as most people in the S.S. were, he was a volunteer. Consequently he was in a rather bad position at the end of the War, since Brazil had declared War against Germany. He therefore gave testimony at Dr. Tesch's trial. He also wrote an article which was called The Percy Broad Report in which he described the executions at {3091|3092} Auschwitz I, or the Stammlager. He alternates from time to time. One time they are executed by a special gun that makes very little noise. He also mentioned that one day he was looking out of his office building there, which is only a few hundred yards away, and he saw an S.S. man standing on top of the crematorium, dumping the material in, which he assumed to be hydrogen cyanide, and killing people inside the gas chamber.

Well, he did not know definitely that there were people in there. He said that he heard screams which then died down, but he had really no firsthand evidence that the S.S. men had dumped anything in there. He said he dumped something in there, and he assumed it to be hydrogen cyanide.

Q. Having examined the site, what would you say the likelihood of that being successful?

A. It seems to me very, very unlikely.

Q. Is there any hermetic seal to the room in Auschwitz I alleged to be a gas chamber?

A. No. If you look at the room in Auschwitz I you will find that there's no — not even a door between the so-called gas chamber and the place where they are cremating the bodies. It's a completely open space. It {3092|3093} must be four, five feet wide and tall enough for a man to walk through.

Q. Is hydrogen cyanide flammable?

A. Yes. Hydrogen cyanide is flammable, but it is flammable at much higher concentrations than you would need to kill somebody. As I said, three hundred parts per million are deadly in a very few minutes. To get a mixture that would be explosive, you'd need, up around six per cent minimum number, and this would put you up in the range of six thousand parts per million. So it would be an entirely different order of magnitude.

Q. So are there any other reasons why you consider the Perry Brod [Percy Broad] account to be unlikely?

A. Well, the Auschwitz trial was held — I don't know when it was held, I think in 1980, but it was held in Frankfurt, and at this time Percy Broad denounced a great deal of his earlier testimony on the basis that it was based — his earlier testimony had been based to a great degree on hearsay, and this was pretty obvious in his testimony in Dr. Tesch's trial, and he also claimed that there was a certain amount of duress involved here.

Q. From looking at the vent of the roof of what purports to be the gas chamber in Auschwitz, {3093|3094} can you see any other problems for the allegation there of gassing?

A. Well, the entrance doors on the back and in the front are very, very small. There's also, as a matter of fact, they describe these gas chambers as having been built very substantially. If you look at the back

door, it is a simple wooden door. It is much flimsier than the doors here. I think I could break the door down without much difficulty; and on top of that, on the northeast corner they have a door that they claim has always been there, and it's got a glass pane in there that you can look into the next room. They presently have still another crematoria furnace in there. So obviously, anyone who was in there, first of all there's no door between this alleged gas chamber and the furnaces, no door at all. So anyone that would be in there tending the furnaces would probably be killed as fast as in the gas chamber. The other two doors are basically flimsy affairs that can be broken down without much trouble at all.

Q. Is there any evidence in your observation of those places of the ability to introduce ammonia to neutralize the hydrogen cyanide?

A. No. I saw no case of that whatsoever.

Q. In all the literature you've read in {3094|3095} which allegations of mass gassings are raised, is there a suggestion that ammonia is used?

A. No.

Q. Is there any other possible neutralizing agent?

A. Well, you could use, possibly, any basic material, say calcium hydroxide and lime, lime water. You could use lime water. You could use sodium hydroxide. The nice thing about ammonia is that it is gaseous. You would have to spray the others.

Q. Is there any indication that hydrogen cyanide would be absorbed into porous material such as bricks and mortar?

A. You see, the whole idea behind Zyklon-B is that you have a mass that would absorb quantities of liquid hydrogen cyanide. Now, the minute you go to mortar, a rough surface like that, you have increased the surface; consequently, the amount of hydrogen cyanide that can be absorbed on to the surface, especially if it's masonry, it's going to be wet or it is going to be wetter, it is not going to be bone dry, and since hydrogen cyanide dissolves so readily in water, you are going to saturate those walls with hydrogen cyanide, and that is going to stay there, basically, until you evaporate the water, too. {3095|3096}

Q. So what effect would that have on anyone —

A. That makes it much more persistent, or much more dangerous for anyone entering the room after the alleged procedure has been carried out.

Q. What are the walls in the United States made out of?

A. They are made out of steel.

Q. And if, over a period of months, or even years, hundreds of thousands of people were supplied with lethal quantities of gas within such chambers as are shown at Auschwitz-Birkenau, would the effect in the walls be any greater, or less?

A. Now, would you repeat that question?

Q. What happens if you continue to introduce Zyklon-B to porous, wet-walled material?

A. Well, what you would do is, you would continue to build up the level of hydrogen cyanide. You would have to dry these walls out thoroughly or you would basically have a sink for hydrogen cyanide there, and the concentration would continually build up in these walls until it reached a certain level, or it became saturated, basically. And since they are missible [miscible], I suppose there is no end to what {3096|3097} amount of hydrogen cyanide could be soaked into the walls.

Q. You say "missible" [sic]. What does that mean — mutually dissoluble?

A. Well, "missible" [sic] means mutually soluble. It is like alcohol, if I can use, perhaps, a better example. You can mix one drop of alcohol in a quarter of water, or you can mix a quarter of water in a drop of alcohol and anything in between.

Q. So I think in conclusion I will just ask you if you have communicated your knowledge and opinions to Mr. Zundel.

A. Yes, I have.

Q. When did you begin to communicate with Mr. Zundel?

A. I first communicated with Mr. Zundel when I found out from another source that he had pictures of the inside of the sauna at Auschwitz, and when I found that someone had some information that I didn't possess, I was always anxious to get hold of it. So I wrote to Mr. Zundel

and he kindly provided me with some photographs, and we have corresponded since then on our interest in this particular subject and have exchanged information that I had.

One of the difficulties, of course, is {3097|3098} that we have people that are interested in this subject all over the world, and all of these people have this information and another one will have this information. Information is not always that easy to come by, and it usually entails a fair amount of work to get hold of it. So it's nice to be able to exchange documentary evidence that we've accumulated over a period of, basically, years.

Q. Why have you undertaken this research into this subject?

A. Well, history had always been of great interest to me. I suppose at one time there was some question as to whether I should be a chemist or go into history. And the fact is, I think chemists normally eat better than historians; but when I was a boy in Texas, the first revelations of the fraudulent nature of the Bryce Committee allegations of World War I were being made public for the first time, and many of you don't realize that any more, but we had come to a great number of conclusions about the authenticity of these charges, and when first heard these Holocaust charges, basically towards the end of World War II, my first impression was that these were nothing more than the Bryce allegations that had been directed towards another people. Instead of the Belgians, this time, or the {3098|3099} Serbians, it was basically the Jews. As a matter of fact, there was a point brought out by William Shirer in his book in —

THE COURT: Are we not getting into history?

MR. CHRISTIE: I was just getting into an inquiry —

THE WITNESS: So I —

THE COURT: Just a moment, Doctor. Next question.

Q. MR. CHRISTIE: So if I may understand you correctly, it's a matter of interpreting and understanding history.

A. Yes. That's right.

Q. And have you communicated with others who have inquired into this area of history ...

A. Yes.

Q. ... that shared your views of the plausibility of the Holocaust?

A. That's right.

Q. And have the group of people who have the view that this is an implausible story got a collective name? {3099|3100}

A. Well, they have been called a number of things, actually. I have been active in this Institute of Historical Review, which is in California, published in their journal. I published a study of Dr. Tesch and Weinbacher. There is a great deal of activity going on in that general area, I think.

MR. CHRISTIE: Okay. Excuse me just a moment, sir.

Q. It is also alleged here that it is possible to enter the gas chambers with gas masks with special filters. Would that be enough to protect a person?

A. No. Hydrogen cyanide is so deadly, and it is absorbed through the skin so easily, that a gas mask would be of little use in giving you ultimate protection. Now, if you walked in and walked right back out, you might get away with it, but if you were to walk in there for any length of time with a high enough concentration — and as said, the concentration normally is, well, to be fatal, is almost three hundred parts per million, but for fumigating you normally need something like twenty grams per square, per cubic meter, which is higher — but you would, without having the adequate rubber protective clothing, you would, certainly in a rather short time, depending of course on the level of {3100|3101} the concentration, you would absorb enough hydrogen cyanide to kill you.

Q. So that a gas mask wouldn't protect you.

A. No, that would not be the ultimate in protection. As a matter of fact, there is no such thing as ultimate protection where you could go in and work for, say, eight hours and not be in danger.

Q. Even with rubber clothing?

A. I would — yes. Even with rubber clothing. They prefer that — well, the safety requirements are such that two men must be present at all times. So that if one of them is affected by hydrogen cyanide, the other

one can get him out and start resuscitation measures.

Q. Are you aware of the chemical effects of hydrogen cyanide in the blood system?

A. Yes. Hydrogen cyanide has a peculiar effect on the warm-blooded animal. It is cytochrome C poison. Now, cytochrome C is referred to as a repository enzyme in the cells of the organic system, and the hydrogen cyanide poisons this system so that the cell is incapable of absorbing oxygen from the hemoglobin in the blood. Consequently, when a person is poisoned, normally, by hydrogen cyanide, the cells {3101|3102} or the cytochrome system in the cells is poisoned, and since the blood cannot give up its oxygen to the cell, the venous blood becomes just as red as the arterial blood. As a result, the victims of cyanide poisoning are usually brick red, cherry, rosy red, and even their eyes, the eyeballs get red because you get the colour of the eyes from your blood, basically; and if the venous blood is the same colour as the arterial blood, you end up with red eyes. This is really one of the symptoms that is almost certain to indicate that you suffered cyanide poisoning.

Q. Have you knowledge of the degree of carbon monoxide poisoning, or carbon monoxide provided by diesel engines?

A. Diesel engines are peculiar. We receive reports from day to day from people dying of engine exhaust. It is a popular method of committing suicide. But these are gasoline engines which operate differently from a diesel engine. In diesel engines, the fuel is burned up in an air-rich environment, which means that you end up with carbon dioxide. In a gasoline engine, the one that we are familiar with, you burn your fuel in a fuel-rich environment, and this means that you get an awful lot of carbon monoxide.

Q. We have the Gerstein statement which {3102|3103} you've indicated in your curriculum vitae you studied, and in it it said that people were gassed with carbon monoxide from diesel engines. What do you say to that?

A. Of course, the amount of carbon monoxide that would be released would be such a low level that being poisoned with carbon monoxide from a diesel engine, you would probably get a headache. The amount — this has been covered by others who have been interested in it and have taken it to much greater length than I; but if you will remember, in the United States they were having a great discussion about pollution some time ago, and they were thinking of going to diesel engines purely because there is so little carbon monoxide that would be given off by the diesel engines. It was with respect to the gasoline engine.

Q. You have studied the use of fumigation process with Zyklon-B. Can you tell us how long a room would have to be naturally aereated [sic] before one could enter with the fumigation process?

A. Well, this depends, of course, on the amount of wind blowing and the amount of the area of the windows that are open. This is rather difficult to say absolutely, and that's the reason it's so very, very necessary to carry out the safety procedures that are prescribed when {3103|3104} you use this material. What you do is, you go in and you open all the windows and you get back out as fast as you can. As a matter of fact, it's prescribed that if one window is jammed a little bit, you leave that window alone, open all the other windows and you go back only after it's been aired out for an hour or so.

After the room has been aired, then they have these copper acetate benzadine test papers, these are exposed to the atmosphere inside the room, and if they get to a certain colour in a specified time, then you have to resume deaeration, [sic] and you continue doing this until the paper exposed in the room does not change colour in the time specified by the safety measures.

Even after this, though, the American Cyanamid Company, in its published brochure, in the fumigation of barracks specifies that you should leave the windows in the room open a few inches for another eight hours.

Q. Can you tell me, having studied the Gerstein statement and knowing what you do about combustion, what do you consider the Gerstein statement of gassing thousands of people with diesel engines?

A. Well, the Gerstein statement is obviously incapable of being true

technically. {3104|3105}

Q. In the Hoess memoirs published by Commandant Hoess, he talks about eating and drinking in connection with removing bodies from the gas chamber. What do you say about the chemical possibilities of those phenomena?

A. Well, I think eating in a place that just had a dosing with hydrogen cyanide would be suicidal. You certainly don't want to sit down and eat your meal, and as a matter of fact, with anything moist at all you would absorb hydrogen cyanide immediately and ingest that, and that would be almost certain to kill you.

Now, so far as smoking is concerned, there was a very famous German scientist by the name of Guttermann —

Q. Well, I won't ask you about smoking. I will just ask about eating. Anything in regard to the Hoess memoirs that you are familiar with that you consider in that regard to be feasible?

A. Well, the Hoess memoirs are written under a very peculiar set of circumstances. Apparently, the only manuscript, or parts of the manuscript —

MR. CHRISTIE: I think there will be an objection. You can't go into the history of this thing. That is to be dealt with not by yourself, but by somebody else. {3105|3106}

Your Honour, I think that those are the questions that I propose, but I may have another one.

I wonder if it is possible to take the noon adjournment, and if I have any more questions, I might then have that opportunity, and if not, then cross-examination could start at that time.

THE COURT: We will adjourn till 2:15.

— The witness stands down.

— The jury retires. 1:00 p.m.

— Luncheon adjournment.

— Upon resuming.

THE COURT: Is there anything

MR. CHRISTIE: I think, Your Honour, there may be at a later stage, but I don't expect anything that will require the absence of the jury now. Perhaps — my friend thinks it is convenient, we might discuss one thing in the absence of the jury.

I told my friend that I will propose to try to introduce two large photographs of what purports to be the gas chamber in Auschwitz I and ask the witness if he's been there, if he's seen it, if this is accurately {3106|3107} depicting the scene. And he has taken photographs of his own. These are enlargements of other photographs. He can identify whether it accurately represents the scene of what purports to be the gas chamber in Auschwitz I.

MR. GRIFFITHS: I understand that these photographs are from Dr. Faurisson. My position is not that they don't accurately depict the scene today, but whether they depict the scene forty years ago based on Dr. Faurisson's evidence that this was a building and an area of the building that underwent several changes during the time that the concentration camp was in operation. So that I wouldn't want Dr. Lindsey to be comparing apples and oranges, and I don't know whether that is what it was like when it was being used as a gas chamber.

THE COURT: Yes. Mr. Christie?

MR. CHRISTIE: I think the answer is that the explanation provided today is that this is what the gas chamber was. I am dealing with, as best I can, the allegation as it exists today. If the Crown was wanting to prove that this is not the way it was, then their experts could do so that had that opportunity, really, to produce some kind of representation of the way it was.

We are doing the best we can with what's {3107|3108} now represented by the authorities, both in Auschwitz and in the literature, as the gas chamber.

Now, the position of the defence has always been that this isn't and wasn't a gas chamber but, because that's the position of the defence, I don't understand how we, therefore, must not be allowed to deal with the allegation as it stands. We are not saying that this picture doesn't depict the way the authorities represent the gas chamber. That's exact-

ly the way the authorities represent the gas chamber today. If you go there today, the evidence from Lindsey can be and will be that this is what we are told is the gas chamber; this is the way we are told it's done – these are the vents through which the Zyklon is dropped and this is the room into which, supposedly, they are dropped. I don't know how much more firsthand one's knowledge can be than that.

I think that that, therefore, would give us the right to say, well, this is the way that story is told and we deal with it on that basis. That's why we want to introduce these pictures.

THE COURT: When were they taken?

MR. CHRISTIE: These pictures, believe, were taken in 1980. These are actually {3108|3109} taken, I believe, by Dr. Faurisson, but Dr. Lindsey has taken his own, which are identical.

THE COURT: The same arguments would apply pro and con, I gather.

MR. CHRISTIE: I agree. The pictures are identical. They depict the same thing. You see, Dr. Lindsey could say what the authorities now tell us, what all the literature tells us about this place; he can also tell us what, after seeing the place, examining it, is his opinion as to the feasibility of it. That's about the purpose of this photograph and this evidence.

The other thing – well, I don't think we have any other dispute on the other matter, which is another photograph.

THE COURT: If you don't have any dispute, then I don't want to hear from you at the moment.

MR. CHRISTIE: Well, I guess that's the dispute; we are sort of at odds there. That is all I can say.

—— {3109|3110}

#### RULING

THE COURT: Counsel for the accused, during the course of evidence going in on behalf of the defence, proposes to put a question to the witness who is presently being examined by Mr. Christie concerning some photographs.

The witness in question is testifying, essentially, in his capacity as a chemist. His evidence has been of concern to the issue of a gas known by its apparent trade name as Zyklon-B.

The witness, incidentally, through the thrust of his evidence, is what may be described as an amateur historian. His interest in history has taken him to many concentration camps of Europe of 1939 to 1945 vintage, and perhaps some years before that, in some cases.

He has sworn that, in connection with the feasibility of the use of Zyklon-B to gas people, he has taken himself to a number of concentration camps to inspect gas chambers, or alleged gas chambers.

It is now proposed that he be asked whether or not he can identify two very large enlargements of what purports to be gas chambers at the concentration camps in question. The two photographs emanate from a book which was authored by Dr. Faurisson.

Dr. Faurisson was a previous witness who {3110|3111} testified on behalf of the defence. The photographs, I am informed by counsel for the accused, were taken in the year 1980. The purpose of the introduction of either or both of the photographs into evidence is to let the jury see what they depict. They depict the interior of what is said to be a gas chamber.

The Crown takes the position that the photographs should not be admitted on the ground that what each depicts at the present time cannot be said to form an evidentiary nexus or connection to a gas chamber that may have existed some forty or more years ago.

Crown counsel points out that changes have been made, obviously, to the camp in question in the interim. Therefore, what the jury will be seeing is what an alleged gas chamber looked like in 1980 and not in 1942, 1943, 1944 or 1945. The exhibit, if it is to be admitted, must be relevant to one or more of the issues that must be tried by the jury.

In my view, it would be misleading to permit those photographs to come in at this point. The photographer has not been called. The type of camera employed has not been given in evidence. The lens opening and the angle of the lens has not been given. Those are merely a {3111|3112} few of the reasons I have declined to permit the photo-

graphs to be put in as exhibits.

In addition, Crown counsel is absolutely correct in his submission that what a picture shows in 1940, unless there is an evidentiary basis connected between what it now depicts and what would have been depicted forty years before is something that militates against the admission of the photograph.

That nexus does not exist on the record of this trial at this time. Questions cannot be put, nor will the photographs be put in at this time through this witness.

MR. CHRISTIE: Thank you, sir. Those are all the questions I have.

THE COURT: Thank you. If the Doctor can please resume the stand. The jury, please.

— The witness returns to the stand.

— The jury enters. 2:34 p.m.

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: Thank you, sir.

—— {3112|3113}

#### CONTINUED EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. Dr. Lindsey, in earlier evidence the Crown introduced a film called "Nazi Concentration Camps" in which the narrator said in respect to the camp of Dachau some things which I am going to read to you in a moment. Have you been to Dachau?

A. Yes.

Q. Have you investigated that camp?

A. Yes.

Q. And have you investigated the allegation of a gas chamber there?

A. Yes.

Q. I am going to read you a portion of the narrative of the film, and then I am going to ask you your opinion of this situation:

*"Hanging in orderly rows were the clothes of prisoners who had been suffocated in the lethal gas chamber. They had been persuaded to remove their clothing under the pretext of taking a shower for which towels and soap were provided. This is the Brausebad, the shower-bath. Inside the shower-bath, the gas vents."* {3113|3114}

[missing page]

{3114|3114(a)}

that I made last spring.

Q. Now, this obviously represents the exterminationists' view of Crematorium II. Is that right?

A. Yes. That's right.

Q. And it reveals the usual daily quota alleged in the literature of two thousand bodies. Is that correct?

A. That's right.

Q. That accurately depicts the scene of those models?

A. This is an accurate reproduction of the models.

Q. All right. Later we will ask those to be exhibited, then. Could you tell us what problems you see in the representation that it depicted?

A. Well, should I hold this up?

Q. Yes, please.

THE COURT: Yes. Certainly.

Q. MR. CHRISTIE: Now, if you could describe – we should have an easel. Maybe I can hold them and you could come over. Dr. Lindsey, maybe I can hold them for you and you can point out the things. And if you can come down off the stand, and I can be of some assistance, and {3114|3115} if I can show it to the jury well enough back that I can see.

THE WITNESS: Well, the accepted mode of operation was —

THE COURT: Can the jury see? I cannot see, perhaps, Mr. Christie, if you moved right over beside Crown counsel and faced the witness you could both face the jury.

THE WITNESS: Now, the method that was given in the literature is that the inmates that are supposed to be gassed came in the western entrance – this is Auschwitz II – and they walk in through here and went here to undress and leave their clothing, and from there they progressed into the gas chamber. This is Leichenkeller I, a mortuary.



Leichenkeller is the German word for mortuary.

This, if you will notice, is a kind of an enclosed area here. There is only one door leading into it, and that is a small door over here which holds, according to the German plans, holds the bodies. It doesn't swing out. It would get in the way of the small elevator which was used to bring the bodies up here for cremation into the fifteen furnaces out here.

Q. Can you tell us, Doctor, [sic] if this depicts – is this the portion that is cut away, is this {3115|3116} under ground [sic] or above ground?

A. Yes. This is underground with the exception of a foot or so above the ground. And even that is, I understand, is covered with dirt.

Q. All right. Could you tell us what problem, if any, this represents in chemical terms for the operation as it is described?

A. Well, the allegation is made that two thousand people were in this room. They were then gassed by hydrogen cyanide, or Zyklon-B that was dropped onto them. This would require the hydrogen cyanide to be used for this mass of humanity fairly equally if they are going to get the killing action stipulated here.

Hydrogen cyanide would basically rise, so it would take an hour or so for these people to expire. In the meantime, you have these people over here waiting for the next charge, and when these people were dead, supposedly, then they have to be removed by some crew through a relatively small door. It's nothing like the double doors you have back here. And then they would be taken upstairs on a small elevator which would hold, I suppose – I am guessing – maybe four, five bodies at a time, taken up to these furnaces where you have fifteen positions, and if you assume it takes an {3116|3117} hour and a half to completely cremate these bodies up here, you've got rid of basically fifteen bodies out of two thousand. Then you have these people over here waiting to go in here.

Q. What about the chemical conditions inside the chamber where the people are gassed?

A. Well, these walls would be masonry walls. They would be very porous and probably moist, and they would have a tremendous quantity of hydrogen cyanide. Where the lethal agents are concerned, they would endanger the lives of people coming in here to take the bodies and cremate them. They would take a prohibitively long time to take the people out and cremate them, especially when these people are here and watching the proceedings.

Q. What would be the quantity of the air inside the alleged gas chamber in view of the number of bodies, or could you describe that?

A. Well, the quantity of air – as a matter of fact, Dr. Tesch stated in his trial that if you put two thousand people in a room this size, they would expire from suffocation, and you wouldn't even need hydrogen cyanide. So the quantity of air would get worse and worse in here. There is a small amount of ventilation in here, {3117|3118} but as I said, it was designed as a mortuary to take care of bodies who had died.

Q. Have you been able to make any calculations as to the length of time it would take to aerate [sic] two thousand bodies in such a chamber?

A. I haven't made any calculations, but with the amount of equipment that was necessary for lethal chambers in the United States for the execution of criminals, it would be massive for one man in one relatively small chamber, and there is no provision made here whatsoever for anything like the ventilation facilities you would need for a chamber of this size.

MR. CHRISTIE: Okay. Those are my questions. I would like to file these as exhibits.

THE COURT: Yes.

THE CLERK OF THE PEACE: Exhibit 40.

— Exhibit No. 40: Photographs.

Q. MR. CHRISTIE: What did you do during the War?

A. Well, I was taken into the Army as a private. I then became a —

THE COURT: Just a moment. Is this {3118|3119} relevant?

MR. CHRISTIE: Basically to display lack of involvement in the War in a partisan sense, that's all.

THE COURT: Does the Crown allege partisan involvement during the War?

MR. GRIFFITHS: I am not aware that Dr. Lindsey fought for the Nazis. His curriculum vitae says he fought for the Allies. I take it as given.

THE COURT: You served in America during the War, did you?

THE WITNESS: Yes.

THE COURT: Do you want anything more than that?

MR. CHRISTIE: No, I suppose – no. I don't think so.

Q. When you were in Auschwitz did you see fumigation chambers?

A. I saw no fumigation chambers as such, although there are remarks made that fumigation chambers were there. I did look inside the sauna, and I presume that those chambers in there were fumigation chambers, but they do not look like any of the HCN in the gas chambers {3119|3120} that I saw at Dachau.

MR. CHRISTIE: I see. Thank you very much, Doctor. Would you answer the questions of my learned friend, please?

THE COURT: Go ahead, Mr. Griffiths.

#### CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Have you ever had an opportunity to analyze a canister of wartime Zyklon-B?

A. No, I never have.

Q. Would I be right in saying that that is something that would degenerate very quickly, have a very short shelf life?

A. Zyklon-B properly stabilized would not have a short shelf life. Naturally, anyone selling a chemical product has to guarantee that it would last for a certain specified length of time. Zyklon-B, I think, was guaranteed for four or five months, but when you guarantee something like that for four or five months, you have to have a stability that will probably be equal in, well, I would say a year or more.

We sell, for example, hydrogen cyanide {3120|3121} in this country, or it was sold by American Cyanamid in cylinder form, and those things would last for a year; but since it was very toxic and very dangerous, they kept scrupulous care of these things and saw to it that they could either reclaim them or send a team out and detoxify them.

Q. So your knowledge of the Zyklon-B comes from the documents that you've read of what was contained in Zyklon-B during the War.

A. Documents, basically, and the fact that any chemical is, basically, you learn about any chemical by reading up on it in chemical literature.

Q. Can you tell us what, if any, characteristic odour hydrogen cyanide would have? And I don't mean the warning indicator that you mentioned, but just —

A. Hydrogen cyanide is one of those chemicals that affects different people in different ways. Some people can smell it, in which case it has an odour of — it's quite common knowledge, you can find this in any statement about hydrogen cyanide and its properties — it has an odour of bitter almonds to some people. Some people, apparently, have great difficulty in smelling it or even knowing of its presence.

Q. You mean great difficulty in the {3121|3122} sense that they don't detect it?

A. That's right. Some people would get a toxic or lethal dose before they know it is present.

Q. And the — I think you called it a warning agent ...

A. Yes.

Q. ... that was put in during the War, would that have an odour to it?

A. Well, the idea of a warning agent is that a warning agent normally is a lacrimator — something that makes your eyes tear and irritates your nose — burns. And as a matter of fact, the material that was used most commonly was bromo acetate ester, which was an effective tear gas in itself, and that was used in such an amount that when you could smell that, you would know that hydrogen cyanide was present.

Q. So Zyklon-B used bromo acetate ester as —

A. Usually bromo acetate. The Germans were so short sometimes that they used the ethyl bromo acetate. Another form is chloropicrin, which is another agent in its own, but it also has the lacrimatory agent.

Q. And besides making your eyes water, {3122|3123} does it have any other odours?

A. Yes. It has a burning, biting, unpleasant odour. Well, the best thing

to say is that it is a tear gas. It has a kind of suffocating odour to it. It is designed purely so that when you smell that, you know you are in a concentration of hydrogen cyanide. It's dangerous.

Q. And hydrogen cyanide during the War was being produced, you said, by the company DEGESCH. Is that right? That is —

A. Yes.

Q. That is a part of I.G. Farben?

A. Well, DEGESCH was a company that was especially organized by the Germans to utilize hydrogen cyanide because of the unique property hydrogen cyanide possessed, and the fact that it was very, very toxic. And they decided, by giving this more or less to DEGESCH to supervise — you see, the company, before it was allowed to sell this material to anybody, the company had to satisfy itself that the customer, prospective customer, whether it was a government or not, had satisfied all the safety regulations that were necessary to use this material.

Dr. Tesch, who had his own firm of {3123|3124} Tesch und Stabenow, and DEGESCH were in dispute over a patent problem.

Q. The patent had to do over the warning indicator, the warning agent?

A. It had to do over who had the patent, as I recall.

Q. The patent to what?

A. The patents were to use the solid material with the hydrogen cyanide plus the warning agent and a proper stabilizer.

Q. And at some point did the German Government ask that the warning agent be taken out of the Zyklon-B?

A. Well, what they were doing is that they had such — first of all, shortages were such that in many instances it was impossible for them to add — the shortages in Germany were so acute that it was possible that they did not have sufficient of this material to add routinely to every can that they made.

Secondly, they were shipping this material to fumigation chambers where the entire can was handled inside the chamber — they put it in and sealed it up, and from that time on the can was opened from the outside {3124|3125} and the gas was operated on heaters so that the warning agent was not absolutely necessary. And the shortages were so great that they decided to save only a warning agent in these instances; but for every can that they put out like that, they put a large notice that the warning agent had been omitted in this material.

Q. So your answer is yes, they did take the warning agent out during the War?

A. They took it out in some instances.

Q. All right. Now, you told us that hydrogen cyanide needs heat to become a gas.

A. That's true.

Q. And at what temperature does it become a gas?

A. Hydrogen cyanide boils around twenty-six degrees. That's in the middle or upper seventies fahrenheit.

Q. So it becomes a gas at that boiling temperature?

A. That's the temperature at which it boils. Now, like water, if you have some of the material out on the ground, it can evaporate in time without boiling.

Q. My question was the boiling tem-{3125|3126}perature, and you said ...

A. It boils at twenty-six ...

Q. ... when it changes into a gas, and that would be about seventy-five or seventy-six degrees?

A. Yes.

Q. So it doesn't take very much heat.

A. Well, that doesn't have anything to do with the amount of heat. This is the temperature at which it changes into gas. Now, it can have — you see, water boils at a hundred degrees, and it has one of the highest light and heat evaporation of any common substance. Hydrogen cyanide, as a chemical, is a little bit higher than its heat demands than some of the other materials —

Q. Well, we all know how hot seventy-five degrees is, and that is where it becomes gas. Now, if you were to arbitrarily assign a weight of 1 to air, what would be the weight of hydrocyanic gas?

A. The density of hydrocyanic gas relative to air is about .9, and I don't know the second place. I'd say maybe .94, .93

Q. I'd suggest about .941. Is that about right?

A. That is pretty close. {3126|3127}

Q. All right. So it's just slightly lighter than air.

A. Yes.

Q. It's not very much lighter than air.

A. Well, you know, on percentage basis it's almost ten per cent.

Q. .94?

A. Well, six per cent.

Q. So I'd suggest to you that if it is introduced into a room and the gas is forming on the floor of the room, it would rise, but it would rise slowly.

A. Well, it would rise. How slowly would depend on the air currents and how much was saturated into the air or evaporated into the air.

Q. And I would suggest to you that because it rises slowly, that if there were people in that room, that the people near the bottom would be killed first.

A. If they are all in the same room standing, basically, with their heads together, they probably are all pretty nearly going to be affected at the same time.

Q. And if you had children whose heads would be a little lower, they would be affected first, wouldn't {3127|3128} they?

A. That would be possible, yes.

Q. Yes. So that if a pile of bodies were described as coming out of the gas chamber with children at the bottom, that would be consistent.

A. Perhaps, yes.

Q. Yes. Now, you've told us that a lethal dose of hydrogen cyanide in the air — let me change the way I phrase this question. At three hundred parts per million of hydrogen — hydrocyanic gas in the air, hydrogen cyanide death ensues in three minutes?

A. Round about three minutes.

Q. About three minutes. And if it was something less than that — a hundred and fifty parts per million, death would ensue maybe in a half an hour.

A. That is about right.

Q. All right. So as it becomes more dispersed within the air, within the atmosphere, death comes in a much longer period of time. I'm sorry if I am not phrasing that very well. Three hundred parts per million causes death in three minutes, half of that, a hundred and fifty parts per million, causes death in a half an hour — right? So as you disperse it, it becomes much less lethal. {3128|3129} Is that right?

A. Well, it takes, certainly, a longer time.

Q. All right. Now, how much hydrocyanic acid in the air, or gas in the air, what level of concentration in the air do you need before there is a possibility of a lethal dose through your skin?

A. You are calling on me to speculate here, I think, a bit.

Q. Well, I am going to suggest to you it's two per cent would cause death in three minutes — twenty thousand parts per million.

A. That will take twenty minutes. That is quite possible.

Q. All right. And I am suggesting to you that as with the dispersal at the lower levels that we heard about, three hundred versus a hundred and fifty, that as the concentration in the air gets less, you can stay and your skin can be exposed to hydrogen cyanide for a significantly longer period of time without health hazard.

A. This is true, although for safety considerations I think it's around fifty parts per million where you can operate for any length of time without some sort {3129|3130} of protection.

Q. So that is assuming that you were concerned about the safety of the people that are operating in that atmosphere.

A. Yes.

Q. Yes. Do you know what thiocyanate is?

A. Yes.

Q. Can you tell us what that is?

A. Well, thiocyanate is where you react sulphur with HCN.

Q. All right.

THE COURT: Just before we leave, we get into formulas — what is HCN?

MR. GRIFFITHS: Thank you, Your Honour.

THE WITNESS: Well, HCN is a compound in which you have one hydrogen bound to a carbon atom, and then you have one carbon atom bound to a nitrogen atom, and there are three bonds between those.

Q. MR. GRIFFITHS: HCN is the chemical designation for hydrocyanic acid?

A. Well, hydrogen cyanide.

Q. Hydrogen cyanide. Never mind the acid. {3130|3131}

A. Well, it is given a number of names, actually.

Q. I am going to suggest to you that hydrogen cyanide does not have a cumulative effect on the human body.

A. That's true.

Q. That in effect, there is a mechanism whereby hydrogen cyanide would be passed from the body in urine.

A. But this is only on very, very low quantities. As I say, the lethal dose is fifty to seventy milligrams, and as long as you don't get a lethal dose and die from it, your recovery is practically complete. I don't know that anyone has ever found symptoms that shows a chronic poisoning from hydrogen cyanide.

Q. So short of a lethal dose you make a complete recovery.

A. If you recover.

Q. Short of a lethal dose. All right.

THE COURT: The witness nods his head in the affirmative, which I understand, Doctor, means yes, to the last question.

THE WITNESS: I didn't understand you. {3131|3132}

THE COURT: Ask the question again, please.

Q. MR. GRIFFITHS: All right. Provided that the dosage you receive [sic] is not lethal, you make a complete recovery.

A. Generally, that is the case.

Q. Is it ever not the case[?]

A. I will have to say I haven't found a record of it being normally, I understand that once you give the antidote to someone that has been poisoned with hydrogen cyanide, and this is normally by injecting the antidote, I have heard of instances where the patient recovers before you get the needle out of his arm.

Q. If somebody were to come in contact with a concentrated solution of hydrogen cyanide, would it be good practice, from a chemical point of view, to rinse off, say, if his hands came in contact with the solution, to rinse it off in water?

A. Immediately. The sooner the better.

Q. Immediately, and in as much water as you can?

A. That's true.

Q. So is it fair to say that because the {3132|3133} hydrogen cyanide is highly miscible [miscible], can be dissolved easily in water, that one of the treatments, then, for contact with it is to spray the contacted area with water?

A. Well, you don't just spray it. You douse it in water. You flood it with water.

Q. You want to dilute it as much as possible.

A. Well, it is more than dilution. You want to get it off your skin.

Q. Yes. But in fact, chemically what you are doing is diluting it, because your hands are in water.

A. Well, you are hoping – diluting is what's happening to it after you get it off your hands. You want to get it off your skin.

Q. Now, at what concentration is hydrogen cyanide lethal in water?

A. I don't understand your question. To what –

Q. Well, we talked about where the concentration in which it's lethal in the air, if you inhale it, is highly lethal at three hundred parts per million. It can kill you within three minutes.

A. Mm-hmmm. {3133|3134}

Q. And we've talked about the lethal concentration, again in the air, to your skin, to expose it in your skin, as being something in the neighbourhood of twenty thousand parts per million. And my question is, what about what would be a lethal concentration in water?

A. Well –

Q. Of hydrogen cyanide.

A. Well, let's look at it this way before, if I may just, for a minute. What

you need to do to get a lethal dose inside one is to somehow get fifty to seventy milligrams into the body. Now, if you stick your hand in a one per cent solution of hydrogen cyanide, it will take half [twice] as long to get this into your body, as it would if you put your hand into a two per cent solution of hydrogen cyanide; but the minute you get the full amount into your body, whether it's absorbed through your skin from the air or whether it's absorbed as a result of water being on your skin, you will expire. The whole idea of poisoning is to get the poison into the body, and this is a very, very difficult thing.

Q. I am curious now. You said something there that a one per cent solution would take half as long as a two per cent solution, but we found that three hundred {3134|3135} parts per million in the air killed you in three minutes, whereas a hundred and fifty parts per million in the air would kill you in a half an hour. There is a big difference in the time. It wasn't six minutes; it was a half an hour. Wouldn't that be the same if you had a solution in water?

A. I think you will probably realize the difficulty of getting absolute figures on this. We are not in a position, nor have we ever been, nor, for that matter, intend to be, of determining exactly what the lethal dosages here are. This is why we say between fifty and seventy milligrams. Some people have estimated that as being as high as ninety. What we have to do here is look at people who have been victims of cyanide poisoning and then, on the basis of what we figure their exposure was, come up with a concentration that we figure is lethal, and in what time.

Q. Have you done that?

A. No, I haven't, but I have read about it.

Q. So that if somebody was handling corpses, say, that had been hosed down and lived, we can say that he hadn't had a lethal dose.

A. That would be possible, yes.

Q. True. How does a chimney outlast – {3135|3136} blast furnaces last from one year to the next?

A. Well, blast furnaces don't live eternally. They have to be continually rebuilt. Also, a blast furnace, inasmuch as it has to withstand the tremendous heat that they have, they are not built in an ordinary way that chimneys are built. Many of these things are lined with a special clay that is made for that specific purpose, and even with these special measures, these furnaces have to be rebuilt from time to time.

THE COURT: What's the average time, Doctor, if you know – the average time?

THE WITNESS: I don't know. I haven't looked into the blast furnaces.

Q. MR. GRIFFITHS: If a furnace is fired by coke, is it not –

A. Well, coke is nothing more than coal that has been heated.

Q. And that is what is used to fire a blast furnace.

A. Yes.

Q. And what about a chimney in a factory? You are from Iowa, you may not have seen our Sudbury stacks, or some of our refineries here. I am sure you have the equivalent {3136|3137} down in the States that are working constantly – garbage disposal plants for a large municipality – why don't they fall down?

A. Well, an awful lot of these are built with special liners, and these liners can be anything from a special ceramic liner of – well, a number of the chimneys that you have here may have, in a way, that type of liner, but you can get in trouble with those. You see, as long as your heat is down in the fire box, then that is one thing. And then, as you draw the draft up through the chimney, you are mixing it with air all the way, so it is actually being cooled, and the air is expanding as it rises, and as it expands it also gets cooler.

Q. So your answer was that some of them had a special liner built in the ceramic liner.

A. Yes.

Q. Okay. And are there kinds of mortar that can be used that are more heat-resistant than other kinds?

MR. CHRISTIE: I must object to this question. My friend has already, on many occasions, pointed out the difficulty of trying to compare our present circumstances with something forty years ago, and now he seems to {3137|3138} do so himself.

THE COURT: Go ahead. There is nothing to prevent defence counsel

from re-examining on the subject.

Q. MR. GRIFFITHS: Sir, perhaps I misunderstood you testified about mortar and chimneys falling out of the ...

THE COURT: Of the brick.

MR. GRIFFITHS: Of the bricks. Thank you, Your Honour ...

Q. ... because of constant high temperatures.

A. Yes.

Q. And are we talking about present-day or about forty years ago?

A. Well, mortar, in general, is mortar. Now, when you get into the realm of these specific refractory [refractory] cements, these things are normally used where you continually get very, very high temperatures.

Now, as I understand it, Auschwitz-Birkenau was built by the inmates and put together by them themselves. So I would be surprised if they had resorted to a special refractory [sic] type cement. Those things are much more expensive and much more difficult to come by. {3138|3139}

Q. Okay. That was a kind of cement that was available forty years ago.

A. Cement has basically been around since the time of the Romans.

Q. Thank you, Doctor. Do you speak German, or read German?

A. Yes, I speak German.

Q. Thank you.

A. I, as a chemist, I was required to take two years of German and two years of French, and I have to admit that my French is gone somewhat, by the way.

Q. Does a gas mask afford protection – did a gas mask at that time afford protection against hydrogen cyanide?

A. Yes. Gas masks are used against hydrogen cyanide. It is absolutely a must when you go in there, but it is equally important, despite your two per cent figure, is something that I have to admit I was not aware of previously, but even with the levels that they use in fumigation, they absolutely require that you put on the rubber protective clothing, or you can be killed even if you are not up to that level.

Q. Up to what level? {3139|3140}

A. Up to the two per cent level, you see.

Q. You can be killed, but it would take longer.

A. Well, hydrogen cyanide is one of those materials that you think everything is perhaps rosy unless you get a slow dosage over a lengthy period, say a hundred and fifty parts per million, and you get the seemingly progressive symptom. If a hundred parts per million – you might very well be standing there and think that the world is a rosy place in which to live and you keel over and you never wake up. So hydrogen cyanide is not something that you play around with. You assume it will kill you. You don't operate by yourself, but with someone so that if you should, in spite of all the precautions, be affected by it, somebody is there to rescue you.

Q. Now, just by opening windows in the room, it is possible to get ventilation to make the room habitable again, and I understand – I am talking vaguely, I am not giving you a size of a room – but at some point it would be possible to get back into that room and not have any problem.

A. If you would go back into the room only after the fumigation team had certified that it was a {3140|3141} place in which you could live again. I might add that they were so wedded to these rules and regulations, that in places like Germany and England where they carried out fumigations of this sort fairly regularly, they demanded that when a dwelling was fumigated, that the dwellings on either side be evacuated until the dwelling that was being fumigated was again declared clear for habitation.

Q. I suppose in those circumstances they would be concerned about the people's lives.

A. Yes.

Q. And if somebody wasn't so concerned about that, they could stay there.

A. Well, I think this is your assumption, sir, not mine.

Q. I understand. Are you able to tell us how many cans of Zyklon-B would put three hundred parts per million of hydrogen cyanide in the gas chamber?

A. I could certainly calculate that, but really, when you think about that,

we have two witnesses who testified that it was three, three thousand[!] kilogram samples.

THE COURT: What witnesses were they, Doctor? {3141|3142}

THE WITNESS: This was a Dr. Charles Sigismund Bendel who testified both at Lueneberg [Lüneburg], and also at Hamburg at each trial. And then there was also, I think, Percy [sic] Broad who testified that this was the operation.

Q. MR. GRIFFITHS: All right. So three tins.

A. Yes. I believe three kilograms. And on the basis of these three tins which contained a total of about three kilograms of hydrogen cyanide —

Q. I'm sorry, they would contain three kilograms of hydrogen cyanide, or three kilograms of inert material which contained hydrogen cyanide?

A. No. When they sold Zyklon-B, it contained hydrogen cyanide. So a tin weighed pretty close to three or four kilograms, but it had a content of one kilogram of hydrogen cyanide.

Q. Go ahead, then.

A. And on the basis of these three kilograms, they took what they considered to be the lethal dosage, which is the fifty to seventy kilograms, and they said, well, this would be the number of people that would be killed. And on this basis they estimated a number that were killed from the amount of hydrogen cyanide that was bought by {3142|3143} Auschwitz

Q. Have you done a calculation, Doctor, of how many parts per million three kilograms of —

A. No, I have not. I might add, though, that with three kilograms, if you divide fifty into three kilograms, you get something around twelve – I'd do much better with pencil and paper. You can figure that out, but it's really a great overkill in the gas chamber, but you would need a bit more than what you calculate there.

Q. Okay. Hydrogen cyanide dissolves on a wet surface and mortar is what you were talking about with Mr. Christie.

A. Yes.

Q. What would be the effect of hosing down the wall, the floor and the ceiling extensively after each use? Did that dilute what is in the mortar?

A. It would certainly tend to dilute it on the surface. On the other hand, it might saturate the mortar more, so that the next time around you could dissolve more and more hydrogen cyanide in there, and eventually, depending on how much hydrogen cyanide you added, you would end up with the walls basically saturated with the hydrogen cyanide solution. It depends on how readily the masonry {3143|3144} absorbed the water.

Q. Yes. Sure it would. And it would depend on how many parts per million were introduced into the chamber.

A. Yes.

Q. And how much was pumped out before it was hosed down. Okay. You gave a figure in your testimony in-chief that for fumigating, one uses twenty grams per cubic meter for fumigating.

A. Yes. That is, that would be for the standard DEGESCH gas chamber. It had a capacity or volume of ten cubic meters, and they used a standard two hundred gram hydrogen cyanide can for that.

Q. Now, I am going to suggest to you that it takes higher concentrations of hydrogen cyanide to kill vermin than it does to kill humans, or warm-bodied animals.

A. No. As a matter of fact, the three hundred – we are speaking, here, of warm-bodied animals and vermin, rats, mice.

Q. I'm sorry. I meant for lice.

A. Oh, you're speaking for lice, which are insects. Insects have a slightly different metabolism {3144|3145} nature. It does take more, and depending on the level of infestation, I sometimes find it necessary to increase this twenty grams per cubic meter as high as thirty-nine grams per cubic meter. And of course, the thing about the DEGESCH chamber is that you could also increase the heat and evaporate the material faster, and it was also more active up around thirty degrees than it was, say, at around twenty or twenty-five degrees.

Q. You mean it would dissolve quicker and act faster?

A. It wouldn't dissolve.

Q. I'm sorry. It would turn into a gas quicker.

A. Yes, it would gassify much faster, circulate and penetrate all the clothing that were in the fumigation chamber.

Q. Are you able to – and if this is outside your area of expertise, please tell me, or Mr. Christie may object. Are you able to give us any idea of how air can be heated by a large mass of bodies – how hot the air can get?

A. Well, of course, the air would never get hotter than the bodies. It's possible to warm a volume {3145|3146} of air with spectators. They did regularly in Europe after the War. They didn't have coal, so they figured if you had so many spectators in an auditorium, after a certain period of time the air in the auditorium, provided you didn't let too much fresh air in, would reach a certain temperature.

Q. Is carbon dioxide poisonous?

A. Carbon dioxide is not, of itself, a poisonous material. It will quite easily suffocate you if you get so much of it that you are deprived of oxygen. In small quantities it is a stimulation to breathing. If you try to hold your breath to the point of unconsciousness, you will find that your body will be stimulated by carbon dioxide that has built in your blood, and even though you are unconscious, you will begin breathing again, but if it is a high concentration, you will suffocate.

Q. Because the carbon dioxide is telling your body to breathe if there isn't enough oxygen in the air.

A. Yes.

Q. So is it fair to say that it would take longer to die with carbon dioxide as with carbon monoxide?

A. It is difficult to say how long it will take. About a year ago we had a very tragic situation in which, I believe, two men went into a silo which was loaded {3146|3147} with carbon dioxide, and I believe two sons went in first, one to save the first, and the father went in to save the first and the second, and all three of them perished. So with poisons you just cannot take chances. You have to be safe.

Q. You mentioned a DEGESCH chamber. Is that a little prefab unit that you would use for fumigation?

A. Yes. They sold literally hundreds of these, and they had them in hundreds of different sites, and the whole idea here was that the clothing of people who were in the process of being deloused would be put on hangers and they would be put into these fumigation chambers, and while these people were being showered, they were then – their clothes were being deloused out there with – they could use Zyklon-B. They are so pressed for facilities for killing lice that they went back to some of the methods they used in World War I where they used hot air and steam. but the people complained mightily of the steam, because it made their clothes wet, and if you will notice, a great deal of literature that was published after the War, people complained mightily about having received their clothes back wet. So they used – the gas chamber was considered, really, {3147|3148} the method of choice to treat the clothes because it left them, essentially, unharmed.

Q. Did you see any of the gas chambers in Birkenau or Auschwitz?

A. No, I did not, but one was referred to by Dr. Bendel in his testimony. Q. Where?

A. He claimed that it was Auschwitz Stammlager.

Q. The main camp.

A. Yes. And I have a map that shows that it was – that it crosses the railroad lines. It separates a plant from the part that we normally think of as a camp. Actually, the camp itself where it is enclosed with barbed wire is about ten per cent of the original camp.

Q. That is just a barracks, isn't it?

A. Yes. That is where they slept.

Q. And on your visits to Auschwitz I, the main camp, you've told us that you went and looked at crematoria. And in particular you noticed that there was no door between the crematoria and the gas chamber.

A. That's true. The room was called a gas chamber. {3148|3149}

Q. Okay. And do you have any knowledge as to changes in that room, in that door in particular?

A. I saw that room three different times and there was no change in it between 1978 and 1984.

Q. Okay. 1978 was the first time you saw it.

A. Yes. Now, on the other hand, at Maydanek [sic] I did notice some changes.

Q. All right. You told us that on a couple of occasions that you went to, I think it was Birkenau, You were the only English-speaking person there so you didn't have the benefit of the guide. Am I correct?

A. Well, it wasn't so much the guide as it was the film that they showed. You see, they have a film. They did show it to me at Maidanek, but they did not show me the film that they show tourists at Auschwitz.

Q. And was the film in Polish at that time? It wasn't in German?

A. Well, they had a lot of German films. They had a lot of – the largest number seemed to be Polish visitors, and those were the ones, certainly, that predominated at Maydanek. [sic] At Auschwitz you had German and Polish, and I'm sure there were others. They had all the – basically, {3149|3150} the united languages were represented there.

Q. When you went to Treblinka, Sobibor, Belzec, Chelmno, was there anything there to indicate that there had been a concentration camp?

A. No. No. These were – the only thing there, really, was basically a bunch of Polish monuments.

Q. If it wasn't for the monuments you wouldn't know there had been a camp there.

A. That's quite true.

MR. GRIFFITHS: Excuse me just a minute.

THE COURT: Mr. Griffiths, I think we will take an adjournment.

— The witness stands down.

— The jury retires. 3:30 p.m.

— Short adjournment.

— Upon resuming.

THE COURT: Mr. Griffiths, you were trying to get my attention.

MR. GRIFFITHS: Just one thing. The last exhibit, No. 40, I have indicated to Your Honour I had no objection and have no objection to the photographs, but there is, in the margin of each of the two photographs, some {3150|3151} handwritten notes.

THE COURT: Could I see them, please?

MR. GRIFFITHS: And I do object to those, and I mentioned that to Mr. Christie. I was a little slow on the uptake of reading the notes in detail. I think that the matter can be resolved by simply cutting it off; it doesn't affect the part of the exhibit that the witness was referring to – namely, the photographs.

THE COURT: Yes.

MR. CHRISTIE: I didn't realize handed my friend a Trojan Horse, but it appears that he is right. And I am not objecting to cutting off the notes. I believe the notes are Dr. Faurisson's calculations from his photographs.

THE COURT: Why don't you gentlemen liaise with one another?

MR. CHRISTIE: I have agreed that they may be cut off, if Your Honour thinks it is appropriate.

THE COURT: Certainly they should be cut off. I want to make sure that lawyers do it, and not the judge and the clerk. If you gentlemen don't agree, then will see to it. {3151|3152}

— The jury enters. 4:00 p.m.

— The witness returns to the stand.

MR. GRIFFITHS: I have no further questions, Your Honour.

THE COURT: Thank you. Mr. Christie?

MR. CHRISTIE: Thank you, sir.

#### RE-EXAMINATION BY MR. CHRISTIE:

Q. Dr. Lindsey, my friend raised for the first time blast furnaces. In your observation of the plans or literature, or in your observation of the sites, did you see any blast furnaces in the crematoria system?

A. No. No.

Q. My friend raised the subject of fumigation chambers in his questions. In any of the literature or from your observations, have you formed the opinion in relation to that that there is any relationship between fumigation chambers and gas chambers?

A. There is no connection between the two. Unfortunately, apparently

in some of the early investigations – I am referring to the Senate Investigation led by {3152|3153} Senator Albert Barkley from the United States – he did confuse fumigation chambers with what is called extermination chambers.

Q. But today is that generally held by any —

A. That, today, has apparently been rectified to a degree, at least.

Q. Mm-hmmm. Were fumigation chambers of this type rare in relation to other organizations other than the German side?

A. Fumigation chambers have been used in both sides to decontaminate clothing.

THE COURT: Albert Barkley was a politician in the United States both before and after the War, and I believe he was vice-president. Is that right?

A. That's true, sir.

THE COURT: Thank you.

Q. MR. CHRISTIE: In relation to the questions that you were asked in relation to relative temperatures of vaporization, I think, of the Zyklon, is it the air temperature that's relevant, or the temperature of the substance itself to vaporize?

A. Well, they both play a role. {3153|3154}

MR. GRIFFITHS: Doctor, excuse me. I don't see how that is something that was new in cross-examination, Your Honour.

THE COURT: I'm sorry, I missed the question. I was writing. What was it?

MR. CHRISTIE: Well, I think I can repeat it.

THE COURT: Would you like it read back?

MR. CHRISTIE: Yes, Your Honour.

THE REPORTER: "In relation to the questions that you were asked in relation to relative temperatures of vaporization, I think, of the Zyklon, is it the air temperature that's relevant, or the temperature of the substance itself to vaporize?"

THE COURT: Now, what is the matter with that question, Mr. Griffiths?

MR. GRIFFITHS: My objection, Your Honour, is that in-chief Dr. Lindsey gave some evidence about needing heat to make liquid change into a gas and vaporize, and it is not new in cross-examination and not proper reply. {3154|3155}

THE COURT: Maybe it is not new, but you can ask it. Go ahead.

MR. CHRISTIE: Thank you.

Q. Can you answer that question?

A. Both of them would play a role, certainly. What you have to do is heat the liquid up to a certain temperature, and at that temperature this liquid would have a certain vapour pressure and, depending on the vapour pressure, a certain amount will vaporize and go into the air, and in doing so it extracts heat from its surroundings and becomes cooler. So the more heat you have, say a hotter temperature of the liquid or hotter-temperature of the air, the easier this process will take place.

Q. In any of the cross-examination that my friend raised did the suggestions that he made to you have any effect, or change your opinion in regard to the feasibility of the gas chamber story you expressed earlier?

A. What was that again, please?

Q. In relation to the questions and the suggestions put to you by my learned friend in cross-examination, did any of those things cause you to change your opinion as to the feasibility of the gas chamber stories ...

A. No. {3155|3156}

Q. ... that you had previously expressed?

A. Not at all.

MR. CHRISTIE: Thank you very much.

THE COURT: Thank you, Doctor.

— The witness retires.

MR. CHRISTIE: The next witness will be Dittlieb Felderer.

MR. GRIFFITHS: Could I address you in the absence of the jury, Your Honour?

THE COURT: You are excused, members of the jury.

— The jury retires. 4:05 p.m.

MR. GRIFFITHS: Your Honour, Mr. Felderer was in the courtroom after

there was an order excluding witnesses, in the first four or five days of this trial.

THE COURT: What's his name?

MR. GRIFFITHS: Mr. Felderer.

THE COURT: Yes.

MR. GRIFFITHS: And so I am objecting {3156|3157} to his testifying at this stage. It affected Your Honour's order and he was in breach of that order.

THE COURT: Is that true, Mr. Christie?

MR. CHRISTIE: I have just checked with the witness and I think that he was in court on and off for about two days at the very beginning. I would think that that would be something to do with weight. I don't know that it is really a preclusion of a witness for the purpose of admissibility.

THE COURT: But did you know he was in here?

MR. CHRISTIE: I knew he was in here.

THE COURT: Why didn't you ask him to leave?

MR. CHRISTIE: Well, at that time, Your Honour, I wasn't aware that I would need him as a witness. And that is the only answer I have.

THE COURT: That is a good enough answer. What is the purport of his evidence?

MR. CHRISTIE: Well, basically, Your Honour, he has given a great deal of material to Mr. Zundel. He has acted as agent for Mr. Zundel in going to {3157|3158} Auschwitz, taking photographs. He has gone there twenty-seven times, looked for specific things that Mr. Zundel has asked him, some things that he has on his own. He has been a publisher.

My friend will probably enjoy some aspects of the cross-examination in that I think my friend will be able to cross-examine him on – well, I will leave it to my friend on that point, but in any event, that's the reason why he is called. His evidence will be, I believe, that he provided a great deal of research that my client undertook. He was there. He made photographs. He produced them and gave them to my client. He has actually be[en] involved also in preparing films on the subject of his investigations there.

He is not an expert, but he has done certain things at the request of my client to learn certain things.

Now, it would be my intent to first of all introduce his evidence on what he has done and how he has related it to my client. Also, I would like – this, of course, subject to what Your Honour would say, but I would like to try to introduce the photographs that {3158|3159} he took as the basis for my client's opinion, because he did it at my client's request.

THE COURT: When did he take the photographs?

MR. CHRISTIE: Over many years, Your Honour, starting in 1976 he has been investigating certain specific points. He has been to almost every camp in Poland.

THE COURT: You mean between 1976 and now?

MR. CHRISTIE: Yes, sir.

THE COURT: That wouldn't even cause a ripple on the pool of time. What is the relevance of the photographs he took?

MR. CHRISTIE: Well, they do reveal the level of the land, the location of items. He has been inside well, I suppose I am now given the opportunity to preview what he is going to say.

THE COURT: No. You are giving it to me. That makes a difference.

MR. CHRISTIE: I appreciate that, but he has been inside Crematorium No. II. He has been inside the Leichenkeller of Crematorium No. II which {3159|3160} most people have not undertaken because it is difficult to do that. He can show that the alleged holes made in the cement cover to Leichenkeller No. II are nothing more than recent introductions, bending back the reinforcing bars, and that is physically visible in photographs.

He can show that the roof of the Leichenkeller through which Zyklon is supposed to have been introduced and allegedly seen by Dr. Vrba has apparently just been recently drilled, and there are no other holes. He has looked at the roof, and there are no other holes other than the ones that are there, and the ones that are there have bars of reinforcing metal.

THE COURT: Assuming that to be the fact, I am certainly not suggesting it isn't, how is that relevant to what, if anything, existed there forty years ago?

MR. CHRISTIE: Well, Your Honour, where holes existed forty years ago there will be some evidence. That is my argument on the point. And where we see a roofing that purports to have holes in it forty years ago and the only ones there are obviously {3160|3161} made recently and very clumsily, and lids are made for them as well, it does tend to cast doubt.

Now all I have to prove is reason for doubt on the part of my client.

THE COURT: You don't have to prove anything.

MR. CHRISTIE: But I am trying to do that because it is alleged that he has spread false news, and in support of his honest belief I am endeavouring to show that he has reasons for that belief based on firsthand observations, not necessarily his own, but of people who are prepared to come forward and say, "I was there. I took this photograph. This is what it depicts." And my client having seen that photograph can say, "Certainly I drew this inference", and the jury can decide whether that is the inference of a reasonable man and, indeed, of an honest man.

So that is why I am hoping that I might show what degree of research, what time and effort my client put into finding out if this story is true.

THE COURT: All right. Are you finished? {3161|3162}

MR. CHRISTIE: I was going to say one more thing. If he had never undertaken any kind of serious inquiry and made statements such as are attributed to him, or more correctly, indicated that in the booklet, "Did Six Million Really Die?" which he published, then the jury would have reason to take more lightly anything he has of a serious belief.

So we may show that what he thinks of his opinion he may have taken time to conduct an extensive inquiry through people like Mr. Felderer and others, even Dr. Lindsey, to enable him to conclude that it wasn't false, but true, which he is prepared to testify to.

THE COURT: To what time period does it apply?

MR. CHRISTIE: To the time of the publication the indictment alleges that the publication of the false news occurred.

MR. GRIFFITHS: In 1983.

MR. CHRISTIE: So this is knowledge that he acquired from '76, '77, '78, '79 through to '83, and over that period of years was inquiring into the matter and trying to ascertain what the truth was, {3162|3163} and his conclusions are that the booklet, "Did Six Million Really Die?" is the truth.

The jury, I guess, will assess whether they consider it either the truth or a reasonably founded opinion, and I agree the burden is on the Crown to prove that he knew it was false, but in trying to discharge whatever onus exists because of the Crown's case, I think it would be proper for me to introduce evidence which I am trying to do now to show the degree of – inquiry, the degree of investigation that he, with other people, undertook, however much the jury may not agree with their [sic] views. I think it would be relevant for them to assess the extent of their investigation to determine if they were trying to be mischievous, trying to deceive or were trying to make some kind of honest inquiry.

THE COURT: What in the world was he doing in the courtroom when he was ordered not to be here?

MR. CHRISTIE: At the time —

THE COURT: You didn't call him, you didn't tell him he was going to be a witness? {3163|3164}

MR. CHRISTIE: No, at the time, Your Honour, I didn't think that — I didn't realize how much information he had conveyed to the accused at that time. I mean, that was almost five weeks ago. He was here for two days at the most, as far as I am aware, just at the very outset. I think it covered, in that time, the Masons, and maybe Dr. Hilberg a little bit, I don't think very much, but that was a long time ago and he hasn't been here since.

I suppose it is up to the Crown to suggest if there is some reason to think that that would affect his evidence. They certainly have the right, they know that, they are entitled to cross-examine on that. I think when it applies to the defence it is quite obviously true that there are times

when, because of the Crown's case taking a move, a direction in one direction as opposed to another, that what we didn't realize at the time was relevant, may become relevant.

THE COURT: Are there any other witnesses that you might call who have also been present in court in defiance of a court order?

MR. CHRISTIE: No, sir. Not that I am aware of. {3164|3165}

THE COURT: This was the only one.

MR. CHRISTIE: I didn't realize it was in defiance of the court order. I don't think the witness did, either, because I didn't think he or I thought he was going to be a witness?

THE COURT: I wondered if there were going to be any more. Dr. Faurisson and now this witness.

MR. CHRISTIE: If I may say in retrospect, I announced at the outset, I told the Court very candidly that that is what I proposed to do, because I wanted to qualify him.

THE COURT: Mr. Griffiths, what do you say?

MR. GRIFFITHS: I am concerned, Your Honour. As I have indicated, he was in the courtroom. I also can appreciate, if my friend didn't decide to call him until very recently, that that is something — that happens. It has happened to me. It is something that I think the jury, I should be entitled to bring out — it is something that I should be entitled to bring out to the jury, and the jury, ultimately, will be instructed that it goes to the weight of his evidence. {3165|3166}

THE COURT: Yes. I am going to allow the evidence, Mr. Griffiths. To do otherwise would give the appearance of unfairness.

Call the jury back, please.

— The jury returns. 4:15 p.m.

#### **DITLIEB FELDERER, affirmed**

#### **EXAMINATION-IN-CHIEF BY MR. CHRISTIE:**

Q. How old are you, Mr. Felderer?

A. I am forty-two.

Q. And where do you live?

A. In Tabi, in Sweden.

Q. And how long have you known the accused?

A. I first knew him well around 1978.

Q. And before you knew him well, had you been to the site of the concentration camps?

A. Yes, I had been. I have been a former Jehovah Witness, and I was engaged in historical research of the Jehovah's Witnesses' treatment during the Second World War, and that led me into a study of the gas chambers and of the treatments of the witnesses in various camps as they were in virtually every camp during Nazi Germany.

Q. And did you communicate with Mr. {3166|3167} Zundel the inquiries you made?

A. Yes, I did. I attempted to communicate my information to as many people as I could, and Zundel was one of the others that I got hold of. There were [were] thousands we actually sent out the material to. Zundel was one of them who, in turn, reciprocated by showing interest in the material which we published.

Q. Mm-hmmm. And would it be fair to say that you coined certain phrases in respect to your work that helped you to describe your activities and those of others in relation to those subjects such as the words "extermination"?

A. Yes. I realized that the Zionists were using the word "Holocaust" for their own propagandistic purposes of the Palestinian people, and then I realized that what they were doing is using this argument of the extermination action against them, and they used the term exterminationism for this theory, and I am glad to say that even my opponents have started to use it now.

Q. And what is the term used to describe those who do not believe in the extermination theory?

A. Revisionist, the revised history, or they do not hold on to the, well, the business-like writing of history, perhaps one should say.

Q. And have you made inquiries and research into this area yourself?

A. Yes. I was keenly interested. I must say here I was worried when I

was twelve years old, I was keenly interested in this subject and I was a firm {3167|3168} believer in the extermination theory. It was at the end of the nineteen sixties, 1968 when a lot of things didn't make sense to me. I tried to harmonize the various points, and I started to realize that there was something wrong, but I couldn't put my finger on it. That is how it worked.

Q. So what did you do, then?

A. Well, I got hold of all the documents I could get hold of. Of course, I continued my investigation with my fellow Jehova[h]'s Witnesses who had been at the camp. For instance, they were in Auschwitz, very close to the alleged gas chamber. They had been working. They were in Sobibor, Treblinka – well virtually every camp, and these witnesses I had constant talks with and we went together and got together to try and find out about it, as true history as we could about the Jehovah's Witnesses time during West Germany.

I must say here that the official figure of the Jehovah's Witnesses that about sixty thousand had been killed during Nazi Germany's time. —

Q. As a result of your research did anything change as a result?

A. Yes. Through various documents which the East German Government had confiscated from the Jehovah Witnesses Headquarters, they had namely stolen their entire factory where they had produced their material, and at the same time they also confiscated their documents which they later published. And through these documents I realized that the figure of sixty thousand was too large. And then my estimation {3168|3169} was about two hundred had been either hung or shot, or perhaps died through natural means during the Nazi Germany time. And when I published that, I got, unfortunately, in conflict with the leadership of the Jehovah's Witnesses who, at that time, were in favour of my research, but when I started to give out this information, well, they became very angry and then I was excommunicated in 1974.

Q. And is there a figure now purported for that number, or —

A. Well, the peculiar thing is, I was excommunicated for that, and then, in 1974, they came out with their year book and then they, themselves, gave the figure of two hundred and three hundred. So the figure from sixty thousand had dwindled to two hundred and three hundred, and in fact confirmed my statement —

Q. How many times have you visited Auschwitz-Birkenau for the purposes of conducting research?

A. About twenty-seven, thirty times.

Q. Over what period of time?

A. 1978 to 1981.

Q. And I am not saying what your conclusions were. Have you reached any conclusions about that camp?

A. Yes, quite a lot of conclusions.

Q. What buildings have you gone into to conduct research?

A. Practically every building I could, either lawfully or, well, through my means getting to — {3169|3170}

Q. Well, what buildings? Can you name the buildings?

A. Yes. The kitchen at Auschwitz, which is very little known. Almost every building. The theatre at Auschwitz, which I believe very few people have ever been inside. My opponents certainly were not. I believe I was the first one also who showed the swimming pool, twenty-six-meter long swimming pool, three meters deep.

Q. Did you take photographs of the kitchen?

A. Yes.

Q. The theatre?

A. Yes.

Q. Other buildings?

A. The sauna, the laundry. Of course, my interest was to focus on the gas chamber, alleged gas chamber buildings. So that meant then crematoria I at Auschwitz. I even crept inside the chimney, or the smoke channel there. It was a very exciting time. And I had been inside the sauna at Birkenau. I had been inside [sic] two secret buildings which the exterminationists continued to hide in Auschwitz. And that's in section BIA, and BIB. I have taken photographs inside those buildings. I have been inside Krema II, inside the alleged gas chamber. I was able to get into it and have taken many pictures from there.

Q. Did you examine the entrance to the alleged gas chamber?

A. Yes, I did. Yes.

Q. What did you find? {3170|3171}

A. Well, I found that the doors in gas chamber I, or Krema I which the exterminationists called gas chamber I in Auschwitz had been faked, the outside door. I also discovered that the crematory ovens were fakes. By fakes I mean that the Auschwitz officials, the exterminationists claimed that these places were found exactly in the way as when they were liberated. And I found that, for instance, the chimney at Auschwitz had no smoke channel, it had no smoke channel at all leading into the crematoria oven, so obviously this was a very peculiar [sic] crematory.

Q. In regard to Birkenau have you tried to investigate the alleged gas chamber in the Crematory II?

A. Yes.

Q. What did you do to investigate that?

A. I must say here at the outset that I have attempted to do my research in as good possible way I could, and I must also say here that one is not allowed into many of these buildings, and one is — one is risking, actually, if not one's life, a very stiff jail sentence. So I had to take my ingenious methods of getting into this, but I was able to get into Krema II Leichenkeller.

Q. Leichenkeller means what?

A. That means a morgue where they kept store people in a cool place before they were cremated.

Q. Are you familiar with the literature that describes the extermination process used in {3171|3172} Leichenkeller No. 1?

A. Yes. I am totally familiar. I probably have one of the great largest libraries of exterminationist literature.

Q. And can you describe how that literature explains the use of life in Leichenkeller No. 1?

A. You mean in Birkenau.

MR. GRIFFITHS: That is an expert opinion that is being asked.

MR. CHRISTIE: I withdraw the question.

Q. Can you tell us what you did to investigate life in Leichenkeller No. 1, specifically the roof of the Leichenkeller?

A. Yes. My oriental wife was with me at the time and I asked her to keep an eye on the watchman so that while I was creeping into the Leichenkeller I would not be observed. And this she did and I crept into the Leichenkeller, took — she assisted, me, handing me the cameras and flash and everything, and while I was down there I, for the first time, saw this which I think no one, at least very few people, had seen. And I took virtually hundreds of pictures while I was inside there, in different stages.

Q. Can you describe the opening in the crematory roof, Leichenkeller roof?

A. Yes. I am going to let out a secret here now. The opening that I went through has a very heavy lid close to it, a cement arm lid, and it has — it's very, very rugged opening, and through this {3172|3173} opening I was able to squeeze myself, and then, getting down into the Leichenkeller.

Q. Can you describe that opening in terms of what it looked like and why it was rugged?

A. Yes. It, to me, as I saw it, it was obvious to me that somebody [sic] had used some sort of a sledge hammer to open this up. The roof is an ordinary reinforced concrete roof with reinforcement bars going alongside, and then crossing them. And these bars had been bent. It is even more visible in another opening which is there.

Q. How many openings were there in the roof of Leichenkeller No. 1?

A. There are two openings there today.

Q. Were there any other possible openings?

A. Yes. There's another opening, but this opening is caused by the breakage of the roof, namely, one has attempted to destroy this roof, and by the roof bending, one sees the bars crossing each other. It's very obvious that that opening is just caused by a crack, whereas the other two openings, they are deliberately made by somebody, and I happen to know even that it was made after the War through the peo-



ple at Auschwitz, the officials there.

Q. Have you examined the roof to determine if there were any other possible openings other than those you've described?

A. No, except that you could go into – if you have enough nerves and are not afraid that you get a thirty kilo cement [sic] block on your head, {3173|3174} you can get into the roof through sides of the building.

In other words, the roof is sort of caved in and then you can squeeze yourself through there, but I certainly wouldn't recommend it unless one has a lot of nerves.

Q. Did you take photographs of all this?

A. Yeah.

Q. How many photographs? [sic]

A. Hundreds. Of Leichenkeller I in black and white, and I also saw there, by the way, the floor and so forth, discovered very interesting things.

Q. Did you look for drainage there?

A. Yes, I did, because one had claimed there was no drainage in there.

Q. And did you look for other items in that area?

A. Yes. I was very interested in a blue colour, it's a blue colour which is caused by a chemical reaction with the Zyklon-B which is evidence in the other gas so-called, or buildings where real gassings took place, and which are now kept secret by the communist Soviet officials.

Q. Were you able to determine where these so-called [sic] real gassings took place, what types of chambers that were there?

A. Yes. I was – the real buildings of the gas chambers in Birkenau are in BIA and BIB.

Q. And what types of chambers were they?

A. There's primarily two types of {3174|3175} chambers. There's the chambers which uses the hot air fumigation, and then there is the other type where Zyklon-B was utilized.

Q. To do what?

A. To disinfect, delouse mattresses, clothing of the prisoners and so forth.

Q. Did you see any of the characteristic blue stains inside Leichenkeller No. I?

A. No, there was not a trace of it.

Q. Did you communicate this knowledge in some way to Mr. Zundel?

A. Yes, I did. I was very much interested. I was a former Jehovah's Witness, and our mission is of our good use to others, and I was very happy to discover about this matter, and I gave it to Zundel with an open heart and he accepted it.

Q. Has Zundel financed some of your research?

A. He has helped me by helping me with literature and otherwise; he's been very good in that way, because a lot of the literature I didn't have. So what he was exchanging the literature, documents and so forth, but I do that with everybody. I have been in contact with Yad Vashem in Israel.

Q. And I believe you've made video tape presentations dealing with the subject with Mr. Zundel; is that right?

A. Yes.

Q. When did you do that?

A. We had done it in 1981 was the first time. {3175|3176}

Q. And what was the purpose of that, or what did you do, rather, in those video tape presentations?

A. In the individual presentations I showed the hoaxes of the doors, the fake doors, for instance, in Auschwitz, the camp, the outside doors, the fake peepholes, the fake chimney, the fake crematoria ovens. I showed the swimming pool. I showed the inside of the theatre, which one alleges today to be a garbage disposal place. We did many such things.

Q. And in the course of this were there models prepared to analyze the literature to determine if it was practical?

A. Yes.

Q. Were the video tapes made in relation – how did you use those models in those video tapes?

A. Well, we used them in order to explain the impossibility of the exterminationists' argument, to show the inconsistencies and, well, the ridiculous suppositions which are made constantly, and constantly

contradicted by each other, by them. They often can say one thing and then the next minute say something quite opposite.

Q. Have you had an opportunity to view these video tapes?

A. Yes, I have seen them. I also show them to friends and distributed them in Europe.

Q. In Europe? Why do you show them to people?

A. I think it's vital that people are {3176|3177} informed about hoaxes of any kind.

Q. Why?

A. Any historical hoax, I think, should be exposed for what it is. It doesn't matter who it is, it should be told.

Q. What effect do you see from that?

A. Well, if we value truth, and if truth is of any value, well, we should strive at that and we should not be afraid to go wherever it leads. You have to remember I was a believer of extermination theory. I started to disbelieve not because of what I have read, but mostly what I saw, and I could see the inconsistency. It didn't work together, and I became more and more suspicious about it.

Q. Over what period of time did these suspicions develop?

A. From 1968 and onwards. And then in 1978 I finally was sure that there had been no gassings of human beings taking place in Auschwitz and Birkenau, and Maidanek, I should add here, because Sobibor, Treblinka, Chelmno, many of these others I have also been on.

Q. What investigations did you make at Maidanek?

A. Practically the same investigations which we made at Birkenau and Auschwitz. We were able to become very friendly towards the guards. They invited us to their home and they assisted us, to some extent, to get into the secret buildings. Sometimes we gave them vodka and made them very happy, and sometimes we were able to get a lot of information from the director, {3177|3178} Dr. Edward Siados (phonetic) from Maidanek, and many other ways.

In other words, we tried to make our research as complete as we possibly could, not only the camp itself, but also the surrounding of the area.

Q. Did you take photographs at Maidanek?

A. Oh, yes.

Q. How many?

A. Oh, I haven't counted. There must be thousands and thousands at Maidanek alone. All in all, I have about thirty thousand pictures.

Q. And in the course of investigating did you inquire, at Mr. Zundel's request, into the question of chimneys?

A. Yes. We made a special attempt to make a search into this mystery.

Q. What did you do to investigate the subject of chimneys?

A. Well, it started off that I saw these crematory IV at Auschwitz, and I could – I was wondering – I had some knowledge about chimneys before. So I was looking for a way to get into the smoke channel, because this is usually, they are cleaned out, and as a rule they have some opening where one can get into them. And I couldn't find one, which I felt was very strange because the chimneys were really huge in Auschwitz, and the four crematory ovens are just beside us, so the smoke channels should lead out toward that chimney. And when I didn't see it, I became extremely confused, because I thought it was a true chimney in {3178|3179} the beginning, and Mr. Chimanski (phonetic) had on his honour told me that everything which was in the camp was exactly as we –

MR. GRIFFITHS: Objection, Your Honour. My friend knows it.

THE COURT: I agree.

Q. MR. CHRISTIE: So what did you physically do to examine how the smoke could have proceeded to that chimney?

A. Well, I made measurements to see where the chimney should be, and finally, after a lot of research, I was able to find a smoke channel, and –

Q. Where did it go?

A. I crept into the smoke channel. I was able to get all the way into it, and again I must say here this is a very nervous situation because the guards are all the time running around there, but I was creeping in and then I found the end of the smoke channel and the curb of it. I checked

the surrounding of the smoke channel and then, at the very end, they had palced [sic] a whole heap of bricks. That was the original smoke channel. In other words, there was the smoke channel in that building. Q. Did it go to the chimney?

A. No, it did not. Not the new chimney, but evidently it went to a chimney there which was there before, but not the new one.

Q. So what effect did this have on your inquiries?

A. Well, I got disgusted because of the information I had received that it was authentic. {3179|3180} So of course, I got very suspicious about the whole thing. I can't let —

Q. Have you gone up on to the roof to examine other —

A. Yes. I went on to the roof and they tried to chase me away, and I told them they should leave me alone and I had a lot of arguments with the people there, and I stood my ground and I said the only way they could get me off that roof is to throw me down. So I took measurements of the roof and measurements of the opening, checked all the various material which were of the openings, on the roof there, and again took numerous photographs of it.

Q. Have you given those photographs to Mr. Zundel?

A. Yes. I have published a special set of twenty slides which are called, "The Hoax of Auschwitz".

Q. And do they include Birkenau?

A. These twenty slides, it's just one picture there which includes Birkenau.

Q. And in relation to this type of information, you've published how long now, sir?

A. Well, it started in 1977 up to now. Continuous basis.

Q. And has there been pressure on you in view of these publications?

A. Oh, yes. The Zionists have been after me and after my wife, and have terrorized her, and my Oriental wife, she went through hell, practically, with these people doing all kinds of persecutions. You {3180|3181} have to remember I was once one of their own. And then, when I sort of renegated [sic], of course, I was no longer a person to be accepted. And they, a person in their viewpoint who renegates [sic] is equal to death. We had stones thrown through our windows. My wife was —

THE COURT: Where is all this leading us, all this persecution?

MR. CHRISTIE: It demonstrates some things that I would be ready to argue.

THE COURT: What does it demonstrate?

MR. CHRISTIE: Persecution.

THE COURT: Well, he's already said it. Now, do we have to proceed with it, or do we have to excuse the jury? How is it relevant to the issues that must be decided here?

MR. CHRISTIE: Because persecution is one of the reasons why people haven't told the same kind of events.

THE COURT: That is one argument you can make to the jury. There will be no more questions on that subject.

MR. CHRISTIE: Can I not put that relevance to Your Honour and have a ruling on that?

THE COURT: I have just ruled on it. It's too late.

MR. CHRISTIE: Well, I'm sorry, I am familiar with issue-making arguments before the ruling.

Q. So over the years have you been in communication with Mr. Zundel as to the types of persecutions you have suffered? {3181|3182}

A. Yes. I published a lot about it, too.

Q. And these publications have been sent to Mr. Zundel?

A. To Mr. Zundel and thousands of addresses around the world.

Q. And what did you indicate to Mr. Zundel as a result of your research was your view?

A. Well, I never wanted —

THE COURT: Just a moment.

MR. GRIFFITHS: I think that is a question for an expert witness, Your Honour, "as a result of your research point of view".

THE COURT: Okay.

MR. CHRISTIE: I wanted to be able to indicate what this witness told Mr. Zundel was the conclusion of his research, so that Mr. Zundel's

opinion being based to some extent upon it, it's not that it's an expert opinion, but it is certainly an opinion on which my client relied.

THE COURT: I think, members of the jury, it is almost ten to five. You are excused till nine thirty tomorrow morning.

— The jury retires. 4:50 p.m.

MR. CHRISTIE, the witness has already sworn that he supplied both kinds of information, both verbal and written, to your client. He supplied pictures. He supplied information. Now, what do you {3182|3183} want him to do in addition to that?

A. Basically, Your Honour, I wanted him to indicate what he presented to Mr. Zundel as the results of his inquiry, his views of the situation, to show where my client acquired his views. I guess that's the reason of the issue.

THE COURT: What you say is, "Did you present your views that you've expressed here to Mr. Zundel?" Wouldn't that be —

MR. CHRISTIE: Yes, sir. That is probably the best.

THE COURT: It is the best way of doing that instead of getting what this witness' views are, because nobody — and I say this kindly — is all that fascinated with his views. The jury may well be interested in your client's honest belief or the lack thereof, but your object, I gather, is to say this witness communicated his views to your client that had the result of formulating your client's views, in part.

MR. CHRISTIE: Yes.

THE COURT: Well, then, surely one simple question would accomplish that without the record having to receive this man's views as to an {3183|3184} event of history when he hasn't been qualified with anything more than he was once a Jehovah Witness who has been expelled from that persuasion.

MR. CHRISTIE: Yes, sir. I appreciate that. It was my intention to suggest that, in regard to the opinions, they need not constitute hearsay if they are in the form of original evidence.

THE COURT: Say that one again, please.

MR. CHRISTIE: If they are in the form of original evidence in that they are tendered not to prove the truth of the opinion, but to prove the truth that the statement was made.

THE COURT: Just the way I suggested, wouldn't that accomplish it? Because otherwise his views are totally irrelevant to the issues this jury must decide.

MR. CHRISTIE: Except that those opinions are the subject of my client's reception. In other words, he receives these opinions. I would like to identify what opinions he received, because it is relevant — I mean, if the witness says his opinions were X, and Mr. Zundel's opinions are Y, then there is {3184|3185} no correspondence.

THE COURT: Well, isn't that, in reality —

MR. CHRISTIE: Reality is something for the jury to decide. I would like to show to the jury what was communicated, not what occurred.

THE COURT: Right or wrong, the ruling is, you will ask the question that I suggested, or you will not ask one at all, because I don't want to have to disabuse the jury's mind of what his views are.

Nine thirty tomorrow morning.

## FEBRUARY 12, 1985

— Upon the hearing resuming.

MR. CHRISTIE: Your Honour, I wonder if Dr. Faurisson can continue sitting to my left and assisting me from time to time?

THE COURT: Yes. Go ahead, Mr. Christie.

— {3185|3186}

— The jury enters. 9:41 p.m.

## DITLIEB FELDERER previously affirmed

### CONTINUED EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. Mr. Federer, when you were investigating the situation at Auschwitz I did you find anything in the nature of a swimming pool?

A. Yes. I must admit to you that the first time I saw it, I didn't believe it was the swimming pool because it didn't fit my theory of what, at that time, I thought was an extermination, that it was a fictitious extermina-

tion, and then I saw to my astonishment that that was a swimming pool.  
Q. And we have a map of Auschwitz I and I'd like to show it to you and Madam Registrar can provide it and you can see what it is.

I now produce and show to you Exhibit No. 24. Would you open it, please, and tell me if you recognize what it describes?

A. Yes, I do.

Q. What is it?

A. It is a map of a plan of Auschwitz I, the mother camp.

Q. How many times have you been there?

A. Well, twenty-seven times as a whole, but I have been countless times going back and forth in between because I used to come out between Krakow and the surrounding, but twenty-seven times as a {3186|3187} whole for the length of time.

Q. Where is this thing that you described as a swimming pool?

A. It's marked on here behind Block 6.

Q. Is it inside the fence?

A. Yes.

THE COURT: I wonder if you could mark that, Mr. Christie, with his initials, please?

Q. MR. CHRISTIE: I have a red pen. Would you circle it, circle the area where the swimming pool is and initial it? Can you describe what it is that is situated there?

A. It's what one would call an olympic-size swimming pool, and that means it's twenty-six meters long, six meters wide and about three meters deep. On one end there is two starting blocks which are used for competition, swimming and jumping off. There is a spring board.

Q. Is the board still there?

A. The board is away, but the blocks, the supporting blocks for the spring board is still there and clearly visible.

Q. Can you describe the water inlets?

A. Yes. There are, on the other end, we have a jumping tower, about three meters high, and it has the faucet of a grotesque figure where the water is sprouting out. It has also showers, real showers where, I suppose, where the prisoners would evidently clean themselves before they went into the water.

Q. And is this pool the same depth {3187|3188} over the entire length?

A. No. It elevates gradually, and at the place where the high jumping tower is, that's where it's deepest. So there is a slight inclination towards that. Not very much, but there is.

Q. Did you take pictures of this pool?

A. Yes. I have hundreds of pictures of it.

Q. Pictures of the water intake where you call the grotesque – what do you mean by grotesque?

A. Well, it is what architects call, it's a figure of sort of a man, part man and animal, and he has an opening where the water would come forth and get into the pool.

Q. Where is that opening? What is it, a head, or —

A. Yes.

Q. And where does the water come from out of the head?

A. Through the mouth.

Q. And you have photographs of that?

A. Yes.

Q. Is there something special about Block 25 in Auschwitz?

A. Yes. Block 25, there's two largest building in the camp.

Q. Would you circle that with a red pen and mark it "25" and initial it, please?

A. It's beside the largest building, which is the kitchen, and in this block there is what one {3188|3189} could call a secret museum.

Q. Why do you call it a secret museum?

A. Well, only the very elite or those who have received some respect or some who are in trust of the Auschwitz officials are allowed in there. The public are never allowed in there. It's a closed place. Have you been in there?

A. Yes. Several times.

Q. What have you seen there?

A. Inside they have exhibits of various things put on —

Q. What thing?

A. Well, for instance there is one mound, in other words, it's placed inside glass.

MR. CHRISTIE: Mounted I think he means, Your Honour.

THE COURT: I still don't know what he means, but you can explain it.

Q. MR. CHRISTIE: Well, you had better explain what you mean, because you are not using the right English words.

A. Well, it is inside an enclosure of glass. You can look through it and there they have exhibited various items.

Q. What items? Please tell us.

A. Well, there is one there which shows the various musical compositions which were played by the orchestra. There was two orchestra in the camp, one made out of women in Birkenau, and the other one of the male. And they even composed their own {3189|3190} pieces of music while they were in the camp. So for instance there is the Auschwitz Waltz in there.

Q. Have you seen this?

A. Yes.

Q. Have you seen the music?

A. Yes.

Q. Has it got a title on it?

A. Yes.

Q. Have you read the title?

A. Yes. And I have it on picture.

Q. You have pictures of it?

A. Yes.

Q. Have you seen other exhibits there?

A. Yes. There is another exhibit which shows the letters which were written from Auschwitz to the outside. These were done in such a way that paintings were drawn by the prisoners, and I was astounded to see how beautiful and peaceable these paintings were, they were so human.

Q. Have you pictures of that?

A. Yes.

Q. Have you seen anything in the nature of works produced by the prisoners?

A. Yes, because this camp here was hospitals, and most of them were hospital blocks, and people were brought here for recovery. There was a rehab blocks or rehab work going on in there.

Q. What kind of things were there?

A. Those capable of metal work, they would work in metal, and those capable of woodwork, they {3190|3191} would do woodwork

Q. Have you seen those works?

A. Yes.

Q. Where are they?

A. They are also in there.

Q. In where?

A. At the secret museum.

Q. In what block?

A. Twenty-five.

Q. Did you take photographs of that?

A. Yes, I have.

Q. Are there other things displayed there that surprised you in relation to the extermination stories?

A. Yes. There are paintings which prisoners were made, and I was surprised over the beauty that some of these paintings had. There's also items such as warning signs for the prisoners, that if they do not keep them clean, they risk their own death, and then a big louse was there.

Q. Why a louse?

A. Well, because the clothes lice were the carrying agent of this disease, typhus, which struck in the camps frequently.

Q. You said that you saw kitchens in Auschwitz I?

A. Yes. It's the largest. It may be debatable. The theatre may be the largest building, but I take it that the kitchen perhaps beats it. It has a dietary department and a slaughter place for the meat on the other side. It has two chimneys. It's actually {3191|3192} the building which has most chimneys.

Q. Have you been inside it?

A. Yes.

Q. Can you describe the inside?

A. Yes. It's divided into sections, and we have a dietary section with its part. We had the meat part where the meat would be hung up and cut. We have, of course, the kitchen with the soup where the chimneys go down, they have big bowls or big canister where the soup would be made.

Q. Have you seen those canisters?

A. Yeah.

Q. Did you photograph them?

A. I have photographs of the canisters.

Q. And how large were they?

A. They were the size that we used when I, at school, used to go in the camp in the summertime. They are about this large up and about this wide.

Q. How many did you see?

A. About three. The others, I understand, are in use today in the surrounding.

Q. And there were twelve chimneys in that area?

A. Yes. If I remember right, there's twelve chimneys.

Q. Any room for eating places?

A. In the kitchen?

Q. Yeah.

A. Eating? No. The prisoners didn't eat inside the kitchen. I think it was very hygienical [sic]. {3192|3193} Only the working prisoners were allowed in there.

Q. And what was block eleven?

A. The Block 11 is purported to be the block of death, and it has a courtyard where it's alleged that twenty thousand people were shot against a wall.

Q. Did you see the wall?

A. Yes.

Q. Did you see any bullet holes in the wall?

A. No, not a trace of it.

Q. What kind of bricks were they?

A. Ordinary bricks which you find in any, I suppose, Canadian home. I see them in the buildings here. Red bricks. I may say in Block 11, as you brought it out, there is a special room in the basement which they want the tourists to see. The tourists are regimented through certain roles, and if they depart from that role, they may get into trouble, and one of the roads one is led into is to see the standing cells in there.

Q. Standing cells?

A. Yeah. And as one watches, as the tourist is led through this place, he sees smaller and smaller windows until he finally sees, comes into the standing cell. If one goes from the outside, one can clearly see how they have patched up the work from the back, but then one has to go around and look at the back.

Q. Yes. What do you mean, patched up the work?

A. Well, everything is done very {3193|3194} dramatically and almost religiously in there. And so each window, as the person, the tourist would look through each window, it becomes more and more dramatically smaller and smaller to indicate, I suppose, the unpleasantness of being in such a place.

Q. Have you visited Birkenau from time to time?

A. Yes.

Q. As often as Auschwitz I?

A. Oh, yeah. I have slept there, parked inside there, parked my van numerous times and slept.

Q. Inside the camp.

A. Inside the camp.

Q. On this what I am now showing you, Exhibit 21, is an area drawn in original pencil with the word "Flames" attached to it where one of the witnesses indicated there were supposed to be pits and flames. Have you been in that area?

A. Yes.

Q. Can you describe that area?

A. This whole area is extremely marshy, and if one wants to walk around Birkenau here, especially you have to have some very good boots to jump or you get stuck in the muck. Even in the middle of the summertime when I was there it was actually, sometimes the water reaches up to your boots, water above your knees and my boots have often got stuck in there.

Q. Is this in the area of Crematory V?

A. Yes. I would say here that most {3194|3195} exterminationists claim that the pits were actually beside Krema V. So this is just another of the hoaxes. They have so many fantasies going and this is one of them.

Q. If you dug a hole in the ground there a foot or two deep, what would happen?

A. Well, it fills with water, just as if you go with your boots in many of these places you get stuck. You lose your boot if you are not careful.

Q. In the area where that circle is made with flames alleged?

A. Yes, in this entire area, even in Krema V there.

Q. You have photographs of this area?

A. Yes.

Q. How many photographs of that area do you have?

A. Well, thousands, this area.

Q. In your inquiries did you go inside what's known as the sauna in Birkenau?

A. This is another building which one is prohibited to go in, but I'm sort of unconventional. I like to do things which maybe are not so useable. So I was able to get in, yes.

Q. And what did you find therein?

A. It's a tremendously huge building and I saw it was very well-built. It was definitely built both for the sake of beauty and for the sake of use. I must tell here that the first time I was in there I was quite nervy, because the guards were running {3195|3196} around, and of course they didn't know I was in there. However, I did find several delousing compartments.

Q. Did you take pictures of them?

A. Yes. I have them.

Q. Can you describe them, please, the doors and that type of thing?

A. Well, it was very evident as one came into the building that one — there was a form of delouse for delousing. In other words, the prisoners would come from the dirty side and eventually, as they got cleaner and cleaner, they came to a cleaner place. And inside the building they have several rooms. You have an extremely huge basement.

Q. What was in the basement?

A. It was filled with water. I almost fell into it. Perhaps I would still be down there if I hadn't watched. There were openings when I went down there the first time. It was very dark. I had a flashlight with me and I didn't see this opening. It was just in the last moment I saw it. Literally, the basement is covered with water today.

Q. And what was the condition of these chambers that you saw that you recorded as delousing chambers? Describe them, please.

A. There's a large room there which was used as a banquet rooms for the inmates where, if it was raining outside and they had a special celebration going, the orchestra would play music and it was also used as a dance hall.

Q. Do you have photographs of that?

A. Yes. {3196|3197}

Q. Do you have any idea how large it is?

A. I never took measurement of it. I asked the Auschwitz officials to get me the original plans, but until now I have refused.

Q. Did you pace it off, walk off the distance?

A. Yeah. Yeah.

Q. How many yards did you estimate?

A. Oh, I couldn't say for sure. I didn't want to get into certainties and that. I only was struck the first time that it would have such a huge room in there.

Q. And did you see the kind of doors and facilities they had there?

A. Yes. As one proceeds, one then sees furnaces with containers, with water containers, boilers I suppose one would call them in English. They were heating water in there.

Q. You mean boilers?

A. Yes. But they had containers for the water. And then I saw, there are also several various types of delousing chambers, some built —

Q. What are they? Describe those.

A. There are several of them which are built, which are made in metal, which are sealed. They are locked by a wheel. One turns the wheel around and as one turns the wheel around there are several forks sticking out and it would get into certain slots in the chamber. The chamber is like this.

Q. How big is it? {3197|3198}

A. It's about mid-size, a little shorter in height.

Q. Is there anything inside that chamber?

A. Yes. There are wagons inside the chambers were, evidently, were used for hanging clothes.

Q. Have you got photographs of those?

A. Yes. There's also another type of chambers which are like this. In other words, they are not the rounded ones. And they have just hinges for ordinary doors, they are not specially built metal chambers.

Q. You have provided all these photographs that you took to Mr. Zundel?

A. Yes. He has, well, not all of them. You have to remember there's thirty thousand pictures. But a number of them, yes.

Q. Now, how large overall would you estimate the sauna area was?

A. The sauna is the largest building in the entire camp. There's no building which is as large as that one.

Q. And where is that in the area of the camp? You have the map in front of you. I'd like you to point out, and perhaps you could circle that in red pen.

A. It's here.

Q. With your red pen, and mark it with your initials, please. Now, in the course of your {3198|3199} investigations of the camp, Auschwitz I and Birkenau, did you make an inquiry into Krema I in Auschwitz I?

A. Yes. There is a building I consecrated my time, a lot of time in that building because at that time I still believed that perhaps people were gassed inside this building, so that is what I wanted to find out, the possibilities for such attempt.

Q. Did you take measurements of that building?

A. Yes. And I have published the measurements in my book, "Auschwitz Exit", and there are my measurements which were made. At that time I did not yet have several of the plans for which the Auschwitz officials have in their files.

Q. Just as an example, how many measurements would you have taken of that building?

A. Well, I couldn't add them. I went there and I measured for days, on the roof, inside the building, around the building.

Q. Did you take notes of all these measurements?

A. Yes. I have them and they are published here in this book.

Q. You had help in the measurement of these buildings?

A. I beg your pardon?

Q. Did you have someone helping you when you —

A. My Fillipino [sic] wife helped me many times with this, yes. {3199|3200}

Q. And why were you making all these measurements?

A. I had read so many contradictions in exterminationist literature, one thing was contradicting the other. This constant shift of contradiction. And I realized a building can't have a hundred different measurements and hundred thousand different ways of getting into it. And I wanted to find out about the chimneys, how it worked. I had always been technically interested. At that time I still believed that the chimneys was not a fake. I thought it was genuine.

Q. And you had read the accounts of the people?

A. Yes. The peoples I read and even the Auschwitz movie. At Auschwitz the tourists are, as I said —

Q. Never mind. Did you make an effort to find out if you can see into what is the gas chamber from the —

A. Peephole, yes.

Q. Can you?

A. Well, no, you can't, but you actually see the wall on the other side.

Q. Well, how far away from the door?

A. About one and a half meters.

Q. And why is that, what kind of wall is that?

A. It's a cement wall. It's a supporting wall before you go into the so-called gas chamber, so one has put people in the wrong door.

Q. Did you take infrared photography? {3200|3201}

A. Yes.

Q. Inside what is alleged to be a gas chamber?

A. Yes.

Q. When did you do that?

A. I did that especially — I have done it several times, but especially concentrated in 1981.

Q. And what were you looking for?

A. I was looking for any traces that this building may have looked different, to see whether one had tampered with the building, to see whether walls had been torn down, and to find out if I could, in that way, trace what was becoming more and more evident to me, a Hollywood stage place. It's not authentic. It's a fake.

Q. And did you show that infrared photography to Ernst Zundel?

A. Yes.

Q. Was he, throughout the time of your inquiries, interested in it and communicating with you?

A. Yes. He was very interested then. Here I must say I communicated with anybody who is interested in it. So Ernst was one of them who shows this interest.

Q. Did you visit also Monowitz in the course of your studies?

A. Yes.

Q. Did you spend many days there searching through that camp?

A. Yes. Or the area, I should say, {3201|3202} the surrounding area. It's a very huge area. It lays outside of Auschwitz, and it was to form a Buna factory work which the Germans had built outside there, and today it is the largest chemical factory in Poland, and the factory looks, if one studies pictures of it from that type, one can identify many of these buildings that are there today.

Q. Is there smoke in that area?

A. I would say it's a gas chamber. It's terrible.

Q. What is a gas chamber?

A. The entire area.

Q. Why?

A. Well, they have — Poland has very few rules about environmental protection, and I constantly got in contact with people who were sick in Auschwitz today because this factory —

THE COURT: Sick where? You said they are sick today.

THE WITNESS: In Auschwitz.

THE COURT: In Auschwitz. I see. Thank you.

THE WITNESS: From the smoke in that area. Well, from the poison which unfortunately nothing is done [is done] about it, and unfortunately it spreads inside the entire area and unfortunately the people in the city have all kinds of problem and doctors that have reported about it have been fired.

Q. MR. CHRISTIE: Now, in the evidence in this trial there have been some aerial photographs in evidence. Have you visited the camp and {3202|3203} examined the roads in and out of the camp?

A. Yes. I have travelled on them. We have slept on them. We have walked for weeks, all these roads. And especially when I found about the CIA photographs. I was very much concerned to find whether I could follow the roads from those pictures.

Q. I am now showing you what is Exhibit 27 in these proceedings. And photograph No. 1, I'd ask you if you can identify where the gate to Birkenau is in that photograph.

A. The main gate?

Q. Yes.

A. The main gate is two gates, one for the trains and one for the prisoners here.

Q. Can you hold that up and point it out to the jury and to His Honour? If you could turn around and point it to His Honour?

THE COURT: No, that's all right. It is the jury that is important.

Q. MR. CHRISTIE: Okay. Then you had better hold it still for a second so the jury can see what you are pointing to. Now, can you point to the entrance to the camp?

A. Now I am looking at it upside down, but here is the entrance going here.

Q. Is there a road out of the back of that entrance?

A. The road continues here, out here, and I travelled on it many times.

Q. Does it appear any different than {3203|3204} the other roads of the camp in terms of age?

A. No. If one looks at this map, one is really astounded. When one looks at the place today, it is very identical.

THE COURT: It is what?

THE WITNESS: It's identical.

Q. MR. CHRISTIE: Were there any other roads in and out of the camp?

A. Yes. There is another road leading out this way here – in other words, leading to the sauna which I was mentioning about.

Q. Which is ...

A. The delousing here. The prisoner would walk up here. This is after they had built a new sauna here, because they were using these two buildings previous to that time.

Q. What two buildings?

A. The secret buildings which the Auschwitz officials are still unwilling to tell about.

Q. And where are they in the camp?

A. There is this one building here which was at a particular time the male camp, and there is another building here which is the female, which was the female camp. Later on this section also became a female, for the females.

Q. Can you identify that on the map? You have showed it on the photograph. If you could point those buildings out on the map for me, please.

A. You mean on this map here?

Q. The map of Birkenau.

A. Oh, yes. Here it is. Pardon me. {3204|3205} Let me see here. You want the delousing, the original delousing buildings?

Q. Yes. Just hold out the map.

A. Okay. This building here. And this building here.

Q. Why were there two?

A. It was one for the males and one for the females.

Q. Which was the female camp?

A. This was the female camp. This was the male.

Q. And where is the new delousing building, or the one that you looked into?

A. That was up there. I looked into these two, so —

Q. You have photographs in the original delousing buildings?

A. Yes, I have.

Q. Do you have photographs in the new delousing buildings?

A. Yes. They are not published, still kept secret by the officials, but I have them, yes.

Q. And where is the place where you found the water in the basement?

A. That is this building here.

Q. And that is the biggest building in the camp.

A. That is the biggest building in the entire camp.

Q. What was that building made out of?

A. That is made out of beautiful {3205|3206} red bricks on the outside with tiles on the roof. Inside is beautifully plastered and it's made out of cement, part of it, bricks on the outside and tiles on the roof and cement on the floor.

Q. Was there a water treatment plant?

A. You mean inside this building?

Q. No. Inside the camp.

A. Yes. There are two water purification plants inside this camp. There's the old one and there's a new one.

Q. Where are they on the map if you can point them out?

A. The old one is beside Krema II. That's this contraptions of these buildings here. They are, if anybody has seen a sewage building, he

cannot immediately identify this.

Q. Where are the new ones?

A. The new ones are over here.

Q. Do you have pictures of those?

A. Yes, and including this building, I should say. And the sewage would go into what is called Königsgraben [Königsgraben]. After it is filtrated it would go in this place here. This is actually not a road here at all. This is a ditch, very deep ditch where, after the sewage has been filtrated, it would flow into here. It goes underneath this road here. There is a culvert here. It goes underneath this road which leads further out, and then it continues out and up into the vistula.

Q. Is there a roadway from the ramp {3206|3207} to the new sauna?

A. Oh, yes.

Q. Could you point out where that roadway would go?

A. You have, in going that road, you have to pass Krema II and III, where they —

Q. Just outline with your pen where a person would go to do sauna.

A. Here we are. And then here. And then here and here.

Q. Thank you. Have you seen the plans of the crematorias II and III in the Museum?

A. Yes.

Q. Have you seen the models there?

A. Yes

Q. Have you seen models made from those plans by Mr. Zundel?

A. Yes.

Q. Are they identical?

A. You mean the models — there are quite a few models. The models which are displayed inside at Auschwitz Museum and the models which were made by Zundel?

Q. Yes.

A. Well, no. They are not identical

Q. How are they different?

A. The models which are produced at Auschwitz Museum, they are not — it's what they call instructive models. They are not authentic in a sense that they show what it was that was supposed to be educational. {3207|3208}

Q. And what have you seen of the models made by Mr. Zundel?

A. The models Mr. Zundel made, they are following the plans, original German plans, and the way it looks today by making, as well, a survey one can make under the circumstances. We have to remember we are still prohibited by the Polish officials to make an archeological survey of the area.

Q. Was your family persecuted by the Third Reich and the National Socialist Government of the Third Reich?

A. Yeah.

Q. Did your father die during that time?

A. He died shortly after the War because of sickness and other things.

Q. And was your mother persecuted by the National Socialists?

A. Yes, in the sense that she was constantly forcibly evacuated from various areas.

Q. Do you recall some of those times?

A. Well, I was just — I was born in; 42, so — but in around '45, at the end of '44 we fled into Italy. My mother fled into Italy.

Q. Did she have difficulties because of her ethnic background?

A. Yes. She was called to Berlin for interrogation.

Q. Why?

A. Because of her alleged ethnic background. {3208|3209}

Q. What was that?

A. Jewish.

Q. Are you sympathetic to the National Socialists?

A. No, I don't think I would say so. I am not a politician, So I am not sympathetic to any group.

Q. Are you anti-semitic?

A. No. I am pro semitic. I think that they have the right, they are the true semites and they have a right to also voice the opinion. It should not be a one-sided opinion, which is presently so prevalent in our media. It's terrible.

Q. You've published a number of times in circumstances about your inquiries; is that right?

A. Oh, yes. And I must say here, too, that I have distributed millions of information pieces around the world.

Q. What technique do you use to portray your understanding of the Holocaust as it is represented?

A. I use any – I use Voltaire's method.

Q. What is that?

A. That is the method of being very serious when it's necessary, and being very opposite, to the extreme, using satire when it is necessary. And a hoax of this nature must be shown what it is, and that is many times can be used only through satire.

Q. And has this got you into trouble? {3209|3210}

A. Yes. I have been in trouble all my life, so it's not – I don't mind.

Q. Why do you continue to make inquiries into this matter when it's got you into trouble?

A. Well, look, I was preaching this extermination theory for fifteen years. I wrote about it. I helped people making research about it, and I don't like to be lied to. I don't like to be fooled. That's all. That's my own opinion. What other people believe it's up to them, but I, personally, I don't want to be fooled, and I would say I would do it with anything – the Indian issue or the alleged scalplings by the Indians, or anything. I don't like people lying about other groups. That's all.

THE COURT: Did you say the alleged scalplings by the Indians?

THE WITNESS: Yes. They claim that the Indians were the ones who did the scalplings of the white man. I very much doubt whether that's true.

Q. Who do you mean whether the people were scaoped, [sic] or where the idea originated?

A. Yes.

Q. Which?

A. These scalplings, it's alleged that the Indians introduced scalping by scalping the white man, but I think I have reason to believe that it was the white man who scalped the Indians.

Q. How do you mean that?

A. Well, there was a very good reason {3210|3211} for that. There was a bounty on every Indian. A dead Indian is a good Indian. And they were cutting their heads off, and that would be too heavy. These heads would be flopping all around. So they decided that the better way was to get the scalp, and then they would deliver the scalp to the place and they would get paid for it.

Q. So you've considered that an analogous story.

A. Yes. It's an additional hoax which we are encountered with daily.

Q. What do you think of the reason for these stories?

MR. GRIFFITHS: Excuse me, I don't see how his thoughts on the reasons for these stories have any relevance for this jury or this matter before us.

THE COURT: Mr. Christie?

MR. CHRISTIE: I withdraw the question.

Q. Are there ponds in the region of Birkenau?

A. Yes. As I said, it is a very marshy area especially around these alleged places where they were having huge pits and the flames were reaching, oh, high, high up in the sky with all kinds of different colours, depending on what people would burn. It's exactly the place where it's so marshy.

Q. Have you got photographs of those ponds?

A. Yes. There's one pond, very close {3211|3212} Krema IV and V, and I have beautiful frog music from these ponds, if you are interested.

MR. CHRISTIE: There are some photographs from which I should conduct a voir dire. I have nothing further in particular to lead.

THE COURT: Do you have anything further to lead other than the photographs?

MR. CHRISTIE: I can't swear that I have.

THE COURT: I am asking you to state it.

MR. CHRISTIE: I don't think there is anything more. I could be wrong, subject to – but I don't think so. Would it be, then, convenient, Your Honour, to show these slides, Your Honour?

THE COURT: Members of the jury, will you excuse us, please?

— The jury retires. 10:25.

THE COURT: Now, I would like you to tell me what it is you want to show me, and why you want to show me.

MR. CHRISTIE: Your Honour, the slides taken by this witness, he can tell you the camera, the aperture of the camera, he can describe where they are, he can depict the camp as accurately as anyone has, and the issue is whether this is an extermination camp.

THE COURT: This is what, Birkenau?

MR. CHRISTIE: Both. Both Auschwitz I and Birkenau. Now, I have seen these slides. They {3212|3213} depict many extensive and elaborate buildings for both delousing, they also show pictures of what are obviously signs by the Germans, done by the Germans to indicate certain things about the camp.

There are numerous photographs of the lay of the land relevant to the issue of the six-meter deep burning pits of Dr. Vrba. There are slides showing the interior of the Leichenkeller, where Dr. Vrba alleged he saw an S.S. gaurd [sic] trying to climb to pour Zyklon-B, the entrance that, or the holes alleged in the roof to Leichenkeller I where Dr. Vrba said he saw poured Zyklon-B from cans by the S.S. man climbing on the roof. There is photographic evidence of the sauna, and the chambers for the delousing of clothes.

It is, of course, the theory of the defence that Zyklon-B was used for delousing, and these were apparatus that are not alleged to be gas chambers but are evidently there for a purpose. They are not reconstructions. They are not fabrications. The pillars of Urstein – you will recall Mr. Urstein testified there were no pillars in the Leichenkeller where he took out with others seven hundred bodies of gas victims. There are seven large concrete pillars. Mr. Urstein {3213|3214} said that the alleged gas chamber was on ground level. It's quite obvious, from the photographs, that the Leichenkeller where the gassings were alleged to have taken place that Mr. Urstein said he took the bodies out of those places are well underground.

It would be my argument that although one can forget things in forty years, it is very seldom that one can forget that one is dragging bodies up from 23.1 [2.31] meters underground, ground level. It would make a difference to the matter of carriage, and it would be hard to forget, as the witness claimed he remembered. It gives a description by the most vivid depiction of the interior of what Dr. Vrba said was a gas chamber. He circled it on the map. The witness can identify that very place, and he has taken photographs of it, the same building.

He also has photographs of the general lay of the large size of the buildings, and it would be my argument to the jury that if you look at all this evidence, in addition to the theatre – now, I know that sounds shocking that there was a theatre, but the photographs –

THE COURT: The dance halls where the {3214|3215} prisoners danced, and as the witness says, where they had banquets.

MR. CHRISTIE: That may not be easy to believe unless you see the photographs. And they are there. And I want to be able to show them to the jury to display what is an answer to this horrendous evidence to Mr. Vrba, Mr. Leader. They do not depict an extermination camp, but an elaborate system for keeping people alive – a water treatment plan, shower facilities and not for killing people, it is not alleged in these buildings at all. It is only alleged in Krema II, III and IV. This is where in this case that gassings are supposed to have taken place. And so one would be able to ask the jury, well, why are all these elaborate health care facilities, all these facilities for cleaning clothes that there are?

Now, it's open to, I hope, open to the defence to show a little more about the circumstances than we have so far received. Nobody has shown us anything. The maps were introduced by the defence. Every attempt to show slides has been introduced by the defence. We are simply trying to show that there is a very good reason to disbelieve that this is an exter- {3215|3216}mination –

THE COURT: Didn't Dr. Vrba show slides?

MR. CHRISTIE: No. He made drawings and he showed pictures as to how this and that happened, but I didn't see any slides. No pictures are in evidence, in my submission, because if one looks at this camp and

the photographs of it, one sees elaborate cooking facilities, there are photographs of that, such as Dr. Barton described in Bergen-Belsen that convinced him that it wasn't a deliberate attempt to exterminate people.

Now, the witness is present for the photograph. He is ready to testify on the photographs.

THE COURT: When were they taken?

MR. CHRISTIE: I didn't ask that, I'm sorry.

They were taken between 1978 and 1981. And the time when these photographs were taken can be tested by cross-examination. It can be alleged that there is some alteration; but there are substantial things that are impossible to alter.

It's also true that one can see on the {3216|3217} aerial photographs that, as the witness has said, things are identical. Things haven't really changed. I am sure it could be said that some superficial things have changed as the witness said himself, especially in respect to Crematoria I in Auschwitz I, but all these things are quite visible as to what has been unaltered. The bricks, the buildings are still there. They do show us what existed in this camp, and I would very much like to be able to show the jury these pictures to enable them to see the lay of the land, the geography, the conditions in the camp that are quite obvious from the photographs. I would like to be able to show them to Your Honour, and then Your Honour might be able to understand my position a little more clearly. These are very clear, coloured slides, and the witness can describe them as he goes along, and then Your Honour can be able more to see the point.

I would very much like to show them to Your Honour, and then ask if I might show them to the jury. I think it would only be fair, at least, to allow us to show them to you and then, if you feel that there is a reason why they shouldn't be shown – Your Honour, I have been involved in many, many cases in my {3217|3218} career in which photographs have been introduced. It is very seldom that I have seen challenged the photographs, primarily because they are usually quite obviously, they can demonstrate what they purport to demonstrate, and I purport to prove the person who took the photographs.

THE COURT: Well, I have that one.

MR. CHRISTIE: Well, could I show them to Your Honour, then?

THE COURT: I will hear from the Crown.

MR. GRIFFITHS: Your Honour, my objection to the photographs is the same as the objections that I have made all along to the photographs. These are photographs that are taken over thirty years after the events. They are being interpreted by somebody who is incompetent to interpret them, I would suggest. They do not depict what was there in 1942, '43, '44. And for those reasons, Your Honour, I would object to the introduction of the photographs. I would certainly object to the introduction of the photographs as going to the truth of anything.

If the jury, having heard the descrip-{3218|3219}tion of these matters from Mr. Felderer and that he passed information along to Mr. Zundel have a basis on which they can be invited by Mr. Christie to find that that forms part of Mr. Zundel's belief, but I would object to the photos themselves being introduced as being irrelevant to the issues, certainly as to the truth of the matters which is part of what they are being introduced for. To me it is a substantial part of what they are being introduced for by Mr. Christie.

I don't think I can say anything further, Your Honour.

THE COURT: Thank you. Mr. Christie.

MR. CHRISTIE: Well, I think it is speculative to say that[ ]things have changed. Is my friend seriously contending that buildings have been moved or new buildings have been built, or the camp isn't as it was?

Surely if that was his contention, he could have called evidence on that point, but to say that we have reason to think otherwise when this is the way it is is as much to say, if I were to say in a murder case, well, I don't have any evidence that the {3219|3220} body has been moved, but I don't want pictures in because it could have been, I just don't see that that has any credibility at all, Your Honour.

I suggest that what we have is massive physical structures made out of brick. They are not moved. The land hasn't moved. There is no evi-

dence that the level of the land has changed or that the level of anything else has changed. I have even called a witness to describe the conditions there at the time.

THE COURT: At what time?

MR. CHRISTIE: In the 1943, '44 period. Thies Christopherson described the land as very low and marshy, and it is relevant because certainly Dr. Vrba's evidence of a six-meter deep pit would have some doubts about it if we produce evidence, and I recall that one of the witnesses, I am not sure which now, described the flames as coming from a particular area, and fortunately I was astute enough to ask him to write it inside a circle, and now the witness describes that area as very marshy and low.

Surely if the Crown wishes to allege that there has been some fundamental change, or that the photographs do not depict the scene, they've got the {3220|3221} witness to describe what he took, and if they wish to produce evidence to the effect that something has moved the crematory buildings or the kitchens are changed or something to that effect, why is that not open to them? Surely if it was my position to try and keep out photographs in any kind of a case I would have to show some evidence to show that the evidence did not depict the scene if the photographer is right there. It seems to me to throw the onus on the wrong party to show that there isn't alteration, especially when you are talking about great, huge buildings that are obviously there for many, many years.

You can see when you see the photographs that these are not buildings people could move, and they do, they depict exactly what they purport to depict. And it's not that anyone here is testifying that this is exactly what it was in 1942 or 1943, but we have reasons to draw inference from provable facts, and I suggest that it's open to any reasonable person I to say, "Well, I really doubt that that brick building was moved or that it wasn't there in 1942 when the whole camp, on the map that the Crown accepts, shows a building there. {3221|3222}

Why can't we show a picture of the building? We can show the map. Nobody disputes that map. Now we can't show the photographs.

Well, I don't understand how it can be taken that a map which we accept depicting a building suddenly has less credibility, or cannot be proven when we wish to show a photographic building today.

The plans, for instance, the plans are accepted for Krema II and III. Now, we could show a photograph of what Krema II and III looks like today. I think if the plans are admissible, surely the photograph isn't in a different realm. Nobody is going to suggest it is in a different building in a different place. It escapes me to understand how my friend can contend that because time has elapsed we must presume that things have changed. There are many things in the world that do not change unless people change them, and I don't think there is any evidence to suggest that these buildings that are set out, identified on the map of Auschwitz I and Birkenau, have suddenly been reconstructed and re-established, fundamentally altered. {3222|3223}

There are many things in this photograph that displays the inference of an extermination camp, and if we are not allowed to at least show them to Your Honour, and then if there may be some reason to dispute, we could dispute it, but we are arguing in the abstract right now, not having been able to show these things to Your Honour. If on them something appears to be displaced, well, my friend then would be able to put before you some reason to say, "This doesn't appear to be the same", but at the moment I don't think we've got that far.

I would like to, at least, get that chance to show Your Honour this picture. Thank you.

THE COURT: Do you wish to call any other evidence on this voir dire?

MR. CHRISTIE: Could I have a moment?

THE COURT: Certainly.

MR. CHRISTIE: I think one point could be made that the Museum and exhibits are still being shown and represented as unaltered and authentic and that certainly entitles us to analyze what is before the world and represented to be these buildings, this of camp. {3223|3224}

Your Honour, it seems to me, to lay a foundation, I'd like to call my client on the issue that he made on these photographs.



THE COURT: Do you want to say something now, Mr. Griffiths?  
You can step down for a moment, sir.

— The witness stands down.

MR. GRIFFITHS: No, Your Honour. I was just going to say that there is evidence; it is not a presumption that I am making – there is evidence before us that the crematoria were destroyed, that new crematoria, gas chamber was built. Mr. Felderer himself has testified that he believes changes have been made in the camps. It is not a presumption.

MR. CHRISTIE: Certainly that's valid in respect to some of the alterations to what is alleged to be Crematorium I, but as far as Crematoriums II and III are concerned, all that is depicted in the photographs are what is there today, not altered. They were obviously blown up at some stage, If I may, then, Your Honour, I'd like to call my client. {3224|3225}

THE COURT: Certainly.

### **ERNST ZÜNDEL, sworn on voir dire**

#### **EXAMINATION-IN-CHIEF BY MR. CHRISTIE:**

Q. Mr. Zundel, when did you receive the photographs that Mr. Felderer took?

A. I think I'll have to expand on that. I did not receive these photographs initially. I received a book, and this book is lying right in front of me here. It's called, "Auschwitz Exit". And after I had read the book I then requested additional information from him, and as additional information he sent to me colour slides and colour prints.

Q. Did you receive these before 1983?

A. Yes, I certainly did.

Q. And were they part of the formation of your understanding of the issue of gas chambers at Auschwitz?

A. They certainly were. He was a great influence on my thinking.

Q. And have you viewed those slides and recently?

A. I have not only viewed them, I have used them in video films which I have produced, and I have gone to Sweden to meet with Mr. Felderer to check many of the thousands of slides that he says {3225|3226} he has in addition to the ones that he sent to me.

Q. Mm-hmmm. And you viewed the slides that he has arranged to prepare for his evidence today.

A. Yes, I have.

Q. And were they the ones that you saw before 1983?

A. Yes.

Q. And were they part of the formation of your opinion?

A. They most definitely were.

Q. Why did they influence your opinion?

A. I have never been to Auschwitz myself, and to any of the other camps in Eastern Europe because I am known to be a very strong anti-communist. I didn't think it wise to go there myself. And they were in colour, and I believe that colour photographs reveal far more than black and white photographs, and I have never seen as many detailed close-up photographs of many of the points that I knew only from reading, researching, papers, documents and so on. The photographs gave meaning and plastic to these arguments.

Q. Meaning and what?

A. Plastic. Shape. Dimension.

Q. What did this have to do with any plans that you'd had? Have you obtained plans of the crematoria?

A. Yes, I did.

Q. Who did you obtain them from?

A. Dr. Faurisson and Mr. Leader.

Q. And how did these affect the plans? {3226|3227}

A. Made it much easier to understand the uni-dimensional architecture of the plans, because we have light, colour, texture.

Q. And what was your opinion after seeing these plans in relation – these plans and these slides, rather, in relation to the Harwood booklet?

A. I considered it the ultimate proof that Harwood was right.

Q. What particularly about the slides convinced you that Harwood was right about this not being an extermination camp?

A. If you see elaborate kitchen facilities, hospital facilities, hygienic facilities, delousing chambers for clothing for people, saunas, bath-houses, then there comes a point when one rightly asks, what kind of an extermination camps were the Germans running with all these facilities.

MR. CHRISTIE: Those are my questions. Thank you very much.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: I have no questions, Your Honour.

THE COURT: Anything further, Mr. Christie?

MR. CHRISTIE: No, sir. That's all the evidence I propose to call on the voir dire. I would like to show the slides and then that would be my, I suppose, exhibit on the voir dire. I would like to show them to Your Honour and —

THE COURT: It will not be necessary that you show them.

—— {3227|3228}

### **REASONS FOR RULING**

THE COURT: In the absence of the jury, during the course of the examination-in-chief of the defence witness by the name of Felderer, Mr. Christie, counsel for the accused, proposes to show to me, if I permit it, and ultimately to the jury, if I permit that, a number of slides and films essentially of the Auschwitz-Birkenau complex which, I understand, is located at the present time in Eastern Europe. The films and the slides, in colour, it is said, depict the buildings and the locations within buildings of crematoria, alleged gas chambers, and the architecture of the buildings and various points of construction of the buildings, as well as the surrounding area of the complex itself.

The witness, Felderer, took the photographs between 1978 and 1981. He then sent those photographs and slides to the accused at the request of the accused. This witness is a person who has devoted what appears to me to be a major portion, if not all, of his time, effort and energy in the examination of alleged extermination camps and other camps which, it is said, were run by the Nazis during the Second World War.

Mr. Felderer himself was born in 1942. At the end of the War he would have been three years of age. {3228|3229} He has testified, among other things, that he has changed from being a believer in what is referred to as the Holocaust and the alleged Nazi mistreatment of prisoners during the Second World War by reason of a policy decision of extermination. He now calls himself a revisionist. He takes the position that the stories concerning brutality on a policy basis by the Nazi regime to run extermination camps and others by the Germans is a hoax. Counsel for the accused proposes to lead from this witness this type of evidence and to have it go to the jury in order, as he says, to rebut the evidence called by the Crown, which takes the opposite position with respect to the Holocaust and all that that entails.

Mr. Christie submits that he should be permitted to show the slides to the jury and to me because they, in colour, show the locations of the alleged gas chamber, and the hole in the roof where it is said that Zyklon-B was poured by an S.S. Corporal according to the Crown evidence. These slides, however, depict, according to the evidence of Mr. Felderer, delousing chambers, kitchens, a dance hall where Mr. Felderer says the prisoners had banquets and danced, and other things that the defence submits rebut or tend to rebut the Crown evidence. {3229|3230}

I point out that this witness has, in a very graphic and detailed manner, responded to questions put to him by defence counsel pointing out the very items the photographs themselves are said to depict.

The defence submits that the photographs show the buildings where they still stand, that they do not depict an extermination camp, and that it is open to the defence, for that reason, to show this.

Crown counsel takes objection to the introduction into evidence of those photographs for the same reasons that he has given before in other, similar motions. Mr. Griffiths takes the position that these are photographs taken of objects thirty to forty years after the event that this trial is all about. They are interpreted by someone, in the submission of the Crown, who is not competent to interpret the contents of the

photographs.

This witness has testified as to what he saw at the present time in Auschwitz-Birkenau and other places. That evidence does not go to the truth of what occurred, if anything, in those camps when this witness was conceived and within the ages of between one and thirty-six months old. The *viva voce* evidence has been permitted for the valid reason that what he has had to say goes to the issue {3230|3231} of the honesty (if there was honesty) in the belief of the accused as to what he said he published was not false.

One must never forget, in a trial such as this, that the essential issues that the jury must decide is whether or not the accused published two documents. The first is, "Did Six Million Really Die?". The second is, "The West, War, and Islam". If it is found that he did so publish, the jury must then decide whether or not the contents of each are essentially false. Thirdly, the jury must decide whether or not, if falsity has been proved, that they were wilfully published by the accused at the time that they were published knowing that the contents were false, and with the intent of mischief to the public interest.

The evidence that is permissible in this trial must be relevant to those issues. Photographs taken of places in Eastern Europe of buildings and the interior of buildings, especially when there is evidence that changes have been made, and evidence of what, if any, has been changed and what, if any, buildings have been built and what, if any, grades have been altered in the interval is not evidence which is permissible to go to the jury, in a large substantial sense, with the exception of the admissibility of the evidence pertaining to the accused's belief. {3231|3232}

What Mr. Christie now proposes is, in my view, irrelevant. It will not be admitted, and the photographs will not be shown for that reason.

THE COURT: Bring in the jury, please.

(Page 3233 follows) {3232|3233}

— The jury enters. 11:00 a.m.

— The witness returns to the stand.

#### CONTINUED EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. How many slides have you provided to Mr. Zundel over the years after you took them and before 1938?

A. Well, I would say at least several hundreds of slides I provided.

Q. Did he ask you to take slides of particular areas?

A. Well, he didn't have to really do that. I knew extermination arguments so well that I was looking these places up myself. I was pioneering in this work. There is nobody else who has done it. I was the first one.

Q. You mentioned the atmosphere of people who go to Auschwitz, tourists, and you described it as being almost really just attitude. What is your attitude towards Auschwitz?

A. Well, my attitude is that if one wants to see Auschwitz, one should go, first take a guided tour by the guides, and then go on one's own and try, and if any of the guides says that you are not allowed to go there, simply try and ignore him and go there anyhow, if one wants to see anything, because otherwise one just goes according to the communist, Zionist propaganda and they will outline how they want you to believe. If one wants to make one's mind up for oneself, one has to go on one's own. {3233|3234}

Q. Did you make a study of the age of the trees in Treblinka and Sobibor?

A. Yes. We made chronological investigations in several camps. In almost all camps we made the tests to find out about exterminationists' allegations and to find out if these were true.

Q. What did you do, not what the results were, but what did you do to take the tests?

A. I bored into the tree with a special tool and then extracted a core test and then counted the rings in order to determine the age of the trees, and also other things can be detected through this core sample.

Q. In all of the literature that you have read, have there been such tests

performed?

A. Never. But it is stated that the Germans have planted these trees.

Q. Did you publish, in your publications the results of your inquiries?

A. Yes, I have.

Q. And did those go to Ernst Zundel as well?

A. Yes. And also photographs of when the bore is there in places such as Belzec.

Q. And did this apply also to Treblinka?

A. Yes. Sobibor, Auschwitz, Birkenau, Maidanek.

Q. How many times did you visit Sobibor, Treblinka and Belzec?

A. Well, I can't even count it. I {3234|3235} was constantly around that area, numerous times. Exactly how many times I can't even remember any more.

Q. Did you do other tests or endeavour to conduct other tests?

A. Yes. I had other plans which exterminationists had produced in various books, and I was amazed that one plan contradicted the other plan, and quite obviously, this confused me to such an extent that it was bewildering, and I had to spend a tremendous amount of time in these camps to determine what could be found, what could be seen, and then take these core tests, because amazingly enough the trees are there, and obviously, if they had been planted by the Nazis or the Germans, as is alleged, that would be easily seen by these core tests.

I must say here, too, I was in communication with the neighbourhood of Treblinka, the farmers, who helped me tremendously amount, who had big meetings in the evenings sometimes and we would discuss various points such as the stench, the allegation of smell, fires, where the buildings may have stood, what they were doing during the Wartime, because many of them lived around there. And we had a great time.

Q. In the course of these investigations did your opinion in revisionism change?

A. Yes. It has changed to the point where I realize now there's mostly lies and very little truth in it. The spectacles of truth are so surrounded by lies that I think an ordinary person requires quite a mental gymnastic to determine all these different allegations, and unfortunately, if one hasn't seen the {3235|3236} place and been there, it must be very confusing for anybody reading exterminationist literature, because they are constantly contradicting each other.

Q. Having been to all these places and having conducted the tests that you did, have you communicated the test results and findings to Mr. Zundel?

A. Yes, I have. And many of these samples are in my home. I have taken samples of Zyklon-B from the walls, for instance, at the sauna, the original two secret delousing building in Birkenau. I have crept inside the smoke channels in Auschwitz. I have taken samples of the pond where it's alleged, the certain pond where it is alleged that human ashes are thrown into. I have samples of ashes of Auschwitz where it was at first told me that these were human ashes, [sic] because as one walks in Auschwitz, one sees ashes on the road, and of course, I took these with me home. And tree samples – everything I tried to take with me home, back home to Sweden, I mean that I could take, I wouldn't get too much into trouble.

Q. And in the course of publishing your inquiry and the results of your inquiries, have you expressed your opinions and provided these to Mr. Zundel?

A. Yes, I have. I sent it to Mr. Zundel. I sent them to many, many libraries, Jad Vachim [Yad Vashem], all over the world. And Zundel was one of them who responded favourable to the issue.

I must say at that time I knew very little about Zundel. I did not know what he was engaged {3236|3237} with. I only knew that he was interested in what I was interested, and that is to try and come as close to the truth as possible. And that's a gigantic work with the theory of exterminationism, because they are constantly lying.

Q. In relation to the exterminationist view, does the revisionist view get expressed in the media at all?

A. It is a concerted effort to persecute and terrorize anybody, and I have experienced it myself. Anybody who differs from what I would call these terrorists claims, you get persecuted. It is just as simple as that.

M. CHRISTIE: Thank you.

THE COURT: Members of the jury, you've been in and out of that box once or twice. It is about seven minutes away from coffee time. Rather than start the cross-examination now, I think we will have coffee.

Twenty minutes.

— The jury retires. 11:07 a.m.

— The witness stands down.

— Short adjournment.

— Upon resuming.

— The witness returns to the stand.

— The jury returns. 11:40 a.m. {3237|3238}

CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Mr. Felderer, where did you study archeology?

A. I have always been an amateur interested in biblical archeology since I have been a Jehovah's Witness.

Q. Where did you study?

A. I never said at any time that I had any academic trial in archeology. I can tell you, however, that the best archeologies have been amateurs.

Q. Where have you studied forestry?

A. Forestry?

Q. Yes.

A. I studied forestry through a friend who was a specialist in dendrochronology (sic) [dendrochronology] and he instructed me.

A. Endocronology?

A. Dandrocronology. It is not the same as "en".

!!!Q. So you didn't study at a place of learning?

A. No.

Q. Where did you study chemistry?

A. I never said I studied chemistry.

Q. Have you ever been a building contractor?

A. I helped building a lot of Kingdom Halls, yes.

Q. A lot of Kingdom Halls. The two maps that Mr. Christie showed you, I believe they were {3238|3239} Exhibits 21 and 24, one map of Birkenau and the other of Auschwitz, the main camp. Do you know the source of those maps?

A. You mean these ones here?

Q. Yes.

A. Yeah. They had been presented by the — they are found in the Auschwitz Album. They have also been presented by the Auschwitz Museum. They have a special staff there who work daily on producing various pieces of literature about the extermination theory. So these maps have been produced by the, well, the communists.

Q. All right. They are produced by the communists. And you said they were producing materials to support the exterminationist theory. Do you put those maps in that same category?

A. What they have done with them, they are fairly accurate. They have just deleted some things, otherwise, I — for instance, to say here that "FF" here, in the description that they are pits, burning pits, but they are not burning pits.

Q. Burning pits.

A. Yes. Pits. That is correct. I have the original here, in my "Auschwitz Exit".

Q. Other than that, you say that they are fairly accurate?

A. Yes, but you have to, I would say that one has to elaborate on them. For instance here, here was a football place where this prisoner, the prisoner I reported to happily played football, they played football at a crematory place. This is not marked. {3239|3240} It is an empty place here. Very obvious unless it looks very strange that people played football close to a place where one is exterminated.

These buildings here which you see here and a lot of these buildings were burned down after the War. So today, if you go to Birkenau, you wouldn't see these buildings here. These were hospital buildings. It is very strange that very close to an alleged extermination place you have some of best and most modern hospitals at that time. So one simply did what exterminationists would do. One simply burned them down.

Q. So exterminationists burned them down. They were some of the best hospitals.

A. They were according even to those statements.

Q. According to who?

A. Tanya Tachek [Danuta Czech], in her description about these hospitals, she wrote, together with Peiper [Piper], and Evascu [Iwaszko], written a volume about the medical facilities in Birkenau and Auschwitz. You can buy today, I suppose, if you go to Auschwitz.

Q. Is that the Museum staff?

A. Yes.

Q. Peiper and the other people you mentioned are the Museum staff?

A. Yes. Peiper is the head of the staff who has taken over.

Q. The dance hall and the shower and the sauna area, what makes you say this is a dance hall?

A. This testimony you can, from other {3240|3241} places, read from Fanya [Fania] Fenelon when she writes about the orchestra at Birkenau. And she mentions there about how they went and played in the orchestra. She was one of those playing in orchestra.

Q. My question isn't about the orchestra. It is about the dance hall.

Q. Well, have you ever heard a dance hall without an orchestra? So obviously they were dancing with an orchestra. They had music, you see. These people were human beings who had music in their dance, so Fanya Fenelon went there together with her troop and played music, and the prisoners and others were dancing in this hall.

Q. Well, Fanya Fenelon never said she played music for dance

A. She said she was present at that place, and if you read it, she said so. Very obviously, these people were playing. That is not the only place. There were other places where they were dancing if you would be interested to know about them.

Q. I would be interested to know. Where were they dancing?

A. The theatre.

Q. Where is the theatre?

A. You don't know where the theatre is?

Q. No, I don't. I am asking you.

A. Okay. That's the picture you refused me to show. I could show you the inside of it. Here is the Auschwitz, the mother camp, and I was mentioning to you if you were listening to my comments —

Q. I listened very carefully. {3241|3242}

A. — that the two largest buildings were the kitchen and the second largest building was the theatre, and the theatre is here.

Q. Would you mark that? Would you mark "theatre" on there?

A. It has a stage, theatre for the prisoners.

THE COURT: That's a theatre for the prisoners.

THE WITNESS: Yes.

Q. MR. GRIFFITHS: How do you support yourself, Mr. Felderer?

A. Well, through hard work.

Q. Well, all these trips that you take and all the pictures that you take, they all cost money. My question is how you support yourself.

A. Well, the Zionists have asked that for years. I think it is none of their business.

Q. Well, I am asking you. You are under oath on the stand. How do you support yourself?

A. I said through hard work.

Q. And what are you working hard at that brings you money?

A. Through publications which I have and other things. For instance, I publish leaflets. I published the twenty slides of Auschwitz, cassette [sic] tapes.

Q. So exposing this hoax as you call it is the way you make your living.

A. No. Not primarily, no.

Q. Well, primarily how do you make your living? {3242|3243}

A. What do you mean, when?

Q. I mean now.

A. Now?

Q. Yes.

A. Well, I make my living through a pension which I have from the Swedish Government.

Q. A pension from the Swedish Government.

A. Yes.

Q. Any other source of income? Your books, your pension ...

A. Well, as soon as I get any money from that, it goes into producing more books, more literature, more pictures, more tapes, more videos and so forth.

Q. You came over from Sweden expressly for the purpose of being at this trial?

A. Yeah.

Q. And testifying here, I guess, would be good for sales, wouldn't it?

A. I don't think so. It's unfortunately it's a very bad way of making business. I recommend to you to try it and you find out.

Q. Well, I don't know. All the trips that you get sounds pretty good. I guess it's also a good opportunity to tell people about your pioneering efforts in this field.

A. Well, I can tell you my Filipino [sic] wife has been of tremendous assistance to me. She never believed in this theory because she had known a lot about how the Japanese were incarcerated. The Japanese {3243|3244} were incarcerated here in Canada. Jehovah Witnesses were incarcerated in camps. You see, they are not as brainwashed as in the Western world, fortunately.

Q. So you came over here expressly to testify and to tell people about this, this truth?

A. You see, this is a continuous search for truth. If we have all plans from Auschwitz, if the communists deliver us the documents which they have in their files, we can come closer and closer to the truth, but as long as they withhold them and as long as they try to terrorize us, to put us into interrogation, you have to remember when I was in Poland — you maybe think that this was a holiday trip. I have been even put in prison in Poland, so —

Q. For destroying some of the things?

A. No. Not for destroying anything but for being a little too nosy. It's a habit of mine.

Q. Yes.

A. Yes.

Q. You heard the judge's order at the beginning of this trial excluding witnesses, but you spent all the first week being nosy sitting in the courtroom in defiance of the judge's order?

A. I don't know anything about the defiance. I only know what I am used to in Sweden because I am fighting also for the European human rights and I did what was common practice at home. I didn't, for instance, know that —

Q. You speak English.

A. I did not know that you were not allowed to bring, for instance, a tape recorder into the {3244|3245} courtroom. There's no sign. There's nothing that says so. I never did. I left it downstairs because I was asked. They asked me if I have anything, and I said a tape recorder, and they said, "You are not allowed." Well, in Sweden you are allowed to have a tape recorder in the courtroom.

THE COURT: Are you allowed, in Sweden, to go against a judge's order?

THE WITNESS: It is not against a judge's order.

THE COURT: I didn't ask you that. I asked you if you are allowed to go against a judge's order in Sweden.

THE WITNESS: If you don't know about it, they overlook it.

THE COURT: Like we are now. Go ahead.

Q. MR. GRIFFITHS: You never heard about the judge's order in the week you were sitting around in the courtroom?

A. No. I am still trying to find out the procedure. Eventually I hope I will be able to know how it's done.

Q. At the end of the week you were thrown out of the courtroom, weren't you?

A. Well, do you think that is an honourable thing?

Q. I don't know. Were you thrown out of the courtroom?

A. One of the men did suggest that I was not any more welcome here. I was thrown out, if you {3245|3246} want to know, because I was asking for a debate with Dr. Hilberg.

Q. You were thrown out because you were passing this out in the

courtroom.

A. No. What do you mean in the courtroom?

Q. In the courtroom.

A. I gave that to Mrs. Citron. If anybody should appreciate this material, it should be her.

Q. In the courtroom you gave it to her.

A. Yes.

MR. GRIFFITHS: May that be the next exhibit, please, Your Honour?

THE COURT: Yes. May I see it again, please?

Have you seen this, Mr. Christie?

MR. CHRISTIE: Yes, Your Honour.

THE COURT: That will be the next exhibit.

THE REGISTRAR: Exhibit 41.

— EXHIBIT NO. 41: Literature distributed in courtroom.

Q. MR. GRIFFITHS: Is this a sample of your work?

A. What do you say?

Q. Is this a sample of your work?

A. Is this a sample of our work? {3246|3247} Yeah. And I was attempting to get a debate with Hilberg for many years. I thought this was a good chance.

Q. With Hilberg.

A. Hilberg.

Q. Have you ever been convicted of anything in Sweden?

A. I have been convicted — I have been under arrest.

THE COURT: No. Convicted.

Q. MR. GRIFFITHS: Have you ever been convicted of anything?

A. And convicted, and my case is not over. The latest time when I was convicted is under appeal.

Q. What were you convicted of?

A. At the European Human Rights —

MR. CHRISTIE: If it is under appeal I don't think it is proper to raise the matter.

THE COURT: Yes, it is. Go ahead.

Q. MR. GRIFFITHS: What were you convicted of?

A. I was convicted of because I was spreading —

Q. What was the charge you were convicted of?

A. Well, why don't you read it, and then —

Q. I am asking you.

A. Well, I am telling you and you interrupt me. I am saying I was convicted for spreading material which, according to the Zionists, were lies. {3247|3248} So I was convicted at that time and the case is under appeal and —

Q. You were convicted in Sweden?

A. Yeah. And I am not actually [sic] allowed to speak about the case.

Q. And can you tell us what the charge was that you were convicted of? Not your explanation, but what the charge was.

A. Well, like my Filipino [sic] wife said, this is ridiculous. It is race hate.

Q. And did you receive a sentence?

A. I was in custody for about five and a half months.

Q. Was that before you were sentenced or after you were sentenced?

A. That is during, before and after the sentence. I was promptly dismissed, and virtually I was thrown out of prison, if you want to know about it.

Q. And the time before you were sentenced, was that spent in a mental hospital in Sweden?

A. No.

Q. Where was it spent?

A. It was spent, most of the time was spent in custody, and then, part of that time was spent out of what you call not a mental hospital, but where a person is under investigation to see what his mental condition is, very typical to solve your trials. Soviet trials are following the same procedure.

Q. In Sweden.

A. In this case, yes, they are, but {3248|3249} there are other cases. I have written about them.

Q. Is this a sample of your work?

A. This is not a sample. It is not a sample of our work, but it is distribut-

ed by us, yes.

Q. Well, who, "by us"? It is distributed by you, Mr. Felderer?

A. By us.

Q. Cartoon, "I was gassed 6 times! No! Ten times. No!" And the comment underneath, "... and there are 5,999,999 others like me in New York." Right?

A. Yes. I hope that's right.

MR. CHRISTIE: Is that an exhibit, or is my friend going to show it to the jury before it is an exhibit?

MR. GRIFFITHS: I ask that it be made an exhibit.

MR. CHRISTIE: Well, I suggest that the witness did not originate that, that it is similar to what he had known of, and I suggest unless it is attributed to the witness, it is a rather collateral issue. I recall other witnesses declining to testify about matters that might have embarrassed them, and I might point out the case of the Masons who declined to give evidence about oaths, and I suggest it is much the same.

THE COURT: I wonder, Madam Reporter, if you would mind reading back, starting from the words, "sample"

THE REPORTER: "Q. Is this a sample of your work? {3249|3250}"

A. This is not a sample. It is not a sample of our work, but it is distributed by us, yes.

Q. Well, who, 'by us'? It is distributed by you, Mr. Felderer?

A. By us."

THE COURT: Thank you. You can stop there.

MR. CHRISTIE: I have made my submission, Your Honour.

THE COURT: That will be the next exhibit.

THE REGISTRAR: Exhibit No. 42:

— EXHIBIT NO. 42: Clipping of cartoon.

Q. MR. GRIFFITHS: Did you produce this, Mr. Felderer?

A. I was accused of having produced this, and this is a case of where it is under appeal at the Court of Strassburg.

Q. Did you produce that?

A. So I will not make any comments about it.

Q. Did you distribute it?

A. I was accused of having done it, yeah.

Q. And you have been convicted of having done it?

A. I was convicted for having done it, yeah, under a show trial. {3250|3251}

Q. Under a show trial.

A. Yeah.

Q. I see. Before I show this to the jury —

A. Oh, wait. Where did you get this?

THE COURT: Mr. Felderer, in this jurisdiction, in this court, witnesses answer questions. Counsel ask them.

THE WITNESS: No, because I suddenly don't recognize it. It is what I was accused — I just said that I have been accused for this flyer here, but that is not the way it was the one I was accused under.

Q. MR. GRIFFITHS: Oh, good. Can you tell us if you distributed this one, then?

A. No.

Q. You never distributed that?

A. No. No.

Q. Is there an address on that?

A. That's right.

Q. Whose address is on there?

A. That is "Jewish Information". And then it's marked, "Across the Street". And then the address, and the phone number. And that's to our office.

Q. All right. Jewish Information, that is an office that you run; is that right?

A. Yes.

Q. And you deny that that came out of your office.

A. Yeah.

MR. CHRISTIE: I assume, from my {3251|3252} understanding of the law and the position of the obligations that those who put things to witnesses in cross-examination, that my friend would somehow undertake to prove what he has alleged, as he found out once before that he

is not supposed to allege things unless he is prepared to prove them in respect to criminal matters.

THE COURT: Thank you, Mr. Christie. Go ahead.

MR. CHRISTIE: I would like my friend's undertaking if he is going to put any more things of this kind to the witness that he is either going to prove it or not put it to the witness.

THE COURT: Your point has been made, Mr. Griffiths.

MR. CHRISTIE: My name is Christie, Your Honour, I'm sorry.

Q. MR. GRIFFITHS: Are you familiar with this?

A. I am familiar with the flyer. That is one of the fliers which we distribute, that's correct. Wait, let me just — well, I haven't read it in detail, but it probably is, I hope.

THE COURT: Take all the time you want.

Q. MR. GRIFFITHS: Make sure it's yours.

A. The flyer is ours, but the rest is not ours.

Q. All right. When you say "the rest", what are you referring to? {3252|3253}

A. Well, it has a piece of hair on top of the head, or some type of hair. And then it says, "Hair of a gassed victim", then there's a piece of material underneath. And then, what is attended to it, it seems to be some sort of a prophylactic, if my imagination is correct. And then it says a text below it here, "Pure Jewish fat".

Q. And are you denying that the hair and prophylactic was attached when you sent it out, from what I understand?

A. Yes. Correct.

MR. GRIFFITHS: Excuse me just a moment, sir.

Q. Can you identify that?

A. Well, it seems fairly similar to the previous one you gave me.

Q. And is that something that was sent out by you in the condition —

A. Not in a condition, but we published this flyer, yes. That's correct. We, like Voltaire, we believe that satire makes the point. It should be used.

Q. And what part of that do you deny was sent out by you, if any, of that pamphlet?

A. Well, the addition up there where it says, the person who mails this away, they should mail it with a hair because this hair is more authentic than the false hair which is displayed at the Auschwitz Museum and is being exhibited there as the hair from gas victims and this flyer simply says that today the entire world is a form of a gas chamber. So if you really want to prove {3253|3254} that we are being gassed to death, it is because of the environmental destruction that we have today. People are virtually dying because of all the poison that we get in the water and the air.

Q. Is that pamphlet written by you, Mr. Felderer?

A. This one here?

Q. Yes.

A. This was written by me. And of the hair attached, I just said that is not the part that we mailed out, but we know that people do mail it out, yes.

Q. People do mail it out.

A. Yeah. We hope so.

Q. I'm sorry, I am not sure I understand you. Probably people mail out your flyer with hair on it?

A. They mail it out — I have here, for instance, that they mail out our flyers with anything that strikes home a point. We don't mail any letter bombs which the Zionists do specialize in. So we think that if people want to mail it, it's a free country, you see, Sweden. We hope so, anyway. We try to make it that way.

Q. But do you send large numbers of your flyers to individual organizations for them to distribute further, or do you send them all that?

A. Our flyers are smuggled into the communist countries. Some are published there. And then — or printed there. And then, from there, often being distributed into Europe, or into other places of {3254|3255} communist countries.

Q. Could you read us that pamphlet?

A. This one here?

Q. Yes, please.

A. Yes. It says, "Please accept this hair of a gassed victim".

Q. Why would it say that if there was no hair on it?

A. Why would it say this?

Q. Yes.

A. Well, because sometimes the people don't mail, I suppose, any hair. I don't know. You have to ask those people who mail it.

Q. Are they supposed to put hair on it?

A. Yes. If they wish. There are other things that are mentioned in the back.

Q. Read it from the start, Mr. Felderer.

A. "Hair of a gassed victim. Next time you cut your hair do not discard it! No, mail it instead to Mr. Smolen ..."

Now, Mr. Smolen is the director of Auschwitz, I will just bring that in.

"... at the Auschwitz Museum or to any of the addresses found on the next page – to be exhibited in the display of hair of gassed victims. Your hair has a much better claim to be exhibited there than the phony samples of commercial wigs and hair hitherto exhibited. Also collect together the hair of all your friends, dogs, and other animals. Send it all in a {3255|3256} plastic bag to Mr. Smolen. He will remember you for it. It can be mailed as "Printed Matter" by placing the term "Sample" on the special delivery."

Typical Voltaire satire, I would say. And then it continues on. It says:

"To: Mr. K. Smolen and Staff, Auschwitz Museum, Oswiecim," – Auschwitz – "Poland." "Dear Mr. Smolen: In appreciation of your deep concern for gas victims, I am hereby forwarding my personal trophy for your permanent museum exhibits. I understand that you are intensely involved with the subject of gassing. Personally I feel rather miserable. Not even Zyklon B would cure me: This is much on account of the fact that I am getting gassed to death by a slow poison procedure. Our air is full of filth, poison, gasses, harmful chemicals and other disgusting elements. Matters are no better in your city. Your city is virtually saturated with deadly gasses emanating from your Monowitz chemical factory. In fact the place is not fit even for crows. I urge you to pay it a visit. Surely the Nazis never had a factory in such deplorable condition. But it is not necessary for you to go there as the factory's poison gasses reaches your very own office at Auschwitz which is situated close to the former Nazi brothel."

And I must say here that this is in fact Block 24.

Q. I am not asking you to say. Please read that.

A. Which the inmates used.

Q. Just read that, Mr. Felderer. {3256|3257}

A. "In case of urgency I suggest you to put on a gas mask immediately. You may collect one at the private Museum displays in Block 24. Please be sure that it has the special 'J' filter. The poison at Auschwitz is deadly. You need to take the upmost precautions. My package of hair to you is a very personal proof of the fact that I am being gassed to death. Should you doubt it, I beg your experts to analyze it. I am therefore donating this private gift to you with the hope of that countless of your Museum's avid onlookers may gaze at it in wonder and give a solemn prayer in memory of a victim doomed to extinction due to environmental poison gassing."

Q. All right. May I stop you there for a minute?

A. Well, may I continue?

Q. After I ask my question.

A. This is a very important part. We should not try to delete anything.

Q. Oh, we are not going to delete anything, I can assure you. This package of hair, I wonder if you'd say that if you didn't intend that hair be attached to it.

A. That is not what you said, my dear friend. You said whether I had mailed this. And obviously, if you read it, and I read it, very obviously we want people to mail things in.

Q. You want the hair attached to it.

A. Attached to it. They can perhaps put it in, in the envelope. I don't know. You have to ask. Each one uses his own imagination. I think we are people with imagination. {3257|3258}

Q. We certainly are.

A. Now, can I read on?

THE COURT: Yes. By all means.

A. "With much respect for your stupendous task and your deep concern for gassed victims, I hereby solemnly, and prayerfully, deliver my hair to your loving and tender care. May it inspire you and all your visitors to a multitude of silent moments and intense meditations."

And then it is signed, "A victim whose days are numbered". And then, at the bottom, it says —

Q. It is anonymous, is it?

A. You mean the signature?

Q. Yeah.

A. Yes. And then, below it says, "Always include this list when mailing your sample. Get our special bulletins by sending us US \$20. Also order more of this special flier."

Q. Also which, I'm sorry?

A. "Order more of this special flyer" Then it says, "For further details about the phony hair exhibited at Auschwitz and elsewhere, [sic] and for a general discussion, see: RH301..." some bulletins which we and others have published. And then it goes on and says, "About the fake soap purporting to be pure Jewish fat see ..." these documents.

Q. Why would you make reference in there about fake soap? Is there any other reference in there to fake soap?

A. Yes. It says on here, "Pure Jewish fat", it says here. And that comes from allega-{3258|3259}tions which were made by —

Q. What else does it say?

A. — by the Zionists that the Nazis had produced soap from corpses of human beings.

Q. What else does it say?

A. And Auschwitz Museum was one of the places where this was exhibited at the beginning, but is no longer today because they admit that it is a fake.

Q. It says, "Pure Jewish Fat Scent: Hungarian Jews Auschwitz gas chambers 1940"?

A. Well, whoever wrote that probably doesn't know that there were no — the buildings which allegedly somebody was gassed in them, 1940.

Q. So you say that wasn't written by you?

A. No. Whoever did that probably got wrong information from the exterminationists. From '42 and '43. Now, I read from the second page. This is, by the way, our most liked flyer, one of them:

"International Fraternity of Garbage Collectors For A Poison Free World". "The below given, highly acclaimed museums and addresses are in permanent need of documentary evidence and museum exhibits. They would highly appreciate if you could send them any documentary garbage that you may possess so that they can complete and extend their princely exhibits. May we suggest the following items to be considered to be sent to the distinguished gentlemen at your speediest convenience:

Pulled teeth (exhibited as authentic samples from gassed victims), dust, dust from vacuum cleaners, scrap paper, broken spectacles (exhibited as proof of gassed and clobbered victims), cut nails {3259|3260} (Nazi examples of pulling nails), used toothbrushes and toothpicks, dirty socks, cigarette butts, used chewing gum, used snuff (snuff cans are exhibited at Auschwitz), fish bones, meat bones, chicken bones and other bones, tin cans (exhibited as containing Zyklon B), old cloth (exhibited as being the cloths of former inmates), old shoes, soap rests (will be exhibited as 'Pure Jewish Fat'), dead lice (in memory of former friends or enemies — depending on which side you were on), potato, orange, and apple peelings (as evidence for starved victims), worn out bedpans (in memory of when Mr. Smolen used to chase around with them in the Hospital just by 'gas chamber' No. 3 at Birkenau), additional bedpans (in memory of when Dr. Szymanski used to administer his loving and tender care to the patients in the 'death camp'), bundles of swastikas (in appreciation .of the fact that Czech, Smolen Szymanski, Pilichewski, Filip Muller, S. Wiesenthal, J. Wiczerek, Kania and legions of others collaborated with the Nazis) — and countless of other precious items: You name them — They take them![""]

And then it says on the top here:

"Please send us all your junks. We need them for our authentic exhibits and documentation!" And then below it says, "The extermination outlets are in constant need of your precious gifts. Do not disappoint them. Send your garbage to them at once! They will thank you for it." That completes the top portion of this flyer. Now, the lower part says this:

"Dear Gentlemen And Distinguished Members Of The International Fraternity Of Garbage Collectors: My personal free gift to your museum and {3260|3261} documentary depot. As one of the millions of gassed victims on this earth due to environmental poisoning, I want to donate this sample to be displayed at your permanent exhibits. I also feel that they should fulfill your most stringent requirements as documentary evidence. In fact, I know of nothing as authentic as this amidst all your present exhibits and documents.

I understand that you are in the humanitarian work of collecting priceless memories of unfortunate and destitute victims. May this small token on my part spur you to renewed efforts in this honourable and timeless task. It is my sincere hope that I in the future will be able to make additional contributions by means of my authentic and priceless samples so that you can use them in your world acclaimed exhibits."

And then it's signed, "A Person Who Does Not Regret To Share His Troubles And Precious Possessions With Those In Need". And then you find various addresses below. One goes to Leon Poliakov of the Jewish Documentation Centre in France, Paris. Then one goes to the exterminationist outlet, Mr. Wiczorek, who works for an outfit in Poland with monuments, preserving monuments. I do not know whether he has preserved that or this. Then we have Czeslaw Pilichowski, who works for the Commission of investigating Nazi crimes, and he has a tremendous museum there, and I have been told he has taken great care of the various samples which has been mailed, and he specializes in making fantasy stories about the terribleness of certain things and how much Katyn was in the process of the Germans and not by the Soviets. And also he tells stories about how good {3261|3262} the communists are. In other words, it's a communist KGB outfit. Then we have Martin Broszat, Institute fuer Zeitgeschichte. He later admitted that there were no gassings in Dachau and other places inside German territory. Then we have our very dear friend, Gideon Hausner, who had a show trial against many people at Yad Vashem, and that's the place whom we communicated with.

THE COURT: Is this all part of the document?

MR. GRIFFITHS: Yes, it is, Your Honour.

Q. That's a list of people who you are suggesting samples be sent to, is that right?

A. These are some of the very important addresses, yes. And they do collect everything.

Q. Hausner is the prosecutor of Eichmann?

A. You don't let me read the rest.

Q. I'm sorry. I thought you were through. You read all you want. Read the whole thing.

A. Then we have Edward Dziadosz, who was the director of Maidanek Museum and still is. He took the job from a fellow called Grun (ph) [Gryn] who was unfortunately too much drunk. Then we have the famous Simon Wiesenthal who chases all over the world to convict according to his choosing. Then we have the Anne Frank Museum who has exhibits with respect to a girl who allegedly wrote a diary. I published a book about it.

Q. How much is it? {3262|3263}

A. Well, you can get it free.

Q. Don't count on it.

A. Then we have the specialist commission on the Holocaust who specialize in their own kind. Then we have a fellow here, a clown, hope you realize that. And I say, "I am an exterminationist specialist. Kindly send your documents to all of our addresses. You will be remembered for it."

Beautiful Voltair[e] satire, according to my own taste, you see. I hope you permit me having my own taste.

Q. Oh, certainly, Mr. Felderer. You can have your own taste. Why would you print that under the title, "Jewish Information"?

A. Well, I was evicted from a synagogue in Stockholm, accused for spreading false propaganda, and I felt that that was a very nasty thing, because I behaved decently. I have always been kind to people. I never was discourteous to anybody. I let everybody have their peace of mind, but I want to have the right of my peace of mind, and they were not – they didn't agree with it. So I was virtually kicked out. And then I decided, well, we have to help them. We have to help them understand this is not the right way to treat people, so we started with Jewish information and produced various pamphlets about the religious part. You have to remember I was a former Jehovah's Witness specializing in converting so-called Zionists to become Jehovah's Witnesses.

Q. Are Zionists and Jews the same thing? {3263|3264}

A. No. Here again it is a total confusion and semantics. Everybody is throwing words at each other.

Q. You seem to be equating the two.

A. No. There are Christian Zionists. Encyclopaedias have classification. You have communist Zionists who support the Zionist theory, and we believe the Zionists were wrong, so we published many booklets, translated many booklets and distributed them world-wide to show that they have stolen Palestine from the Palestinians. It is a stolen country.

Q. Well, you didn't print this under the heading, "Zionist Information". You printed it under the heading, "Jewish Information".

A. We had printed it under many headings. You probably don't know how variable we are. So we probably have Zionist inform[ati]on. As I was a former Jehovah's Witness, I also published material under "Jehovah's Witnesses Information". Very interesting articles. And about the Catholics. We also published articles in reference to the alleged bones and hair which they say belongs to saints. And then we ask Jehovah's Witnesses, used to mock our opponents and said, "Our hair is as authentic as that hair which you have." In other words, we are trying to be versatile. And Bible Researchers is another title we have.

Q. Do you versatily attack everyone?

A. Attack everybody?

Q. Yes.

A. Well, we are friends with everybody. {3264|3265}

THE COURT: I'm sorry, I missed that.

MR. GRIFFITHS: "We try to be friends with everybody."

THE WITNESS: We are friends with everybody. And that includes you, too.

Q. MR. GRIFFITHS: I have a photocopy. Can you tell me whether you identify that or not?

A. It is a very poor photocopy. I must say that you should try to get a better photocopier. It says, "Media Alert".

Q. Before you read it, can you identify that as something emanating from your office in Sweden?

A. This, what I can see from it now, this was one of the flyers which I was charged under, and I was charged of having written, but the case is now under appeal at the Court of Strassburg and it is one of the items I am not actually allowed to speak about.

THE COURT: We will allow you to speak about it here.

THE WITNESS: Oh, yes. Oh, well, it's very nice. So I am denying the fact that – and am still denying the fact of having produced it.

Q. You're under oath.

A. Yes.

Q. And you deny you produced that.

A. Yes.

Q. Or distributed it.

A. Yes. {3265|3266}

Q. You can tell us that you are not lying about that. Not that you are refusing to answer; you are denying that you produced it.

A. Well, I think I happen to know who wrote that, so that is why. But I am not saying the person's name.

Q. All right. And was that distributed by you?

A. This was distributed by, I suppose, by people who wanted to make a point.

Q. Were you one of those people, Mr. Felderer?

A. I am not one of those people, unfortunately for your sake.



Q. The address on this pamphlet, though, is the address on —

A. That is to say, when I was gazing on your papers there, I think you have the explanation for that right there.

Q. Well, perhaps you can give it to me.

A. Anybody we believe in a free speech. And we fight for everyone's right to say whatever they want. It is like Voltaire who said, "I may hate what you say, but I will fight to death to fight for your right to say what you want to say." We keep this premise and we, on the basis of European Human Rights, we think that is the most cherishable thing is the freedom of speech, the right for people to say and feel what they want, and accusations that can be met with counter statements.

Q. It's a moving speech, Mr. Felderer. {3266|3267} My question is whether that was from your office.

A. Well, I answered you.

MR. CHRISTIE: He answered about three times.

THE WITNESS: I answered you and you keep on repeat your question.

Q. MR. GRIFFITHS: What's your answer?

A. Well, I told you.

Q. What's the answer?

A. I told you again, no.

Q. Well, why does it have your address on it?

A. This is what I said, that everybody should use our address. Another very good reason, is —

Q. Everyone should use your address.

A. Now, wait. Don't interrupt me I when I speak. Another very important thing is this, that a lot of this material is published in communist countries. If they were to publish their address or their name, they get a conviction of twenty years' imprisonment, and[ ]perhaps even a death sentence. Do you understand that?

Q. Well, I'm listening. Go ahead.

A. So our suggestion has been that instead of these people being imprisoned or even lose their head or being thrown into mental institutions, which is a very common thing, Solzhenitsyn, Kataroo, we can list them all, they can use other addresses and other means so communication can be maintained, and in {3267|3268} this way we have a sort of a worldwide communication reaching from Africa, we have in Japan, the Orient, and our fliers are distributed — somebody might have a point I use, I have a point somebody else use, and so forth.

Q. All right. Did you publish a series of pamphlets entitled, "Children"?

A. We have also a very nice section of fliers which are predominantly goes to children, because we believe that it's very important to get children involved before they get too brainwashed by the Zionists, so we try to grab them before they get that much brainwashed, and so we publish fliers to children, yes. And we distribute it to children. And we found they like them. As a matter of fact, I can tell you that in Poland alone I have seen lines from here to the end of this building, all interested in these fliers, because we have and our friends have pasted them on the walls in Poland, and there was a great excitement and enjoyment over it and everybody was happy about it.

Q. Is this. one of the fliers you send to children under the heading —

A. This is one of them, yes. Well, no. Let me just look at it now. It appears. to be, yes.

MR. GRIFFITHS: May that be the next exhibit, please, Your Honour?

THE COURT: Mr. Christie?

MR. CHRISTIE: Well, he says it appears to be. I am satisfied.

THE COURT: Yes. That is the next {3268|3269} exhibit.

THE REGISTRAR: Exhibit 43.

— EXHIBIT NO. 43: Flyer "Children".

THE WITNESS: That's the flyer there which mentions that anybody can use our address, the first one which is in that bundle.

Q. MR. GRIFFITHS: Now, you mentioned before, Mr. Felderer — I showed you a flyer and you said, no, that wasn't part of your office so it wasn't right on the two sides — I am showing you now a photocopy of one side. Did that represent a photocopy of something that came out of your office?

A. A photocopy. You mean if this is photocopy, or if it represents a photocopy?

Q. Is it a photocopy of something coming out of your office?

A. It's neither.

Q. All right. Have you ever seen anything like that before?

A. This was one of the fliers which was produced at the show trial against me at the latest trial and produced in evidence against me and which I have appeal to the International Court, and which I have good reasons to believe I am going to be acquitted and win.

Q. All right. Is that distributed by you?

A. No.

Q. It's not distributed by you. {3269|3270}

A. No.

MR. CHRISTIE: How many times does he have to answer the same question?

MR. GRIFFITHS: I am asking him about the flyer.

MR. CHRISTIE: He said "No" once. My friend asks it again.

THE WITNESS: Well, I can say no forever.

MR. CHRISTIE: All right.

Q. MR. GRIFFITHS: Well, was it written by you?

A. No. I said that also. And as I said, this is not Swedish paper.

Q. I am not saying it is. I am saying it is a photocopy, Mr. Felderer.

Can you identify that flyer?

A. Yes. This seems to be one of our more popular fliers which people are frequently asking, and which I understand is repeatedly reproduced by others.

Q. All right. And was that written by you?

A. This one was written by me, yes.

Q. And distributed?

A. This one was distributed not by me, but by certain people who we give the material to, and it was distributed.

Q. That is also under the heading, "Jewish Information"?

A. Yes. This one is under the {3270|3271} heading "Jewish Information". It's a very interesting flyer. I recommend you to read it thoroughly.

Q. Oh, I have.

MR. GRIFFITHS: Next exhibit, please?

THE REGISTRAR: Exhibit 44.

— EXHIBIT NO. 44: Flyer, "Jewish Information".

MR. GRIFFITHS: This is entitled, "Jewish Information[ ]". There is a number on it, "Our reference RH360".

Q. Is Mr. Zundel on your mailing list?

A. No. In the sense of a permanent mailing list, we don't have it. We have a mailing list spontaneously we mail out material. I'm sure that many — well, if you want to know the facts, we give, mail out addresses. We have address lists which we publish, and people whom we believe should be happy in receiving this information which we feel is good news. We mail these address lists out to them, and then, often, this material is distributed. You see, much of this has to be done the underground way, as I said in communist countries they have all kinds of show trials reminiscent of a particular trial at this moment.

Q. I beg your pardon, sir?

A. Well, I said they have all kinds of show trials.

Q. You said reminiscent of a particular trial at this moment. What are you talking about?

A. I am talking about the fact that {3271|3272} everybody should have the right of freedom of speech, and they should not be put in front of a court of this nature.

Q. What particular trial are you talking about?

A. Well, my own trial, which is certainly a show trial.

MR. GRIFFITHS: Thank you. I have no further questions.

THE COURT: Mr. Christie.

MR. CHRISTIE: Yes. Thank you.

#### RE-EXAMINATION BY MR. CHRISTIE:

Q. You said you felt you were spreading good news. Why is that?

A. Well, as Jehovah's Witness, we were spreading good news. We refer to Matthew twenty-four fourteen and we say the good news of the



Kingdom will inhabit the nations and then the end will come. That is the text. And when I was to learn that six million people had not been gassed, I assumed out of my naivete that people should be very happy about knowing that this was not the case. And so we distributed this good news, and we hope that people will, accordingly, feel the same way. I would feel very happy if somebody had told me that my father was alive if I had thought he was dead. That's good news to me. {3272|3273}

Q. You mentioned Katyn and you said that some people had said that the Germans had done it. Where did you get that information from?

A. The present Polish government alleges that it is the Germans who did it, but the Poles themselves, as in everything else of the government, they believe the exact opposite. But it's alleged by the Polish Government that it was the Germans who committed the massacre at Katyn, and I tell you, that this is one of the reasons why I was imprisoned in Poland, because I had distributed a pamphlet which said that it was the Soviets who had massacred the Polish officers. And for this I was put into the dungeon and interrogated for two weeks.

Q. It was brought out by the Crown that you sought a debate with Dr. Hilberg. Why did you have a desire to debate with Dr. Hilberg?

A. Well, this so-called Holocaust expert, they never dare facing an opponent. They elaborate with their beautiful titles and try to impress people with their titles.

Now, Dr. Hilberg, I made a lot of investigations about him inside Poland. Now, why would a man, I wondered, who has written such a book, he must have really done a lot of research inside Poland. So that I ask the Auschwitz official, Mr. Smolen, to check whether Mr. Hilberg had ever been. And they done studies. After all, I have been tracking these places for days and weeks and I would say most —

MR. GRIFFITHS: Not that it matters, Your Honour, but it is going to be hearsay whatever his {3273|3274} answer will be.

THE COURT: Yes. He can give his answer.

Q. MR. CHRISTIE: So why did you want to debate with Mr. Hilberg?

A. Because I knew it was evident that the man was a hoax, and the only way to bring that out was a confrontation where the public themselves could decide, without any editing, but decide on a live debate whether Dr. Hilberg could substantiate his claims. And a man who has only been in this camp except one time, he is a fake. He is a hoax from the very beginning to end.

Q. My friend asked you about the theatre for the prisoners. And I think His Honour asked you whether it was for the prisoners. How do you know the prisoners had access to that theatre?

A. The theatre is mentioned in certain exterminationist books as being a theatre. It is also mentioned that they played such plays as Faust, the German play Faust. That's one way. Then the other way is to try to get into the building and see what one finds there. And that is a job in itself, but I was able to get inside the building and also speak to the caretaker of the building, who allowed me inside the building. And then I could, with my own eyes, see the instruments. There are instruments in there today. And the stage where the performers performed their plays, they sung songs and other things. And also the room where they had their costumes for this various place. The prisoners wore costumes in order to identify them-{3274|3275}selves with the different personalities in this place. And they had a special room for saving these costumes in this building. It's the second — perhaps it is the largest building, but I say it is more likely the second largest building in the camp after the kitchen. And of course, I was very much surprised why the two largest buildings should be the kitchen — after all, people were supposed to be exterminated — and the second largest building was the theatre. I mean, I got all screwed up in my head. I simply tried to figure out, I mean, how can this, you know — it was difficult. I just couldn't get hold of it, before I realized, eventually, that this probably is not true, the extermination theory.

Q. You were asked about your religious background, and in the course of it you mentioned that you had been evicted from the synagogue. Had you attempted to be accepted in the synagogue?

A. Yes. I made a special attempt to go there at the Yum Kippur. That's

the day when they give you allowance to tell any lie you want for a whole year ahead. And that's the prayer which is given inside at that day. And that allows you for one year's freedom of saying any lie you want. And I just always wanted to be assured that this [sic] lies were still being perpetrated in the synagogue, and they are still done. The Kolmedy (ph) prayer is still said although I realize some are against that it should it be said, but in most synagogues it is still said.

Q. And you were there?

A. Yes. I was present. {3275|3276}

MR. CHRISTIE: Thank you.

THE COURT: You can step down.

— The witness retires.

MR. CHRISTIE: In view of the fact that it is quarter to one, Your Honour ...

THE COURT: Yes. Two fifteen.

— The jury retires. 12:45 p.m.

THE COURT: Gentlemen, over the lunch hour I would just like to say before we break that I propose to make Exhibit "P", "Nazi Concentration Camps", the words to go with the movie, which is another exhibit, I propose to make it an exhibit. It was referred to by counsel for the accused to one of his witnesses.

In the event that there is going to be argument over that, I will hear it at two fifteen.

— Luncheon adjournment.

(VOLUME XV FOLLOWS) {3276|3277}

## VOLUME XV

— Upon resuming.

THE COURT: Mr. Christie.

MR. CHRISTIE: Yes. I would like to proceed to call my next witness.

THE COURT: Yes. Is there anything about that lettered exhibit that you wish to say?

MR. CHRISTIE: No, sir. As I said earlier, it may be that I might want to take issue with it as to its content at a later date, but I don't think that has anything to do with its admissibility.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Content, Your Honour.

THE COURT: The next exhibit, please.

— EXHIBIT NO. 45: Copy of various affidavits and narrative of "Nazi Concentration Camps" film.

— The jury enters. 2:25 p.m.

ERNEST NIELSEN, sworn

EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

{3277|3278}

Q. Are you Ernest Nielsen born on the 8th of August, 1918?

A. Yes, sir.

Q. And were you a pilot licensed by the General of the Luftwaffe on the 22nd of May, 1949?

A. That's correct.

Q. And is this you military pilot's licence issued on that occasion?

A. Yes, it is.

Q. And you've read the contents and it depicts your own particulars?

A. Yes, I did.

MR. CHRISTIE: Could that be an exhibit, Your Honour?

THE COURT: Have you seen it, Mr. Griffiths?

MR. GRIFFITHS: No, Your Honour.

Q. MR. CHRISTIE: Could you describe how it was that you came to be a prisoner of war?

A. I was a pilot in the German Air Force. I was assigned to an air and sea rescue unit which also served medical purposes. I started from Amsterdam to look for a downed description of a Heinkel [Heinkel] 111, four people. We were given a square. We took off from Amsterdam.

Q. What date?

A. The 1st of July, 1940.

Q. Yes.

A. We arrived early in the morning. We started to search. {3278|3279}

Q. What were you flying in?

A. It was a Heinkel 59.

Q. How was it decorated?

A. It was painted white. It showed Red Cross on the wings.

Q. Was it armed?

A. It was not armed, no. Of course not.

Q. Who was the pilot?

A. I was the pilot.

Q. What happened?

A. We were, shortly after the beginning of the search —

MR. GRIFFITHS: Excuse me, Mr. Nielsen. Your Honour, I don't know what it is that Mr. Nielsen is going to say, but I have some question as to the relevance of this, whatever it may be, to the pamphlet.

THE COURT: So far he is flying a Heinkel aircraft, and it's 1940 and he is looking for a downed Heinkel bomber, I think.

MR. GRIFFITHS: That is what I have, Your Honour.

THE COURT: A little premature, aren't you?

MR. GRIFFITHS: All right, sir.

Q. MR. CHRISTIE: So you were flying a Red Cross decorated aircraft.

A. We had started a search. We were flying at low altitude. There were three. All of a sudden, more or less, three fighters with British {3279|3280} markings were circling us, and they turned in to shoot. And of course, we being a very slow old plane, went down immediately. We were not out of control. I put the plane down — it was a float plane — on the sea, and the plane started to sink because as the book says, they shot twenty-five hundred rounds at us. We were picked up hours later by a British warship, the Black Swan, and we were landed in Middlesbrough.

Q. This incident was referred to in a book, I understand?

A. Yes. I took some information out of that book. That's right.

Q. And that book is called, "The Battle of Britain"; is that right?

A. Yes, sir.

Q. So you were taken prisoner after being shot down in an unmarked [marked] Red Cross aircraft?

A. Yes.

Q. You were a prisoner of war, then, after the War; is that right?

A. Until '47, yes.

Q. Were you ever forced to work after you were captured?

A. I was forced to work —

THE COURT: Just a moment.

MR. GRIFFITHS: Same objection.

THE COURT: Members of the jury, would you excuse us until I find out a few things here.

— The jury retires. 2:30 p.m. {3280|3281}

THE COURT: Go ahead. You were forced to work, yes.

THE WITNESS: Yes, I was forced to work after I returned to England in 1946.

THE COURT: You were forced to work after you returned to England in 1946, is that what you said?

Q. MR. CHRISTIE: Were you still a prisoner?

A. I was a prisoner of war. I was detained there. I worked on roads and rail. I worked in April and May on vegetable farms.

Q. You were not paid?

A. We were not paid for it, no.

THE COURT: Is this after the War?

THE WITNESS: After 1946, yes.

THE COURT: All right. Go ahead.

Q. MR. CHRISTIE: And how long did that last?

A. I was then assigned the job as a medical orderly in one of the camps, near Neaton, so I just had the job of taking sick reports, presenting them to the doctor, distributing —

Q. How long were you obliged to work without being paid?

A. From early '46, which would be March. Yes. We were transferred in

March to middle of summer, so this was, would be about four, five months.

Q. And were you ever transported as a prisoner in cattle cars? {3281|3282}

A. Yes, I was.

Q. Where and for how long?

A. On return to Germany, in Kugshaven [Cuxhaven] (phonetic) we were on board, we were put on cattle cars and on the trip to Munsenlager [Munsterlager] it is normally a three-hour trip, but it took us from early afternoon till midmorning the next day. This was in February '47.

Q. Were they heated cattle cars?

A. Oh, no. It was minus twenty-three centigrades outside.

Q. Minus twenty-three centigrades.

A. Yes. Which is ten or so Fahrenheit, minus.

Q. While you were a prisoner of war were people shot?

A. There was a break in Angler on the 19th of April, 1941. Angler is just north of Lake Superior, close to the CPR line.

THE COURT: What was the name of the place?

THE WITNESS: Angler. There was a break. Twenty-eight got out through a tunnel. Most of these were back the next morning. There was a snowstorm during the night and it was just necessary for the guards to follow the footsteps. Two of them were shot dead. There was one group of five, they had stayed together, and they were shot up. Two of them were dead.

THE COURT: Were you there? —

THE WITNESS: I was again medical orderly in the hospital and I was there when they were {3282|3283} brought in the next morning.

THE COURT: Mr. Christie, where is all this leading?

MR. CHRISTIE: It shows, first of all, the use of cattle cars for the transportation of people other than Jews. It shows the use of cattle cars for transportation by the Allies. It shows the conditions that were applied in terms of slave labour after the War to those who were previously prisoners of war. It puts in perspective all the evidence of the survivors. I intended to introduce other evidence to show the conditions of the railroad that would put an alternative explanation for some of the delays involved in transporting prisoners to various parts of Germany, especially towards the end of the War.

That's the relevance of the evidence. It shows that in this particular War there were no particular rules pertaining to good behaviour. The rules of War were frequently more in the breach than the observance — shooting down a marked Red Cross aircraft is contrary to the rules of war. It just puts in perspective the position of the survivors who have testified earlier.

THE COURT: Is there anything further?

MR. CHRISTIE: Well, that is all the evidence I am dealing with at the moment. Did you wish me to reveal everything I intend to lead from the witness and then Your Honour can tell me what I can lead?

THE COURT: Yes, please. {3283|3284}

MR. CHRISTIE: You wish me to tell you everything that I wish to lead from the witness?

THE COURT: Well, it is no secret. The jury isn't here. If you don't want to do that, you don't have to.

MR. CHRISTIE: Well, I also intend to lead evidence of his taking a Holocaust course at the University of Toronto in which the questions were raised as to the existence of a Hitler order, in 1979, and his efforts to find out if there was one, and the consequences of asking questions in that course as to the existence of and the production of a Hitler or Himmler or other order in support of the allegation that six million did die, and further remarks to the effect that it was well documented. When the question was asked by the witness in the course of the course, he was kicked out. And that, I will be trying to lead before the jury to demonstrate that what happens to people even in an academic sense when they wish to have evidence or documents to support the allegation in respect of the six million Jews being gassed. And that's the purpose of that evidence.

And then I intend also to lead evidence {3284|3285} that this witness did research that, he communicated with certain people in respect to

the Holocaust. He communicated with Albert Speer and he provided information to Ernst Zundel from these sources, that he consulted with Ernst Zundel how to solve his problem with respect to his course at the University of Toronto, where he had been employed for eighteen years at the University of Toronto. He took this course late in life. He provided information in the form of books and other material from Reitlinger and Hilberg to Ernst Zundel. And that I intended to lead from him.

THE COURT: Yes. All right. I've got the drift of it. Why do you say that a prisoner of war in World War II who witnessed only part of an escape from a prisoner of war camp in northern Ontario is permitted to give evidence about how the British had him work for three months from 1946 onwards, how is that possibly relevant to whether or not six million Jews were exterminated by the Nazis in World War II?

MR. CHRISTIE: One of the theories that the Crown has already begun to advance is that it's not a matter of gas chambers, but it's slave labour, the working conditions, working people to death. {3285|3286} The transportation of cattle cars, it has all been brought out for a purpose. I didn't object to it because I am sure the Crown has some reason for bringing it out. It is part of their argument.

My argument in response to that is that many people were transported by cattle cars, German people were transported by the German Government in cattle cars. This is not what this witness has to say. This witness is saying that they were transported by the Allies in cattle cars.

THE COURT: By the Allies.

MR. CHRISTIE: Yes. That is what this witness says.

THE COURT: Thank you. I may call on you. What do you have to say, Mr. Griffiths? I don't know that I need to hear you about the being shot down and things like that. What about the other subjects that Mr. Christie intends to lead with respect to the Holocaust?

MR. GRIFFITHS: Your Honour, concerning a course that Mr. Nielsen took in 1979, and I understand the outcome of his asking questions at that course – Your Honour, I am trying, we are trying, {3286|3287} all of us in the courtroom, one thing at a time. I don't know the circumstances behind Mr. Nielsen's classroom events, and even if Mr. Nielsen were to tell me his side of the story of those things, does that mean that I will have to call the professor and the other people [sic] to give the other side of the story and we are off onto a collateral issue?

Maybe I am just missing something, Your Honour. It wouldn't be the first time, but I don't see how evidence of what happened to Mr. Nielsen in a course has anything to do with the truth or falsehood of the two exhibits before the court, and whether or not Mr. Zundel published those exhibits, or whether or not those exhibits would cause mischief, which are the issues before the court on the charges.

I don't see how that is in any way relevant to any of those issues, even peripherally. If Mr. Nielsen provided some information to Mr. Zundel of a research nature which Mr. Zundel used in forming his belief, then that type of evidence we discussed before and is admissible is going to be a basis for Mr. Zundel's belief, but the other matters, Your Honour, don't see any ground for it in that they are irrelevant. {3287|3288}

### RULING

THE COURT: Mr. Christie, I think what I am going to do in this situation is this.

The ruling insofar as his evidence is concerned about being shot down and then, after the War was completed, riding in a cattle car from one place to another, and working without pay for two or three months, is now ruled by me to be totally irrelevant to the issues this jury must try. With respect to the balance, including his version of the break-out where the people were shot undoubtedly they probably would be shot if they were trying to break out as prisoners of war; everybody knows that – that is not the issue this jury is trying.

Insofar as the Holocaust is concerned, I think what I want you to do, if you will, is to lead this witness through it and let me carefully see what he has to say. Then I will make my ruling on that.

There are one or two elements that I have heard already that are relevant, and may go to the jury. There may be others. I would not want to

miss those.

———{3288|3289}

MR. CHRISTIE: By the Holocaust matter I suppose you mean the Holocaust course?

THE COURT: The course he took in 1979.

MR. CHRISTIE: Can I lead the witness?

THE COURT: Certainly.

Q. MR. CHRISTIE: Mr. Nielsen, I understand – you were an employee at the University of Toronto for many years?

A. On the staff of the University of Toronto.

Q. What did you do?

A. I was in the department of chemistry in the electronic shop. So maintenance, building, designing of laser systems and so on.

Q. And you took a course at the University of Toronto in the Holocaust?

A. There is provision for the staff to enroll in the course with the permission of the supervisor.

Q. So you got permission and enrolled?

A. Yes.

Q. And in the course of this class you {3289|3290} asked a question to someone, is that right?

A. A statement was made by the lecturer. Do you want to know what happened?

Q. Yes. In view of the fact the jury is absent, you can tell us.

A. There was a main lecture attended by a hundred students, so the professor has to go through the course without any questions, but during the tutorial which takes place at some later time, with a small group, questions should be asked. So I asked them during the tutorial, Professor Kohnberg (phonetic) [Kornberg] about the statement he made after saying several times that everything is well documented. And he said this. In 1942 the order for the extermination of all Jews came, in 1942. This was a statement. During the tutorial I asked Professor Kohnberg, "Do you have a source for this? Are there documents?" And he looked at me. So I asked him, "Did the order come from Hitler, from Eichmann, [Eichmann] from Goering, from Himmler? Who was it?" There was another exchange of question and answer there. And then he said, "If you do not accept the premise of this course that six million Jews were murdered by the Germans, I don't want you on this course." So I was out of the course.

Q. And did you consult with Ernst Zundel about that problem?

A. Not at this time, no.

Q. Later?

A. I became aware of it later. At first I wrote a report to the President of the University {3290|3291} and he just – with the full description of the proceedings.

Q. That was a letter of November 9th, '79, is that right?

A. Yes. He just acknowledged my letter and did not indicate that he was going to take any steps, investigation or what. So I asked him again, "Will you please advise me whether you are going to take any steps?" And he then delegated the vice-president to investigate. And he then gave it to the Dean of Science. He then investigated for three months and the finding was, since I was auditing the course, Professor Kohnberg was well authorized or entitled to expel me. I pointed out, in between, that my request was to have my question answered, and I was told, even when only auditing the course, that I could take part in the conversation and ask questions.

So my question whether he had a source for a statement, that a certain order came from 1942, was never answered. I know now that there wasn't such an order.

Q. Did you attempt to take this course again?

A. The next year I enrolled, and this time, since I had my papers there, I was properly registered instead of just auditing. Something similar happened there. The lecturer was Professor Mar[r]us. I had the feeling now that he provoked an argument. I was quite determined to go through the course, go along and see what the description is of the actually exter- {3291|3292}mination in Germany. So before he came to the extermination phase, there was an argument and I was expelled

again.

Q. Did you go to see Ernst Zundel about this?

A. At that time I informed him about it.

Q. How did you know about him?

A. I knew about him for probably a couple of years before that. He was in the news at the time.

Q. And he was in the news for what reason?

A. I guess it was because of distributing pamphlets. I had been active before that. I talked to Albert Speer in 1979 in Heidelberg, Germany, so I am not sure now what the occasion was that I got in touch with Ernst Zundel.

Q. And did he try to help you to solve this problem?

A. Yes, he did. He offered help, and we talked – that is Zundel, another gentleman and I saw Professor Spelt. (phonetic)

Q. Did he go to see the Dean with you?

A. No. We never talked to the Dean.

Q. He went to see a professor with you, is that right?

A. I think he was – maybe he was officially in charge of this. Maybe it was his job to handle this situation. {3292|3293}

Q. Who?

A. Professor Spelt.

Q. No. I asked about Ernst Zundel. What did he do?

A. Well, he was spokesman in a way for my case. I am not a speaker. I am not good at presenting a case. So maybe I ask for his help.

THE COURT: With whom, sir?

THE WITNESS: With professor Spelt at the University of Toronto in the Department of Arts and Science, U of T.

Q. MR. CHRISTIE: So Ernst Zundel acted as your spokesman in that matter.

A. Yes.

MR. CHRISTIE: Thank you very much, sir.

THE COURT: Isn't there something about this witness having supplied your client with information?

MR. CHRISTIE: Oh, yes. That did come out.

Q. You provided information to Mr. Zundel about Speer and Letenzer? (phonetic) [Latenser]

A. Yes, I did.

Q. Letters from Speer?

A. I may have shown them to him, yes. I still have them in my possession. They are not here now.

Q. Who is Letenzer?

A. Letenzer was a defence attorney {3293|3294} during the Auschwitz Trial, 1964, '65, in Frankfurt, Germany.

Q. You communicated with him for the purpose of the inquiry?

A. No, I did not.

Q. Where did you get information about Letenzer?

A. I bought his book.

Q. And you gave that to. Mr. Zundel?

A. Yes, I did.

Q. And in respect to books by Reitlinger and Hilberg, did you provide these to Mr. Zundel?

A. I think I gave him the Hilberg book. The Reitlinger book I don't have. I didn't get. It's out of print.

MR. CHRISTIE Those are my questions. Thank you.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour.

CROSS-EXAMINATION BY MR. GRIFFITHS: (Voir Dire)

Q. You provided Mr. Zundel with letters from – I'm sorry, with Letenzer's book?

A. Hilberg's book.

Q. Hilberg's book. What did you give him that had anything to do with Letenzer? Did you give him anything?

A. No. Well, I have the book at {3294|3295} home, and I think Mr. Zundel has his own book there.

Q. All right. And you said you gave him something that had to do with

Speer?

A. I informed him about my exchange of letters, and I also visited Speer before his death in Heidelberg, Germany, and he is informed about that.

Q. Okay. What was your argument with Professor Mar[r]jus?

A. I can only recall what led to him saying that he didn't want me on the course. Again, it was the tutorial. The whole Holocaust course is a course on the history of Jewish people, so it starts twenty-five hundred years ago, and it's interesting. I have a lot of notes on it. I learned a lot. When it came down to the War, the Second World War, during the tutorial his question was, "Why would Hitler declare War on the United States?" And he solicited answers and there was no answer. I said then, "Well, I could imagine two reasons, one of them being that he could then sink American shipping without warning, otherwise it would be neutral shipping and rules would have to be observed. And the other reason was that maybe he felt like declaring War on the States, which is a very weak argument. I don't know.["]

Q. And as a result of that Professor Mar[r]jus said, "Maybe you would be interested in another course"?

A. Well, this is now four years ago, and there was an exchange of question and answers there. And it was between him and me, and looking back, to me {3295|3296} it looked very much like he wanted me out. He wanted to provoke me into an argument until he finally said, "Mr. Nielsen, this is your undoing. I don't want you in this course."

Q. I see.

A. So I had the definite impression that anybody who is critical of the whole thing – by that time I was critical. I started going to the courses to find out what is the evidence for the deliberate murder of six million Jewish men, women and children. By that time I had been, become aware that documentation and so forth had been lacking there. I had been looking for documentation of the origin of the six million figure. I couldn't find it. So by that time I was critical.

Q. The argument between you and Professor Mar[r]jus was about the United States declaring War – I'm sorry, Germany declaring War on the United States.

A. Yes.

Q. And the correspondence with Albert Speer, what was that about?

A. He had only about twenty minutes or half an hour, and the crucial question that I remember was this, if I may fill you in. Maybe you know.

Q. Please, sir.

A. He was charged in Nuremberg with using slave labour. He pleaded guilty. He was sentenced to twenty years. He served these twenty years. He was about at about sixty-five. I read his book. I found out his address. I wrote to him. He {3296|3297} said if I could come to Germany, to give him a phone call and look him up. So this happened in '79. My question then was, were there gas chambers in Auschwitz, a very direct question. And his answer was in these words, "I did not know about them until Nuremberg."

Q. Okay. Same thing he says in his book.

A. Well, he repeated the same thing and said it on television also.

Q. Many times.

A. I think he spoke the truth.

Q. Is there anything else for Mr. Speer, correspondence with him?

A. No.

MR. GRIFFITHS: Thank you.

MR. CHRISTIE: I have a couple of other points I have been advised of that I should cover.

FURTHER EXAMINATION-IN-CHIEF BY MR. CHRISTIE: (Voir Dire)

Q. Did you provide Gitta Sereny's article about the Holocaust and revisionism to Mr. Zundel?

A. There was an article in ["The Statesman"] and about the Holocaust. If this is the article, then I showed it to him.

Q. Did you pre-read all kinds of books and information and make them in precis form available to Mr. Zundel? {3297|3298}

A. I have shared the books that I found were of interest, of help, or help to him, I have shared them with him. I have sometimes given them to

him, yes.

Q. And is it the case that your own in-laws and relatives were Jewish and you had personal experience of their return after the War?

A. My wife has a Jewish grandfather. My wife was born in Hamburg, Germany, and my father has lived there all his life. He was a taylor. [sic] He was seventy years old during the War, just about, and he was asked – in '73 to report. He was taken to Theresienstadt and he returned after the War. So my wife is a quarter Jewish and my children are, well, I am not Jewish myself, but my wife has a Jewish grandfather and I have a Jewish son-in-law. I have two daughters, and at least one of them is a full Jew.

MR. CHRISTIE: Thank you.

THE COURT: Any cross-examination arising out of that?

MR. GRIFFITHS: No, sir.

THE COURT: Thank you. Yes, Mr. Christie.

MR. CHRISTIE: I don't think I have any more submissions, Your Honour.

THE COURT: All right. Any more from Crown?

MR. GRIFFITHS: Well, Your Honour, I'd suggest that the information regarding the courses, again, is irrelevant. The communication with Albert {3298|3299} Speer would be hearsay. I'd suggest that the only evidence that Mr. Nielsen could give relevant to this trial is that he discussed these matters with Mr. Zundel, shared books and articles with him, and that his wife's grandfather survived the War.

#### RULING

THE COURT: The jury still being absent at my request, I have heard from Mr. Ernest Nielsen about his participation with the accused and others in certain matters which the defence submits are relevant to the issues this jury must try.

I have already ruled that Mr. Nielsen's experience as a Nazi Luftwaffe pilot in World War II and his story about his aircraft with Red Cross on it being downed and his experiences concerning his being in a prison camp in northern Ontario, Canada where after a break-out certain prisoners may have been shot is irrelevant to the issues this jury must try.

I have already ruled that his recounting of how he was transported in 1946 from one place to {3299|3300} another, I gather on a single occasion, in what he refers to as a cattle car after having worked for the Allies without pay for a few months is also irrelevant to the issues this jury must try.

I specifically asked to hear further evidence that is proposed to be asked of this witness in the presence of the jury so that I could hear it in some particular clarity, and to rule upon it at the end of the cross-examination.

The witness, in essence, has stated to counsel that in 1979, after a time in the Department of Chemistry at the University of Toronto, he took a course on the Holocaust. He has sworn that that course is one which includes a history of Jewish people going back over many centuries.

He recounted how, when he took a tutorial lecture, after the main lecture to all of those in the course Mr. Nielsen took the tutorials. In the tutorial, the subject of the Jewish people as it pertained to World War II came up. He found himself in an intellectual exchange of opinion with one Dr. Kohnberg, the tutorial leader.

From what I gather from Mr. Nielsen, {3300|3301} he was making inquiries as to whether six million Jews were deliberately killed by the Germans in the Second World War, and whether or not a specific order emanated from the Nazi hierarchy, including either Hitler or Himmler, or somebody else at that level of command, to exterminate Jews. That is what the witness said at the beginning of his evidence.

He then swore he was asked to leave the course. I gather he had not really enrolled in the course that year; he was merely, as he said, auditing the course. He reported that his expulsion from the course by the professor, according to Mr. Nielsen, was because the professor said that if Mr. Nielsen did not accept the premise of the death of the six million Jews, he was not wanted in the course.

When Mr. Nielsen then joined the course again, he fared no better. The second time around, the subject matter, one of the main issues, was why Nazi Germany declared War on the United States of America. That was the subject that was discussed. More argument concerning World War II with the professor occurred.

Mr. Nielsen became somewhat vague when he was asked, in cross-examination, for the {3301|3302} precise details of the exchange that occurred between him and the professor on either occasion. He did say that the argument between himself and the professor was on the subject of Hitler declaring War on the United States. My own recollection of the event was the other way around, but that is only my recollection.

It is proposed by defence counsel that Mr. Nielsen be asked these questions. It is proposed that he also be asked about his conversation with one Albert Speer who was tried as a Nazi war criminal, convicted and sentenced to twenty years.

The evidence that this witness, through counsel, proposes to give to the jury is that Mr. Nielsen, apparently, saw Albert Speer before Speer's death in Germany. The witness put a direct question to Mr. Speer about whether or not gas chambers existed at Auschwitz. Speer is said to have replied that he did not know anything about the gas chambers until Nuremberg.

Further, there is evidence that after his difficulties with the University of Toronto in the Holocaust course, Mr. Nielsen got in touch with the accused and asked that Mr. Zundel be his spokesman {3302|3303} in a series of complaints at hearings to be heard in an *intra mura* [muros] basis at the University of Toronto.

The witness testified that the accused did accompany Mr. Nielsen to see a professor. Further, this witness has testified that he did not give a document on revisionism to the accused, but he showed Mr. Zundel that document. I believe he supplied the accused with Dr. Hilberg's book.

It seems to me that any conversation this witness had with Albert Speer in Germany is total hearsay and will not be admitted. For that reason [sic] it also is not particularly relevant as to Speer's knowledge regarding the existence or non-existence of gas chambers. It is not relevant to the issue the jury must try.

The witness may, if he is asked, state that he supplied Dr. Hilberg's book to Mr. Zundel. The difficulties and troubles this accused had with the Holocaust course in 1979 and the questions he put to various professors are irrelevant to the issues this jury must try. They will not be allowed into evidence.

—— {3303|3304}

THE COURT: Do you want to ask him, Mr. Christie, whether or not he supplied Dr. Hilberg's book to Mr. Zundel? If so, you may do so, otherwise, none of what I heard is relevant at all and it will not be asked.

MR. CHRISTIE: Thank you, sir.

THE COURT: Bring back the jury, please.

— The jury enters. 3:10 p.m.

MR. CHRISTIE: I have no further questions of the witness.

THE COURT: Cross-examination?

MR. GRIFFITHS: No questions, Your Honour.

THE COURT: Thank you, sir. You can step down.

Do you need time, Mr. Christie?

MR. CHRISTIE: Yes, Your Honour. I will try one other witness. This is a witness who has acted as translator, Your Honour, so —

THE COURT: This is the witness ...

MR. CHRISTIE: Who acted as translator.

THE COURT: Yes. For Mr. Christopherson. You are calling him as a witness. Yes.

—— {3304|3305}

**HANS VON DER HEIDE, sworn.**

EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. Mr. Von der Heide, did you have occasion to be transported on German railroad facilities during the latter months of the Second World War?

A. That is correct. I was in an anti-aircraft battalion [sic] in France and we were moved from northern France into the Ukraine, and that took us about two weeks. We were moved in goat trains or cattle trucks.

Q. And what were the conditions you experienced along the German railroads at that time?

A. As far as crossing through Germany, it was all right, but as soon as we entered the territory of Poland, it became very difficult, and in front of the engine we had to push about four railroad cars loaded with some heavy material, with gravel or material of that nature. And that was a protection for the train, for the engine, because the partisans would blow up the lines; in order to protect the engine, mainly.

Q. Did it normally take you two weeks to travel that distance prior to that time?

A. No, I don't think so. It was on account of these terrible conditions in Poland that the trains had to be shunted from one place to another. So we couldn't go through this one.

THE COURT: Do we have a year for this? {3305|3306}

Q. MR. CHRISTIE: Yes, could you tell us when this was?

A. This was in 1943, in the summer of 1943.

Q. And did conditions in Germany improve after that time as far as the railroads are concerned?

A. I can't say much about that, because I didn't return home except for a very short leave, until I was taken prisoner of War, which was at the end of 1944.

MR. CHRISTIE: Thank you. Those are my questions.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour.

CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Mr. von der Heide, how many men would be in one of these cattle cars?

A. I couldn't remember the exact number, but I will say about thirty of us.

Q. I see. How many died during this trip?

A. Nobody.

MR. GRIFFITHS: Thank you. No further questions.

——— {3306|3307}

THE COURT: Did you take your guns with you?

THE WITNESS: Oh, sure. It was a military transport.

RE-EXAMINATION BY MR. CHRISTIE:

Q. Excuse me, were you transported in cattle cars where your men did die?

A. That was later on in, when I was in American captivity.

Q. Well, tell us about that when you were transported in cattle cars and men did die.

A. It was a long journey. Actually, not so long in distance but in time. From Versailles, near Paris, to Cherbourg, which is normally would be a trip of about [sic] a couple of hours, and it took us four days to get there.

Q. Did you have anything to eat at that time?

A. No. Not during the time on the road. Before the train took off in Versailles, the Americans threw out some of the what I call tea rations and can rations. They just threw them in the air for somebody to pick up, and because the road, the trip wasn't expected to last that long, we were – in other words we were fed when the train departed and not during the trip to Sherbourne, at all.

Q. Were there many men died on that {3307|3308} trip?

A. I don't know how many people died, but in the truck I was in, two of my comrades were dead before we could get out.

Q. Were you locked in the car?

A. We were completely locked up. We couldn't get out at all.

Q. Did you have water in the car?

A. We have water in jerry cans.

MR. CHRISTIE: Thank you.

THE COURT: A jerry can is about two and a half gallons that high with a handle on it. Isn't that about right?

THE WITNESS: Yeah. It would be a little, I think, if I remember correct-

ly, about ten litres, something like that.

THE COURT: Any questions, gentlemen?

MR. CHRISTIE: No, sir.

THE COURT: Thank you.

— The witness retires.

THE COURT: Members of the jury, I think your coffee would be here about now.

— The jury retires. 3:15 p.m.

MR. CHRISTIE: I wonder if I can speak to you in the absence of the jury?

THE COURT: Certainly. Yes, Mr. Christie. {3308|3309}

MR. CHRISTIE: Your Honour, I have a witness coming from out of the country and there has been a little bit of hold-ups in the flights. I don't know if he has arrived yet, but —

THE COURT: Why don't we all have a coffee? When I come back you can tell me more. If you are in difficulty there is no problem. Common sense dictates we will adjourn until the morning.

MR. CHRISTIE: Thank you, sir..

— Short adjournment.

———  
— Upon resuming.

THE COURT: Any luck, Mr. Christie?

MR. CHRISTIE: No, sir. The plane apparently doesn't arrive till four fifteen. I don't think that he will be here before five.

THE COURT: I don't know that I would want to count on that neither.

Nine thirty tomorrow morning.

— Whereupon the hearing is adjourned to February 13, 1985.

——— {3309|3310}

## FEBRUARY 13, 1985

— Upon the hearing resuming.

THE COURT: Is there anything before we start, gentlemen?

MR. CHRISTIE: I thought I should advise Your Honour that the witness I have anticipated being able to produce from the United States arrived at seven o'clock this morning when he was expected to arrive yesterday afternoon. The flights were held up overnight and the conditions were somewhat disadvantaged by the time he had spent away, thirty hours. So I have four witnesses this morning, rather short ones. I don't expect they will be long, and I advised that witness to get some rest before this afternoon, and then I would be able to produce him.

So those are the circumstances of my position this morning, Your Honour. I advised my friend of that.

THE COURT: Bring in the jury, please.

———  
— The jury enters. 9:50 a.m.

MR. CHRISTIE: Your Honour, I'd like {3310|3311} to begin by calling Hans Schroeder, please.

## HANS SCHROEDER, sworn

### EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. Mr. Schroeder, how old are you, sir?

A. I am fifty-three years old now.

Q. And you are married and have children?

A. I am married. I am married to my second wife now. I had three children with my first wife. It's my second wife had three children before I married her.

Q. You are of German descent, sir; is that right?

A. I am of German descent.

Q. And have you known the accused, Ernst Zundel, and if so, for how long?

A. I have known Ernst Zundel since 1974.

Q. And how often do you see him?

A. I would say over the ten years that I know Mr. Zundel, fifteen to twenty times a year.

Q. And are you aware of his reputation in the community that you are familiar with?

A. Yes. I know Mr. Zundel to be law abiding, hard-working member of

the community, very diligent in his research, kind and helpful to those that come and ask for help from him. {3311|3312}

Q. Do you have any knowledge of his reputation for honesty in the community?

A. Yes. I would say that he is a very honest man, but nobody can accuse him of any wrongdoings.

Q. What about his reputation for sincerity?

A. He is very sincere. Everything he writes is based on thorough research.

Q. Have you seen his library?

A. Yes. I've been in his house quite a number of times. I have been in his library. I have occasionally borrowed some of his books to read myself.

Q. How would you describe his library, sir?

A. Very thorough on the subject of political historical happenings over the last fifty years, if not longer.

Q. Could you describe what kind of books there are there in terms of any historical issues for example in relation to the Holocaust?

A. Yes. There is the full set of the Nuremberg war crimes reports, reports from the Swiss Red Cross, from writers from any part of the world that have written about the Holocaust and about the part of history in question here.

Q. Mm-hmmm. Could you tell me if he has ever helped you in respect to your children in regard to the Holocaust?

A. We had over the years and with {3312|3313} children, we had periodic problems that they were looked upon as Nazi. We had for one instance where neighbours called, "Go home you little Hitlers." We moved to a rural community about two years ago, and within the first two days one of the local children told my boy, "I'm sorry, I can't play with you because you're German."

Q. And how has Mr. Zundel helped you in respect to those types of problems?

A. Not so much personally, but by letters to the members of Parliament, to the newspapers, radio stations, TV stations. He was trying to change the thinking of the public towards the discontinuation of, in my opinion, discontinuing anti-German hate propaganda that goes on today.

Q. Are you a Nazi?

A. No. I am a German.

Q. Have your children ever displayed in your presence any symptoms of Nazism, if they can be described as that? For example, outward appearances that would lead people to accuse them of being Nazi?

A. I don't know what special appearances there are. What is a Nazi, in that sense?

Q. Have they done anything in your presence to associate you or them with any kind of Nazism at all?

A. No.

Q. Has this type of attack upon your children hurt them in any way?

A. It would be somewhat of a feeling that you get through experience when teachers give your {3313|3314} children secondhand treatment, but you cannot prove it to the school or to anybody else. For example, one example, one of my children, when he was in grade five, the teacher told us that he was beyond grade six in his reading capability. When he went to grade six, which was the middle school, the reading teacher told us, "He is so poor in reading I have to put him into the lower category." We couldn't believe it, but we couldn't argue against the teacher. But the book that this lower category had to read and study was about the German troops in Holland during the War which, in my opinion, and my wife's opinion —

THE COURT: Just a moment.

MR. CHRISTIE: All right. No further questions. Thank you.

#### CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. I have one or two questions, Mr. Schroeder.

A. Right.

Q. Mr. Schroeder, do you know what the largest community, ethnic

community is in Toronto?

A. The largest ethnic community in Toronto, I would say, is British descent.

Q. You are probably right. Do you know what the second largest is?

A. Most likely German descent.

Q. And is it Mr. Zundel's reputation {3314|3315} in the German community that you are aware of, or in the community at large? Or is it your circle of acquaintances?

A. Basically my circle of acquaintances. I do not associate with too many people. I am a bit of a loner, living in the country.

Q. And you said you were German. Would you agree with me that you are Canadian?

A. I took Canadian citizenship about 1959, yes.

Q. Then you certainly are a Canadian. Is one of the things that Mr. Zundel has researched, to your knowledge, flying saucers?

A. He has written a book about flying saucers. I have seen letters from a scientist from Munich that stated that he had worked on the project. I have read a letter from a nurse from England who nursed one former German soldier who claims that he was on a flying saucer. I am not a mechanical engineer, but I am an engineer in the engineering profession, and I see it quite feasible that a machine like that could be built or could have been built.

MR. GRIFFITHS: Thank you. I have no further questions.

THE COURT: Mr. Christie?

MR. CHRISTIE: I have no re-examination.

THE COURT: Thank you, sir.

— The witness retires.

—— {3315|3316}

#### TIUDAL RUDOLF [TIUDAR RUDOLPH], sworn

#### EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. Mr. Rudolf [sic], do you have firsthand knowledge of the Red Cross visiting the camp of Auschwitz-Birkenau in 1941?

A. I have.

Q. What was your position at that time?

A. I was a general interpreter with the section 3. It means anti-espionage, attached to the German Intelligence Service known as Security Service in Krakow. And my chief was a Major Liska.

Q. Did he conduct a tour of the camps together with representatives of the Red Cross from Geneva in 1941?

A. Yes.

Q. How did you come to be involved in that, sir?

A. It was my task at that time to be interpreter and to keep in the office of Major Liska, and so I had to file all correspondence, all orders and all statements. I remember that in autumn '41 it might be October or November, we had the first snow. An order came in a form of a letter signed by Frank, the General Governor of the Polish General-Gouvernement, saying, announcing the visit of the International Red Cross from Switzerland. They had made an application announcing that they will visit all concentration camps in the Central Gouvernement [sic]. And my chief, a Major Liska, {3316|3317} was the man assigned to guide this Swiss delegates around the concentration camps. It was autumn '41.

Q. And how long was that trip, sir, in which those concentration camps were visited by the Red Cross from Geneva?

A. My chief said it will last approximately a fortnight. And if he went off, he said, he will be back in approximately fourteen days.

Q. Did he come back in fourteen days?

A. He did.

Q. Did you prepare the reports for his signature at that time to the authorities in the Security Department?

A. Pardon?

Q. Did you prepare the reports at his request of those visits?

A. I did.

Q. And did you read them?

A. I did.

Q. Did they indicate those visits had occurred?

A. Pardon?

Q. Did they indicate those visits had occurred?

A. Yes.

Q. How long was that report?

A. Well, three or four pages.

Q. And to whom was it directed?

A. It was a report of a Major Liska to a General Frank himself.

Q. How many languages do you speak, {3317|3318} sir?

A. Pardon?

Q. How many languages do you speak?

A. Polish, German. I am German. French and English.

Q. In your capacity as office manager in the Security Police office in Krakow, did you prepare the minutes of meetings and that sort of thing?

A. No. This was not my task. It was a task of the secretary, Major Liska – we had three offices. One beneath the other. Mine was one of these three offices. I had only the task to keep the dossiers up to date, to analyze all statements made by those suspicious men, and to keep the files in order.

THE COURT: And to analyze suspicious statements of who?

THE WITNESS: Of those suspicious elements caught in the black market, for instance.

THE COURT: Yes, I see.

Q. MR. CHRISTIE: Was the Red Cross regarded at that time as a security concern?

MR. GRIFFITHS: Excuse me, Your Honour.

THE WITNESS: Yes.

MR. GRIFFITHS: I would ask Mr. Christie not to lead the witness any more.

MR. CHRISTIE: All right. Thank you.

Q. Why was the office – it is called the "SD"; is that correct?

A. That's correct. The security {3318|3319} service.

Q. Why is the office of the security service concerned with the Red Cross?

A. I don't know why, but it was his duty, because he, as an anti-espionage officer, it was his duty to look after all things which may be connected with espionage, and he was a very able man of an outstanding figure of knowledge. And therefore, I think he was a man endowed to conduct, to prepare all the routes for the Swiss delegates.

Q. Can you recall if there was any information from that report as to the contents of the inquiry in those camps?

A. I remember that Auschwitz was mentioned. Birkenau, Monowitz, and a couple of more, but I don't remember the names. And in the report made by Major Liska, he said that, according to the Geneva Convention of 1929, the Swiss delegates were entitled to control them, the postal system applied by the Germans who was in the camps, especially whether or not the parcels which came from Switzerland had been orderly delivered to the detainees. And they had the right to ask anybody in the camp, freely, according to their wishes. And number three they have been entitled to visit the camps to go around everywhere unhampered.

Q. You were, I believe, also the secretary to another person in the Third Reich of some significance; is that right, sir?

A. That's correct.

Q. Who is that?

A. It was General Liska. {3319|3320}

Q. And in your capacity on those occasions did you ever hear of any indication of any extermination programme?

A. I never heard.

Q. And in your experience later in life have you come to know Ernst Zundel?

A. I first got notice of this man in 1969, when I was first in Canada. I met him in the German Club. I found him a very amazing man.

Q. Why?

A. Because according to what I heard from him in the discussion with him, I got first that he was an excellent artist painter, anything I love, and then I got hold of him as the best German I ever did met.

Q. Why do you say that?

A. It was August '76, in Toronto.

Q. Have you known him since then?

A. Pardon?

Q. Have you known him since then?

A. Yes.

Q. Have you kept in touch with him? You lived in Germany, is that right?

A. I live in Germany, but we were in touch all the time. I got his correspondence.

Q. Are you aware of his inquiries to find out eye witnesses to the events in Poland?

A. Yes.

Q. Are you aware of what efforts he has made to find out about the situation in Poland?

A. No. I find it amazing that there {3320|3321} is a man in this world who tries and who says, "Even if I will be killed, I have to keep to the truth." I find this amazing.

MR. CHRISTIE: Those are my questions. Thank you very much, sir.

THE COURT: Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

#### CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Mr. Rudolf [sic], have you been in the courtroom since this trial started?

A. In the first days, but I have been guided to the witness box.

Q. The witness room?

A. The witness room, excuse me.

Q. Were you sitting in the forepart of the testimony, though, at the beginning of the trial?

A. At the beginning?

Q. Yes.

A. Yes, I have been here.

Q. Okay. Did you hear the judge say that people who are going to be witnesses shouldn't be in the courtroom?

A. No, but I have been said by Mr. Christie not to attend any of this sessions here.

Q. And was that before or after you attended some sessions here that Mr. Christie told {3321|3322} you that?

A. I only guided Mr. Zundel up to the stairs, and then we had to go back to the downstairs.

Q. Okay. I don't mean to confuse you, Mr. Rudolf [sic]. My question is, have you been in the courtroom and listened to, in here, and listened to testimony of other people?

A. Only in the first day, I think.

Q. Okay. Now, can you tell me what rank you had in the German Army, or if it was the German Army you were in?

A. I have been a Polish subject until October '39, and I had no rank in the army at that time. I have been a civilian businessman, but I have been interpreter, and so I. have been chosen by the security service to do some job, to do the best as an interpreter, in Poland, first in Lutz where I have been born, and I had my family, my wife and my children, and then I was transferred to Krakow, where General Frank had his headquarters.

Q. Were you in the armed services, Mr. Rudolf [sic], after 1939?

A. Later, in '42, I have been a volunteer, because I thought it better to go to the fighting army. So I have been a soldier starting from middle of '42.

Q. And what service were you in, sir?

A. I have been trained as a machine gunner. I have been selected as an interpreter, pool, trained as an interpreter, advisor, and I joined the forces of Kislér and of Rommel. {3322|3323}

THE COURT: Is that Rommel in the west?

THE WITNESS: No. Rommel in the south. North Africa.

THE COURT: Thank you.

Q. MR. GRIFFITHS: So that your involvement in this matter that you



told us of took place in 1941 with Major Liska, and later, when Major Liska was promoted to a general, you went back to work for him again?  
A. Oh, he wasn't a general. He was a major.

Q. I thought you said the second man that you were a secretary for was General Liska.

A. No. Sorry. I was misunderstood.

Q. You worked for Major Liska.

A. Major Liska.

Q. Did you work as a secretary for any other officer?

A. No.

THE COURT: So that my note that you were a secretary to General Liska is not right?

THE WITNESS: Is correct.

THE COURT: It is correct?

THE WITNESS: Is correct.

Q. MR. GRIFFITHS: Was he a general or a major?

A. A major, not a general.

Q. How long were you with Major Liska?

A. Two years.

Q. Which two years? {3323|3324}

A. Starting from November '39 up to the first month, January, February, '42.

Q. And after that you joined the Army.

A. I joined the Army.

Q. Okay. Were you somebody of German descent living outside of what we've heard described as old Germany?

A. Well, my family came to Poland. We have been invited, my ancestors have been invited, after Napoleon's retreat, approximately one thousand eight hundred, to come from Silesia, Germany, to Poland, and to establish there a textile industry because the Poles were in urgent need of any kind of textiles. They had the raw materials, but not the tools and the machines, and Upper Silesia was known for their textiles industry. So my ancestors came to Poland established the Town of Lutz. It's called the Polish Manchester. A huge city of 650,000 people now.

Q. Mr. Rudolf [sic], I don't mean to cut you off if your answer is responsive to my question. I want to know if you were what is known as a folk Deutsche.

A. That is correct.

THE COURT: Maybe the jury would like to know what that is.

Q. MR. GRIFFITHS: Can you tell us what that is?

A. Yes. We have been German, of German descent, but we have been in Poland, of Polish subjects. {3324|3325}

Q. Which section of the security police was Major Liska in?

A. The anti-espionage section, which is a section within the security services.

Q. That is within the armed forces.

A. Yes, within the armed forces.

Q. Not in the S.S.

A. No.

Q. And were Jews part of the suspicious men whose statements your job and his was to analyze?

A. We had to analyze any statement from any men caught under black market or special occasions.

Q. Somebody living outside the ghetto, for example, who should be in the ghetto?

A. Loge had a very famous ghetto, and we had no excess because it was fenced by barbed wire, but we had occasion to use a tramway which goes amid this ghetto, and as far as I know, I have the chronicle now written by just them in the period of

'41 and '42 in Polish, and I know that this ghetto was transformed by the Germans into a huge industrial area, working in three shifts. And the ghetto had approximately 100,000 Jews, and seventy per cent of this Jews did work for the German Army, made uniforms, boots and any things that the Army need. Also, a steel helmets in a very huge plant.

Q. So was part of the Major Liska's job and your job who worked for

him to enforce the rules and regulations of the ghetto?

A. No. We had to do anything with {3325|3326} ghetto at all. This was a special division.

Q. Why would an anti-espionage major have to plan a route for the International Committee of the Red Cross to follow?

A. I can't just answer why, but we did.

Q. Okay. And to the best of your recollection, this was in the fall of 1941?

A. It's correct.

Q. Were you ever in, you yourself, at that time, go to Auschwitz-Birkenau?

A. No, I never.

Q. Do you know how big it was at that time?

A. Pardon?

Q. Do you know how big it was at that time?

A. It was my task to sit in the office to keep the dossiers and to keep the office up-to-date, and this was —

Q. Would you like some water, Mr. Rudolf [sic]?

A. I had no outdoor task. I had to sit in the office.

Q. All right. In preparing a report for Major Liska was there any description as to the size of the camp or camps that he visited?

A. Not about the size of the camps, but he reported what he has done with his delegation, how he did route them through the camps. He said —

Q. How he routed them through the {3326|3327} camps.

A. I, myself?

Q. No. You said the report was how he routed them through the camps?

A. Yes. By car. And he said they did not swallow through the camps.

THE COURT: I beg your pardon?

THE WITNESS: Did not go fast through the camps with his delegates, but they stood two or even three days according to they wish in every camp.

Q. In every camp that —

A. They visited.

Q. That they took them to.

A. Yeah.

Q. Do you know how many satellite camps there were to Auschwitz-Birkenau? Do you know how many satellite camps there were for Auschwitz?

A. Several.

Q. Were they war camps, Mr. Rudolf [sic]?

A. Well, I can't answer this question.

MR. GRIFFITHS: Thank you, sir.

THE COURT: Mr. Christie.

MR. CHRISTIE: Yes.

#### RE-EXAMINATION BY MR. CHRISTIE:

Q. In the course of your cross-examination it was raised that you joined the German Army. Where did you see service, sir, in the German {3327|3328} Army?

A. I was an infantryman in Meiser itself. It is in the middle of Germany. And then I have been transferred to Maisa to join the interpreter school. And then we moved up to Holland, and from Holland, France, Italy, Sicily, North Africa. This was my way.

Q. Where were you captured?

A. We have been captured by the American forces.

THE COURT: That is assuming he was captured. I haven't heard that he was captured.

MR. CHRISTIE: I suspect there's still few German officers still at large after the capitulation. That is what I meant, Your Honour. I suspect that one could say that the whole German Army was captured, but I didn't mean it in any other sense than that.

THE COURT: I didn't say it was. It just wasn't a matter brought up in cross-examination.

MR. CHRISTIE: Oh, very well. Thank you very much, Your Honour.

THE COURT: Thank you, sir.

— The witness retires.

THE COURT: Yes. Go ahead, Mr. Christie.

MR. CHRISTIE: Yes. I have instructed the court officers to bring another witness. Armin {3328|3329} Auerswald.

**ARMIN AUERSWALD, sworn**

**EXAMINATION-IN-CHIEF BY MR. CHRISTIE:**

Q. Mr. Auerswald, you are a Canadian citizen?

A. I am.

Q. And what is your occupation, sir?

A. I am an electrician.

Q. What?

A. Electrician.

Q. Are you married?

A. Yes.

Q. And do you have any children?

A. Yes.

Q. How many children?

A. Six.

Q. And are you of German descent?

A. I am.

Q. Have your children experienced difficulty in school because of Holocaust matters and their German descent?

A. I remember that in 1972, '73, '74, in that area, one of my daughters has been, well, you would call it mistreated now.

Q. Having to do with the Holocaust and her German descent?

A. It had to do with what they were taught in school, the materials they had to study, and {3329|3330} the reaction of some of her fellow students towards the fact that she was of German descent.

Q. As a result of those difficulties did you come to meet Ernst Zundel?

A. Not as a result of these difficulties. I made contact with Mr. Zundel back in 1970, as a result of some harassment I had experienced myself at work.

Q. And why did you contact him?

A. There was an incident at work where, on the anniversary, the thirtieth anniversary at the beginning of the War, the Toronto Star had published a statement, published a weekend statement with the German martial flag occupying the entire front page and some interviews inside. This was a substance of discussion among my fellow electricians at work, and two of them approached me in a rather crude and rude fashion, accusing me of being one of them that had just killed all these innocent people. And when I replied that I have never killed anybody, I was threatened to have the crap beat out of me, and I would have an accident if I don't shut up. The type of, or the level of conversation that is fairly common in construction circles. And I had nothing to come back with because I spent my effort at learning anything on technical information. It was unsatisfactory experience to me, to say the least: So I approached a friend as to what information he had on the War that would give me a better ability, you know, to respond with facts to people like that, and he put me in contact with Mr. Zundel. {3330|3331}

Q. That was in nineteen what?

A. This was 1969 in September. It took me a little while until I got reading into it. In 1970 I made contact with Mr. Zundel.

Q. Have you, as a result of that contact, kept in touch with him over several years?

A. I have.

Q. How many times have you seen him?

A. Several times a year. Every couple of months I would go and have a chat with him and ask him for some other factors that have come to my attention, that I would like clarification. He's got an extensive library, and he's helped me considerably in that respect.

Q. What can you say about that library in respect to primary sources?

A. Well, as far as the sources are concerned, the books to me are books, and I am quite sure that much of the material is, well, authored by people who have firsthand knowledge in it, or have done extensive

research on the matter.

Q. Are you familiar with the research that Mr. Zundel has done himself?

A. Yes.

Q. And how would you describe that research?

A. Well, he has thoroughly gone into all angles of the question of recent history, especially the history as it pertains to Germany in the last War and the previous War and the post-War period.

Q. Can you tell us what you know of {3331|3332} his reputation in the community for honesty?

A. He is an honest man, like as far as I know he has never been in trouble with the law in his conversation or to the extent that one can know anyone or — he is completely sincere and honest individual.

Q. Has he ever expressed any hateful attitudes towards any other groups of people? A. Definitely not.

Q. I didn't hear you.

A. Definitely not. I wouldn't be keeping contact with him if he did. It is not my own style.

Q. Did any of the information you derived from Mr. Zundel help your daughter or your children in respect to the difficulties they experienced at school?

A. Yes. It helped in assisting me to present our side of the picture, if you like, present the truth as we found it out, as I found it out in the, meantime myself. As far as making them popular in school, naturally that would be counter productive and it has been, unfortunately.

Q. What's your attitude towards the Holocaust generally?

THE COURT: What is the question again?

Q. MR. CHRISTIE: What's your attitude towards the Holocaust generally, the presentation in the media?

THE COURT: How is that relevant? {3332|3333} Is this witness' attitude towards the Holocaust relevant?

MR. CHRISTIE: Well, we are dealing with an indictment that the accused has caused damage to social and racial tolerance, and we should lead evidence on what effects this evidence has on some other people, Your Honour.

THE COURT: You can ask the question.

Q. MR. CHRISTIE: What effect has the media representation of the Holocaust had upon yourself and your family?

THE COURT: No, that wasn't the question.

MR. CHRISTIE: I agree, but I tried to keep it closer.

THE COURT: You can ask the very same question, if you want.

MR. CHRISTIE: Well, I have to actually have it read back. I'm sorry, but I haven't the perfect memory.

THE COURT: Read it back, please, Madam Reporter.

THE COURT: REPORTER: "Q. What's your attitude towards the Holocaust generally, the presentation in the media?"

THE WITNESS: My attitude towards the presentation of the Holocaust in the media has changed, of course. I suffered from the end of the War under the heavy load of guilt that we were inculcated with in school. I finished school shortly after the War. I have accepted the entire spectrum of that, {3333|3334} because our elders were not prepared to even discuss the matter with us children. They were, as I see it now, intimidated with what would happen to their careers, their safety, their helath, [sic] because any communication towards us would be construed by the system, by the occupation forces and their representatives as Nazi propaganda, and nobody would want to get himself into that kind of hot water after the country had lost all semblance of self respect.

I've had no choice but to accept the version in its entirety, and because I then received my training as electrician and electronics technician, I sort of pushed the whole thing out of my mind. I concentrated on my job and keeping up with the technological changes.

When I was confronted at work in 1969 I had an easier way of saving money and getting a little off and buying some books, and I educated myself through the sources that I was not previously, that were previously not open to me because I did not know them.

Q. Where did you get those sources?

A. Some from Mr. Zundel and a large amount of it I obtained on my

own through publishers direct in the States, and I would, from Europe, France, I got Rassinier's book and various others. I ended up with quite a library myself. My attitude towards the Holocaust, of course, changed as I got more and more information on it that contradicted the newspaper and TV versions. And I've come to the conclusion that it ain't what it seems to be. It is not what is presented to us daily hidden in entertainment and news, and that {3334|3335} our fathers did, indeed, not conduct themselves like animals or the way that it has been presented.

Q. What would you say is the effect of the research that you have done upon your attitudes towards others in society, other groups in society?

A. Other groups in society have no connection with it. It has no bearing on all the groups in society. It's individuals who promote the image of the German as it has been promoted for a long time. It goes back further than even the last War. It is War propaganda as far as I am concerned, and it has nothing to do with other people presently living.

Q. Yes. Are you familiar with the term stereotyping?

A. Yes, of course.

Q. What's your attitude towards that phenomena?

A. Stereotyping is not what I would call intelligent exercise of one's facilities.

MR. CHRISTIE: Thank you. Those are my questions.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour.

#### CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Who is hiding things in our entertainment news? {3335|3336}

A. I beg your pardon?

Q. Who is hiding things in our entertainment and news?

A. Who said anything about hiding?

Q. Well, you said that material was presented to us hidden in entertainment and news shows.

A. Well, the attitudes are portrayed by television actors or movie actors.

Q. And my question is, who is hiding things in our entertainment and news?

A. Who made the movie?

Q. I am asking you. Do you have an answer to that? If you don't know, that is an answer.

A. Well, very simply, the person or persons involved in writing the script and producing the piece of entertainment concerned.

Q. All right. And is that widespread, is that the import of your statement?

A. Well, widespread is a relative measure. How wide spread it is, I have not concerned myself with it. I have seen it. I have noticed it.

Q. It must have felt very good to you to have your load of guilt relieved by Mr. Zundel.

A. No.

Q. No? It didn't feel good?

A. Seeing, to an extent, to the degree that I know more about it, or at least I imagine I know more about it more than I did before.

Q. Let me show you Exhibit 2. It is talking about "The West, War and Islam". Have you ever seen that before? {3336|3337}

A. Yes.

Q. And does that represent —

A. I picked up a copy last night. I haven't read it yet.

Q. Oh. What about Exhibit Mr. Auerswald, which is the book, "Did Six Million Really Die?" Have you read that?

A. Yes, I have.

Q. You have.

A. Yes.

Q. This one here.

A. Yes. This is the second one.

THE COURT: This is what?

THE WITNESS: The second.

THE COURT: The second what, sir?

THE WITNESS: Edition of it.

THE COURT: Oh.

THE WITNESS: . The first one is published by Mr. Harwood in England.

Q. MR. GRIFFITHS: I see. You have seen the first one as well, have you?

A. Yes.

Q. And does reading that make your guilt feel better?

A. I read that after I had already informed myself from other sources.

Q. So when would you have read that?

A. I beg your pardon?

Q. When would you have read that?

A. This?

Q. Yes. The exhibit, "Did Six Million {3337|3338} Really Die?" Exhibit I.

A. Four, five years ago.

Q. And did that affect your opinion at all about Jews?

A. About Jews?

Q. Yes.

A. Why about Jews?

Q. No, I am asking the question. If the answer is no, then the answer is no. Did it affect your opinion at all about Jews?

A. Definitely not.

Q. All right. And you are telling me that your parents were afraid to discuss matters within the confines of their own family?

A. I didn't say my parents. I said my elders.

Q. Your elders. Okay. Well, did you discuss these matters with your parents?

A. My father died in the last War, and my mother, of course, had no knowledge because she was not interested in these matters.

Q. I see. So you didn't discuss it with your mother.

A. No. When you are fourteen or fifteen years old these are not things you discuss with your mother.

Q. How old was your daughter in 1972 or '74 when she ran into problems?

A. Eight or nine years.

Q. Eight or nine years. And it was her classmates that were bothering her? {3338|3339}

A. I beg your pardon?

Q. It was her classmates that were bothering her?

A. Well, bothering is one way of putting it, yes.

MR. GRIFFITHS: Thank you. No further questions.

THE COURT: Mr. Christie?

MR. CHRISTIE: I have no re-examination.

THE COURT: Thank you, sir.

— The witness retires.

MR. CHRISTIE: The next witness is Jurgen Neumann.

#### **JURGEN NEUMANN, sworn**

#### EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. How old are you, Mr. Neumann?

A. I am thirty-four years old.

Q. And what is your occupation?

A. I am a plumber by trade.

Q. And how long have you known Ernst Zundel?

A. I first came to know Mr. Zundel in 1975. {3339|3340}

Q. And are you married?

A. Yes, I am.

Q. And do you have children?

A. Yes, I do.

Q. Are you a Canadian citizen?

A. Yes, I am.

Q. Where were you born?

A. I was born in Germany.

Q. And how long have you lived in Canada?

A. I was one year old when I came over here. That was in 1951.

Q. How did you come to meet Ernst Zundel?

A. Well, I came to meet him at a lecture that he was present at, and at that lecture I came to purchase a book which he had at that time.

Q. Do you remember what that book was?

A. Yes. It was a book called, "UFOs Nazi Secret Weapons?"

Q. And have you kept in touch with Mr. Zundel since that time?

A. Yes, I have. I began at that same lecture. I also, a number of other people were lecturing at which time they expressed a doubt about the Holocaust, which certainly was new to me, and I started purchasing books from the United States on that question, and shortly thereafter I seemed to recall this book that I had purchased from Mr. Zundel and I would rather spend my money in Canada than the {3340|3341}U.S., so I got in touch with him, perhaps, about books that he had on the subject.

Q. Did you find out perhaps if he had a library?

A. Yes, I did. Once I got in touch with him, I came to Toronto and met him, and due to my interest on the subject he made known to me that he did have a library and I was welcome to use it for any research purposes that I wished.

Q. And did you do so?

A. Yes, I have done so in the past and I still do today.

Q. Can you describe that library?

A. Yes. It is very large, I would say, although I never counted them, thousands of books anyway, and out of those he has many, many original manuscripts and books from, I guess what is known as the Third Reich era, and they amounted into the hundreds, at least.

Q. And is there any other place where you can find this material?

A. Not to my knowledge. I tried general libraries and things like that, but I couldn't find that kind of material anywhere else.

Q. Why were you interested?

A. Well, because of my German background. As a younger person I suffered a little bit at the hands of – well, maybe I shouldn't say it that way. When I was in school, because when I first started school I still had a German accent and therefore I was kind of bothered by other children in the school, so {3341|3342} that's how I came to know of German background, and I was treated differently from other people. So that made me interested in it.

Q. Well, what were you interested in specifically that was the reason for any different treatment?

A. Pardon me? I don't understand.

Q. Well, you said you were treated differently. Why were you treated differently as far as you were aware?

A. As far as I was aware because of my accent. The other children in school – not all of them, of course, just a few – were under the understanding that I was German, which I was. I never denied it And they therefore harassed me because they called me – you know, they made —

Q. What did they call you?

A. They called me a Nazi and things like that. In a negative sense.

Q. Were you then or are you now a Nazi?

A. No. I certainly wasn't then and I am certainly not now. Nazi has become to mean just a propaganda catchphrase used to stereotype Germans.

Q. Why do you have an interest in the time of the Third Reich, then?

A. Well, because that seems to be where all this stems from. And my father himself, he was a soldier in the German army back in those days, and he also, it was through him that I learned the other side of the story, and it was so different from the side {3342|3343} of the story that I had come to know from, say, the general media that I was very intrigued and I figured I should know more about this.

Q. Do you like to hear both sides of the story?

A. Always, if possible.

Q. And so have you conducted further research?

A. Yes, I have.

Q. Have you come to know Ernst Zundel better?

A. Yes. Through my research and things, I have, and the use of his facility, I have certainly come to know him very well.

Q. And you are now working with him and helping him, is that right?

A. Yes. The longer I got to know him, the more I was impressed by his drive and his sincerity and his questions, well, for both sides of the

story, the truth of what was going on, and because of that I have, well, since I am interested in the same thing, I have come to assist him in many things.

Q. And you run video equipment for him, do you?

A. Yes, I do.

Q. And you conduct interviews for people around the world?

A. Yes. I run the camera for which Mr. Zundel conducts interviews.

Q. Are you aware of him seeking eye witnesses of people around the world of the Holocaust? {3343|3344}

A. Yes. I know that on many occasions, not only do I run the video but I type letters for him in a secretarial capacity, and these letters have been directed to many people who have been familiar at that time all around the world.

Q. You are aware that Mr. Zundel has been referred to in the media a number of times in a negative way, I suppose?

A. Yes, I am aware of that.

Q. What do you think about those media representations of Mr Zundel as a Nazi and all those things?

MR. GRIFFITHS: Objection, Your Honour.

MR. CHRISTIE: I will rephrase the question.

Q. From your knowledge of his character and reputation in the community do you consider that he is at times misunderstood and misrepresented?

THE COURT: There is a way of going about it. You had better rephrase that again.

Q. MR. CHRISTIE: What is your knowledge of his reputation in the community as to honesty and sincerity?

A. Well, the people I talked to and my own knowledge of Mr. Zundel, for those who do know him personally, his reputation for sincerity is very high, much higher, I think, than people I know personally.

Q. Why do you work with Mr. Zundel? Why do you help him? {3344|3345}

A. Well, one of the reasons, I guess, is because of my two children that I have. I don't want them to grow up with this, what I consider to be an unjust, negative stereotype of Germans, and so that they would think badly of their grandfather and their father as being, you know, less than normal people. And I think this is what the image of the Germans in North American media is today, and I think that since it doesn't seem to me to be the truth, I think it is time that both sides were heard by everyone.

Q. What effect, if any, has the effect of Ernst Zundel had upon your attitude of racial and social tolerance?

A. Being with Mr. Zundel I have understood – it made me more tolerant, if anything, of other people's point of view, more tolerant than I was before I met him.

MR. CHRISTIE: Those are my questions.

THE COURT: Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

#### CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. How many days after His Honour ordered all witness out of the courtroom were you sitting in the courtroom?

A. I don't know what day that was, sir.

Q. The first day? {3345|3346}

A. It was the first day?

Q. Yes.

A. Okay. I think I have been here as a notetaker a couple of times, and perhaps sitting in the courtroom – maybe three days. I, myself, was not aware of the order. Like I didn't hear it personally.

Q. Nobody communicated it to you?

A. No, not really. I have been so busy.

Q. So busy taking notes in the courtroom for Mr. Zundel?

A. Yes, I would say so.

MR. GRIFFITHS: Thanks. I have no further questions.

**RE-EXAMINATION BY MR. CHRISTIE:**

Q. Have you been busy in other respects in respect to the trial as well, co-ordinating —

THE COURT: No. It didn't arise in cross-examination.

MR. CHRISTIE: He was asked whether he was busy taking notes.

THE COURT: No, he wasn't. He was asked whether or not he's been in the court since I made the order that witnesses be excluded.

MR. CHRISTIE: The last question was very clear as to whether he was busy taking notes. {3346|3347}

THE COURT: Right or wrong, you cannot ask the question.

MR. CHRISTIE: Yes, sir.

THE COURT: Thank you.

— The witness retires.

MR. CHRISTIE: Your Honour, I would like to indicate, as I did earlier, that I had planned yesterday, at 1:10, to have a witness who was held up, his plane. He arrived, actually. His plane arrived earlier, but he arrived at about seven o'clock and suggested in view of the fact that he had been on the road for several hours, that he might take a break this morning to get some rest before he testified. And I wonder if I might, then, ask to adjourn till probably two fifteen, when I could call the next witness.

THE COURT: Do you not have any other witnesses at all?

MR. CHRISTIE: At the moment, no, sir. I have witnesses coming from the West Coast and from Germany, but I didn't realize we were going to go quite so quickly, and consequently I am in a difficult position to produce a witness at the moment.

THE COURT: You can reasonably assure the court that, now that things are going quickly, that you will have witnesses ready to proceed when time is ready for them?

MR. CHRISTIE: Yes, sir. Subject only to the weather conditions in terms of flights. {3347|3348} That has been a problem yesterday.

THE COURT: When do you expect your other witnesses to arrive other than the one that is now resting?

MR. CHRISTIE: The ones that I have planned, Your Honour, will be arriving tomorrow morning, and I have another one arriving on Friday, but I believe in the afternoon, from West Germany. That witness had been here and went back, but now has to return. That was the witness Udo Walendy, Your Honour.

THE COURT: All right. Members of the jury, you have heard the problem. Not very much that can be done. You are free till two fifteen.

— The jury retires. 11:00 a.m.

— Luncheon adjournment.

— Upon resuming.

THE COURT: Is there anything before I call the jury?

MR. CHRISTIE: Yes. If I might just, Your Honour, I have a short curriculum vitae of the next witness, and one thing I suggested to my friend, if he is agreeable, and subject to Your Honour's view on the matter, I suggested in the event that anything that has {3348|3349} happened happens again whereby I run out of witnesses because of transportation problems, that I might — because I had certain formal things to prove, I might put the accused on the stand, because I have to go through those things eventually, such as a page by page documentary analysis of the text in support — that he I might proceed to do that.

My friend could defer his cross-examination to the end of my client's evidence, which would be the last witness, presumably.

THE COURT: I have no objection to the procedure. Insofar as the deferring of cross-examination is concerned, you will have to take that up with Mr. Griffiths. That is quite satisfactory as far as the procedure goes.

MR. CHRISTIE: So other than that, sir, I have nothing particularly other than to call the witness.

MR. GRIFFITHS: Would this be an expert witness?

MR. CHRISTIE: I am endeavouring to call the witness in the areas in which he has published his book. {3349|3350}

THE COURT: What areas are those?

MR. CHRISTIE: He published a book called, "The Holocaust 120

Questions and Answers", and he did research in support of that publication, and I want to call him on that basis, just on that topic.

I have given my friend a copy of the book, and if it is of any assistance, I could provide Your Honour with a copy.

THE COURT: No, I don't want to see it. Does anyone wish me not to call in the jury?

MR. GRIFFITHS: No, Your Honour. The qualification will be contested, of Dr. Weber, but —

MR. CHRISTIE: I intend to call some other firsthand evidence of an observational nature previous to that, so, whatever may be the situation with regard to qualifications, I will be calling some direct evidence, too.

THE COURT: All right. Call in the jury, please.

— The jury enters. 2:25 p.m. {3350|3351}

**CHARLES EDWARD WEBER, sworn****EXAMINATION-IN-CHIEF BY MR. CHRISTIE:**

Q. Dr. Weber, were you born on the 22nd of October, 1922, in Cincinnati, Ohio?

A. Yes, sir.

Q. And your father was Charles Weber, a professor of law at the University of Cincinnati?

A. Yes, sir.

Q. And he was a judge, and I gather —

A. In his latter years. Yes, sir.

Q. And you, yourself, have studied at the University of Cincinnati in 1950 to 1953?

A. Yes, sir.

Q. And what did you study there, sir?

A. I studied Germanic philosophy, the study of languages and literature.

Q. And in the University of Missouri in 1953 to 1956 you studied as well, I believe; is that correct?

A. No, sir. I was assistant professor at the University of Missouri during those years.

Q. Oh, pardon me. And what did you teach. there, sir?

A. I taught mostly German.

Q. Mm-hmmm. And at the University of Tulsa from 1956 to 1962 were you a professor there?

A. Yes.

Q. What were you teaching there, sir?

A. I was also teaching German courses {3351|3352} there.

Q. And what was your status there, sir?

A. I was an assistant professor.

Q. Yes. And at the Louisiana State University from 1962 to 1966 were you also a teacher?

A. Yes.

Q. What was your status there at that time?

A. I was teaching largely graduate students for a while. I was teaching such courses as preparations for language qualification. I also taught courses in cultural history, for example. My primary field is diachronic linguistics, a study of languages from a historical point of view.

Q. I see. And at the University of Tulsa from 1966 to 1982, what was your status there, sir?

A. For some time I was head of the Department of Modern Languages there. I was a full professor at the University of Tulsa for the most part in those years, from 1966 to 1982.

Q. And in the course of those studies, is there any relationship between what you described as — could you tell me those words again, sir?

A. Diachronic linguistics.

Q. And is there any relationship between that and history?

A. Yes. It's essentially a historical study, as the term diachronic would indicate. {3352|3353}

Q. Yeah. And have you, in the course of the year since the War and in the course of your own research conducted inquiries into the subject known as the Holocaust?

A. Yes, sir. I have. In fact, I have published several articles, and a propodudic [propaedeutic] book on the subject.

Q. What's propodudic, sir?

A. A propodudic book is one that leads one into a subject matter.

Q. And can you tell us about the extent of your research into the subject of the Holocaust?

A. Yes, sir. To be specific, I have published the book, which I mentioned already, "The Holocaust 120 Questions and Answers". This first appeared in 1983.

Q. And had you been working with Mr. Zundel prior to that time in regard to its preparation?

A. Mr. Zundel told me that he became acquainted with my studies along these lines by way of a book review which I published in the Journal of Historical Review, which appeared in 1980, as I recall.

Q. And that was a book review of what book, sir?

A. That was a review of a book which has become quite controversial. It was a general history of Germany, and there were several pages in this book, page 163 to 165, if I recall, that dealt with the question of what is frequently called the Holocaust, or to be more specific, the extermination thesis, the thesis that Jews were deliberately murdered en masse during {3353|3354} World War II, mostly by lethal gas.

Q. Mm-hmmm. Is this the book of which you did a review of which you speak?

A. Yes, sir.

Q. It's called "Propylaen" – and how do you pronounce that?

A. "Geschichte der Deutschen". The book has a rather interesting history, by the way.

Q. We won't get into that, but it is by Hellmut Diwald?

A. Yes, sir. It appeared in 1978, as I recall.

Q. So you wrote a book for the Journal of Historical Review?

A. Yes, sir.

Q. What has been your background in the study in the area of the Holocaust? For instance, can you tell us what the word means in your understanding?

A. Yes. The etymology of the word is as follows. It comes from the word holocauston.

Q. It's normally spelt in the Greek alphabet, is that right?

A. Well, it was originally a Greek work. The etymology of the word is a rather interesting one. The "holo" part means complete, and the "kauston" part means burned. It referred to a completely burned offering in the Greek religion of the time.

Q. Now, have you studied into the subject in view of the literature on the subject since the Second World War?

A. Yes. I've had a general interest {3354|3355} in the history of the Second World War. I was involved in it. I was a member of the United States Armed Forces, and obviously, I couldn't escape an interest. I served in intelligence capacities, and I had access, I suppose, to a lot of historical material that most people didn't come across.

Q. Let me, then, deal specifically with your exact experience in this field, and later, perhaps, relate it to your qualifications. I would like to deal in the specific area of your individual knowledge, and I'd like to ask you, were you an employee of the American Military Intelligence during the War?

A. Yes. As a matter of fact, specifically my military occupation specialty number was 631 Intelligence. That was for intelligence personnel.

Q. Where did you carry out these duties?

A. I carried them out in various parts. I was given training in Camp Ritchie, which was the Army Military Intelligence School, in the spring of 1945. After I completed my courses there I was sent to Europe and specifically to a place called Bad[ ]schwalbach, and I —

Q. When did you arrive there, and how long were you there?

A. I arrived in Bad[ ]schwalbach in July 1945, I believe.

Q. And is that near a major city in Germany? {3355|3356}

A. No. Bad[ ]schwalbach is a small community in the mountains. It's a spa.

Q. Did you carry out some duties in a place called Fechenheim?

A. Yes, sir.

Q. What duties were they?

A. This was about September or October of 1945. I was in a document centre, and the document centre contained files of the German Supreme Military Command which is abbreviated in German, OKW.

Q. Which means?

A. Oberkommando der Wehrmacht, the Supreme Command of the Armed Forces.

Q. And what duties did you do in relation to the Armed Forces of the High Command?

A. I was in a team of ten or twelve men, mostly enlisted men, one officer. It was our duty to go through these files looking for evidence against the defendants in the Nuremberg Military Tribunal.

Q. And what did you do in order to deal with these documents?

A. There were men sitting around the table in this group, and they were going through these various documents looking for the evidence. These men, of course, had to know German as a language. In fact, in most cases that was the native language of these men.

Q. Could you tell us what the religious background of most of these people were? {3356|3357}

A. Preponderously Jewish. And let me explain the circumstances there. These men were refugees from Germany, probably most of them came to the United States in the course of the thirties, and so they knew German, and they were put to such duties because they did know German.

Q. Mm-hmmm. And what were you instructed to look for in the documents of the German High Command?

A. We were instructed to go through these records, and there were a great many of them, looking for evidence against defendants, particularly the defendants during the post-war years in Nuremberg.

Q. And how were the documents held by your team?

A. Physically, they were in rather large boxes that are commonly used in office record keeping in Europe.

Q. And were they held in any form of arrangement vis-a-vis the public? Was the public allowed access?

A. These were not public proceedings, obviously.

Q. Could you describe them further as to their relationship with anybody other than yourselves?

A. Well, I certainly think that it should be pointed out that the defence attorneys didn't come in and visit us looking for evidence on behalf of their clients.

Q. Was this public knowledge that these documents were in their hands at that time? {3357|3358}

A. No, except, perhaps, in a very general way.

Q. The specific locations and whatnot, was this made public?

A. It was known, for example, at the time that we captured German Generals. They were writing accounts of their military unit, some of which I translated.

Q. What was the level of confidentiality pertaining to these documents?

A. Strict.

THE COURT: Is that the classification, or is that just the way —

THE WITNESS: That is not a formal military classification. I believe that our operations could have been designated as confidential, at least.

Q. MR. CHRISTIE: All right. To your knowledge were defence counsel at Nuremberg ever invited to look at these documents?

A. Not to my knowledge. Not while we were working with them.

Q. As a result of your experiences did you develop an interest in the Holocaust at that time?

A. Yes, I did. As a matter of fact I recall talking to a number of Germans in general on this topic, and a number of them pointed out that they had —

Q. Well, you can't go into what they said because so far you are not qualified to say what they said. So you did conduct interviews with people {3358|3359} at the time; is that right?

A. Yes. As a matter of fact, I was involved in some de-Nazification proceedings at the time, specifically during the years 1945 to 1946.

Q. And as a result of that you had firsthand communications with whom?

A. I was working for some time, approximately December 1945 to April 1946, in a community called Kornwestheim, and I was part of the personnel of an internment camp, Internment Camp No. 75, in this community. The internees were mostly men who fell into the so-called automatic arrest category.

Q. That would be the categories I am going to lead you here, and I don't know if there will be an objection, but these are people in the S.S. the S.D., and the criminal organizations; is that right?

A. Or a military organization. You see, when we occupied Germany we had a de-Nazification procedure, and there were, of course, army units and various paramilitary units, and if a person occupied a certain rank in various organizations, that person was subject to automatic arrest.

Q. Were they the higher ranks, or the lower ranks?

A. Well, obviously the higher rank.

Q. Thank you. I just want to make that clear. Now, you were engaged in that process for how long?

A. I was in this group, in the group attached to this internment camp, near Stuttgart, for {3359|3360} approximately five months – December to April, approximately.

Q. And in that capacity how many of the higher ranking personnel would you have interviewed?

A. I was concerned for the most part with the keeping of the files, the dossiers, on the people interned there. And towards the end of my service there I interviewed a number of these people.

Q. Was the relationship of Jewish personnel to the overall number of personnel in that operation the same as it had been in the document centre?

A. No. I think that the percentage, the fraction of Jewish members was smaller. I recall that there was a Lieutenant who, I believe, was half Jewish. His father had been a dentist in Germany, as I recall.

Q. Subsequent to that time did you ever have any firsthand experience with those persons who were then held to be criminals?

A. I was discharged from the Army on the 13th of April, 1946, and I took a position in several censorship in Frankfurt, and subsequently I had a position translating accounts of various military units that had been written by the German generals. I would have to say essentially no, to your specific question.

Q. Not firsthand contact, but you had contact by virtue of translating the documents of German generals?

A. Well, these were military units. They were interned as prisoners of war, of course, and {3360|3361} the American forces put them to writing accounts of their units, particularly the units fighting on the western front in the last eight or ten months of the War. We did not translate many accounts that had much bearing on the fighting in the eastern front.

Q. Have you, yourself, inquired into the subject of the Holocaust?

A. Yes, sir. As aforementioned, wrote this book. Then here is the way —

Q. In preparation of that what did you read and what did you study?

A. I don't think that anyone living in the United States can escape this, because a person living in the United States can turn on his radio very frequently – I mean television set very frequently, and get some material relating to the Holocaust.

Now, of course, there's the quite famous film called "The Holocaust" that was shown over American television around 1979. In fact, I think that that particular film was instrumental in popularizing the word "Holocaust" in the United States, although that term had been used some time previously, particularly in Jewish circles.

Q. Have you read the established literature in the field of the Holocaust such as Dr. Hilberg's book?

A. I read parts of that. It's a rather large book.

Q. Dawidowitz [Dawidowicz]?

A. Yes. I gave special attention to the Dawidowitz book. {3361|3362}

Q. Have you studied the works of other authors in the field, and if so, please name some.

A. I have studied a number of authors in the field such as a book published by Dr. Butz of Northwestern University about 1969. That is a

rather large and important book on the whole complex of the Holocaust question.

Q. Have you, in the course of your studies, also studied the forty-two volumes of the IMT trials?

A. Not completely, sir. They are very thick volumes. I have seen, of course, quite a number of quotations from those volumes, but – one book that I must mention very strongly, a book that was published in 1979 by a judge in Germany by the name of Wilhelm Stäglich. This is, perhaps, certainly from the standpoint of revisionist historiography, certainly one of the most important books that has been published on the Holocaust. But the German title is "Der Auschwitz Mythos", and it's quite regrettable that that book has not appeared in an English translation.

Q. Do you read German?

A. Yes, sir.

Q. Do you read other languages as well?

A. I have some reading knowledge of French. In fact, French was a language in which I had to pass a reading examination for my doctorate degree. I had a year of Spanish in college, and I had a couple of years of Latin in high school, and just a very small amount of Russian. I've been in Russia for some time. {3362|3363}

Q. And does that explain the extent of your research into the subject of the Holocaust?

A. I don't believe it could, because one can hardly avoid opening a magazine, a news magazine, without some sort of reference to the Holocaust, and I would like to point out just one example of that.

The 4th of February issue of U.S. News and World Report, an extremely influential weekly news magazine contained an article on the Holocaust. I wrote a commentary on it, and there were some quite absurd errors in that, by the way.

Q. Can you name one?

MR. GRIFFITHS: Excuse me.

THE COURT: Just a moment. Don't do that for a moment, please.

MR. GRIFFITHS: After he's been qualified as an expert, Your Honour, I would be pleased to hear his opinions on things.

THE COURT: I agree.

Q. MR. CHRISTIE: Did you read the book that you did the review of by Hellmut Diwald?

A. I read very large portions of it. It is a very large book, about 700 pages long, heavily illustrated.

Q. What's its title in English?

A. "History of the Germans". It's a rather interesting historical approach. It's retrospective, that is, it takes the most recent history first, and then it goes back into the middle ages.

Q. Have you published in the field {3363|3364} of the Holocaust?

A. Yes, sir. As mentioned, this propodudic [sic] book. I published three notable items in the Journal of Historical Review.

Q. What were the topics of those publications?

A. The first one was a review of the book by Professor Hellmut Diwald. The book appeared about 1977 or '78.

Q. Any other articles you've published on this subject?

A. Those three. I've published a number of items in newspapers about particularly the Cincinnati Enquirer, published two or three fairly long letters there pertaining to the Holocaust, and also the Tulsa Tribuna [Tribune]. I published two or three letters there, too.

THE COURT: Letters, were they letters to the editor?

THE WITNESS: Yes, sir.

THE COURT: Thank you.

Q. MR. CHRISTIE: Could you describe the other two articles that you published in the Journal of Historical Review?

A. Yes, sir. There are three items of some length altogether. The first item was about eight pages long, and it was a review and discussion of Professor Diwald's book. That appeared in the very first issue of the Journal of Historical Review in 1980. That's the date that sticks in my mind. About 1981 I published an article about fifteen pages long on {3364|3365} psychological attitudes, primarily, towards the Holocaust.

Q. What was the title of that?

A. On the part of non-Jews. I happen to have —

Q. Just the title.

A. The title started out with the Latin term "Qui bono". This is a famous latin question that was posed by a distinguished Roman statesman in ancient times. And the object of the question was this: In criminal proceedings the question should always be asked, "Qui bono" to who is good, in order to determine guilt and involvement in crimes and transgressions against the law.

Q. Was there another part to the title?

A. Yes, sir, there is. And I can give that to you exactly. It is a rather long title. "Qui bono? An American Veteran's Views on non-Jewish Toleration and Propagation of the Extermination Thesis". This appeared in the summer issue, 1982, of the Journal of Historical Review.

Q. Okay. That's fine. Have you published a third article?

A. I published a translation of Wilhelm Sta[ä]gliche, "Auschwitz-Mythos", and its fate in western Germany. It was an article about twenty-two typewritten pages which I translated for Dr. Sta[ä]gliche. And that was published in the Journal of Historical Review approximately one year ago. Those are the three major items which I published in the Journal of Historical Review. {3365|3366}

Q. And have your publications included the sources and the research data behind them?

A. I can answer that question quite specifically. If you will look at my propodudic [sic] book you will find at the bottom of almost all of the answers specific references to the literature pertaining to what I said, often specific page references and so forth.

Q. And those sources you have researched and analyzed in the preparation of your research.

A. Yes. Some of those books I've read in toto, or very nearly so. I read, for example, Professor Butz' book, and my propodudic [sic] book is very strongly dependant [sic] on Wilhelm Sta[ä]gliche's book, "Der Auschwitz-Mythos". I am certainly indebted to Wilhelm Sta[ä]gliche for lots of ideas pertaining to this historical question.

Q. And when you published this book and prepared it, did you provide this, in its present form, to Ernst Zundel?

A. Ernst Zundel, I believe, acquired several copies of it. A number of copies.

Q. Have you checked all the sources in your book in support of its truth?

A. Yes. This book is the truth as I know it, as I have gleaned from various resources, resources including Jewish and Zionist resources.

Q. Are you familiar with the writing of Walter Sammy? (phonetic) [San-ning]

A. Yes, sir. Approximately a year or so ago he wrote a book on the demographic movements, {3366|3367} demographic developments of European Jewry during the Second World War and thereafter. And he tried to analyze the demographic aspects of the Holocaust question. It's a rather thick book. It's about 250 pages, as I recall. The title of the book is, "The Dissolution of Eastern European Jewry", if I remember the title correctly.

Q. As a result of all that study and reading, when you prepared the book, "The Holocaust 120 Questions and Answers", did you believe that six million Jews were systematically exterminated by the Nazis?

THE COURT: Don't answer.

MR. GRIFFITHS: Objection, Your Honour. We haven't qualified him as somebody who can express his opinion.

MR. CHRISTIE: I didn't ask him to express his opinion. I asked him about the statement, that's all.

THE COURT: It is the same as an opinion. He may not answer the question.

Q. MR. CHRISTIE: Did you communicate your opinions to Mr. Zundel?

A. Mr. Zundel had access to my opinions because he read the Journal of Historical Review for one thing.

MR. CHRISTIE: Okay. Those are my questions on your qualifications. Would you answer any questions for my friend, please.

THE COURT: Yes, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

—— {3367|3368}

# CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Any degrees in history, Dr. Weber?

A. No, sir. Strictly speaking in philology.

Q. It is a study of the evolution of words?

A. That is one aspect of it. As a matter of fact, my doctorate dissertation was in canabula. (phonetics) I wrote that dissertation at the University of Cincinnati in the early nineteen fifties. It was a study of the printed works in the German language that had been produced by moveable type prior to the sixteenth century.

Q. You brought a sample of the Journal of Historical Review with you?

A. Yes.

Q. You are on the editorial advisory committee of the —

A. At that time I was. I am no longer on the committee.

Q. Was Mr. Felderer on the committee at the same time you were?

A. I believe so. I believe he was on the committee at different times.

Q. What about Dr. Lindsey, was he on the committee at the same time you were?

A. Dr. ...

Q. Lindsey.

A. Dr. Lindsey?

Q. Yes. {3368|3369}

A. That name is familiar to me. I think you check on this. At this particular time, this is summer of 1982, he is not listed here.

Q. All right. And Dr. Faurisson?

A. Dr. Faurisson's name is here.

Q. All right. And Dr. Butz, who you've mentioned?

A. Yes.

Q. Is he a computer scientist?

A. Yes. And historian.

Q. He teaches history, does he?

A. He doesn't teach history, but he is a historian.

Q. I see. Like you are.

A. I have studied in historical disciplines.

Q. I see. But you have a hard time getting through a book, even if you are going to review it for a publication.

A. In the review which I mentioned in the first issue of the Journal of Historical Review —

Q. That's the one.

A. — I was particularly interested in what Wilhelm Sta[ä]gliche had to write about the Holocaust question. As I recall, that was particularly on pages 163 to 165, but I was also interested in what he had to say about the origins of the Second World War and so forth.

Q. Did you read pages 166, 167 and following, or just three pages —

A. I must have.

Q. You must have. A little hard to {3369|3370} remember now?

A. I read a great deal of the book. I purchased the book. In fact, I used some of the text from the books for students, vocabulary.

Q. I see. Are you a psychologist?

A. No, sir. I've had courses in psychology, but I am not a psychologist by profession.

Q. Okay.

A. I had a course in educational psychology, general psychology, and I have taught pedagogical courses.

Q. Have you studied any of the primary sources, documents?

A. Not physically, except to the extent that the records I saw in Fachenheim might have had a peripheral bearing. As a matter of fact, if I may add something, it's one of the complaints of German historians such as Professor Diwald, that the records and documents which we confiscated are not readily accessible to them.

Q. Do you know how many records have been sent to West Germany out of the American archives, microfilm?

A. I understand that some of them have been returned at least in copy form to the German archives.

Q. You don't know how many?

A. No. I have no specific data on that.



MR. GRIFFITHS: Thank you, Doctor. On the issue of qualifications, Your Honour, I have no further questions. {3370|3371}

THE COURT: Yes. Any re-examination on that issue, Mr. Christie?

MR. CHRISTIE: No, Your Honour.

THE COURT: What rank did you hold, Doctor, in the American Army?

THE WITNESS: For the most part I was a private first class [sic], and towards the end of my military service I was a technician fifth grade.

THE COURT: What does that mean?

THE WITNESS: A technician rating in the American Army at the time referred to qualifications along a specific line. For example, an automobile mechanic might have had a technician's rating rather than a regular military rating. And a technician fifth grade, I believe, was on the same level as corporal.

THE COURT: I was just going to ask you that. Were you ever elevated to the rank of Lance Corporal, or Corporal?

THE WITNESS: No sir. As a matter of fact, I have my discharge papers here.

THE COURT: No, that won't be necessary. What ranks did the others in the room have when you were going over the German documents?

A. Non-commissioned officers. There was a commissioned officer in charge who was a Lieutenant, if I remember correctly.

THE COURT: And I presume when you were discharged from the services, it is an honourable one.

THE WITNESS: Yes, sir. I have my {3371|3372} papers, sir, if you wish to see them.

THE COURT: No, I don't wish to see them. I have no other questions. Any other questions, Mr. Christie?

MR. CHRISTIE: I have no questions. Thank you.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Well, Your Honour, I would —

THE COURT: Do you have any questions?

MR. GRIFFITHS: Oh, not arising out of that. No, sir.

THE COURT: Any more evidence to be called, Mr. Christie?

MR. CHRISTIE: No. Thank you.

THE COURT: You can step down for a moment, sir.

— The witness stands down.

THE COURT: Go ahead, Mr. Griffiths.

MR. GRIFFITHS: I was going to make my submissions now, Your Honour.

THE COURT: Yes.

MR. GRIFFITHS: I would respectfully {3372|3373} submit that in no way is Dr. Weber qualified as an expert in the Holocaust or anything related to the Holocaust.

He has read no primary sources. He has trouble getting through secondary sources. He has read a couple of books by colleagues of his from the Institute of Historical Review, but he simply would have no background whatsoever to analyze. Indeed, on his own evidence, he is in no better position than anyone of us lay people who turn on the TV and radio and hear things. And as such, he lacks the requisite skill in this field, Your Honour. And I don't mean to criticize in any way his skill in his own field where I am sure he is eminent, but in this field I would suggest he is not.

He is in no better position than the average person, and as such, he should not be permitted to express an expert opinion.

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: For one thing, expertise in history is not necessarily required by being a teacher in history. I suggest there is no previous criterion by which a person is qualified as a historian, and the {3373|3374} degree to which one studies history, the degree to which one publishes views in history, and there are many historians who never were trained in history, and I point out that Dr. Hilberg was not a historian, not trained in history. His training was in law.

There are people who didn't have expertise, because that is what happens when people take interest in specific subjects. Dr. Hilberg may have been someone better qualified than this witness. He may be someone whose opinions are more heavily credible than this witness,

but that is a matter for the jury. And for one thing, I haven't asked him any opinions and I am not necessarily going to ask him all the things that Dr. Hilberg testified to, but it seems to me there are certain specific areas where his opinion might be qualified better than ours, especially in regard to the manner that records were kept, specifically from those who were trying to prepare the defence of the accused at Nuremberg, since that is part of the book in question, "Did Six Million Really Die?" That is why I intend to qualify him. Not on the broad scope of Dr. Hilberg's extensive qualifications, but even in respect to Dr. Hilberg I might point out that, for example, his {3374|3375} qualifications came in such a manner that he only went to the places he wrote about after the fact.

It may be that people acquire somewhat more expertise by being there and seeing what is done. And that, in fact, is what this professor had the experience of when he was much younger. And no one asked Dr. Hilberg what his rank was either, and I don't think that that really is too important. It comes to what a person sees.

I mean, if they see something and they later acquire a certain interest in the subject, it doesn't matter whether they were a corporal or a general, provided that their opinions are based on what they saw and the knowledge acquired from what they saw. So much as one may take a degree of, I don't know what one might say, disregard for him because he wasn't of a high rank or anything, it is true he acquired a high degree of skill and knowledge in the realm of analyzing material in the course of his studies. He has written on the subject. He has studied in the area certainly more than most people, and to that extent and to that limited extent I ask that he be qualified to express his opinion specifically as it relates to the performance {3375|3376} and development of his book, specifically, which includes 120 questions and answers.

I want to ask him those, and also to ask him if the process of providing documents to the defendant at Nuremberg were such that the defendants were aware of the existence of the documents, where they were situated, and that sort of thing — the conditions in the time of 1945, '46, when the trials and the evidence for the trials against the accused were being prepared.

That is relevant to the issue, as far as I know, because that is one of the major areas of the criticism of the book, "Did Six Million Really Die?", and I suggest that that, therefore, would be a legitimate subject upon which he might be fit to express a view, because he was there and participated in the formation of that evidence.

Thank you, sir.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Well, as I understood it, Your Honour, again Dr. Weber was going to be serving a dual function. He was going to be testifying, as indeed he did, as to his role of what he saw, and the {3376|3377} review of those documents, and as something he has direct knowledge of to testify to — that is relevant — and the second role is as an expert witness, I thought, on the Holocaust because that was the name of his book, "The 'Holocaust' 120 Questions and Answers", and I say he is not an expert on the Holocaust.

THE COURT: Your position is that as far as the Crown is concerned, subject to my order, you take no objection to the questions being put to the witness on what he saw, anything with respect to the documents that he was examining in general ...

MR. GRIFFITHS: Certainly not, Your Honour. I can't object to that.

THE COURT: You do take a position concerning the question of his skill at large on the issue and on the subject, rather, of the Holocaust and his opinions thereon if he is allowed to give them. Is that it?

MR. GRIFFITHS: Yes, sir. And my submission is that he should not be allowed to give them, that he is not somebody who is read widely enough. That his experience is in reviewing documents, I think, is appropriate, but I think that would be as somebody {3377|3378} giving direct evidence of what he actually saw and did, and not somebody who is speculating on what others did in that field.

THE COURT: All right. Thank you. Mr. Christie, you have the last word.

MR. CHRISTIE: I think, sir, I have said pretty well everything I have wanted to say.

THE COURT: Thank you. I will need about ten or fifteen minutes in order to review what I have written down in my bench book.

Members of the jury, I think we can get coffee for you a little early. Twenty minutes.

— The jury retires. 3:10 p.m.

— Short adjournment.

— Upon resuming.

— The jury enters. 3:40 p.m.

—— {3378|3379}

## RULING

THE COURT: This application concerns the qualification or otherwise as an expert of one Charles D. Weber.

Mr. Weber was born in 1922. He has studied at many universities in the United States of America, including Cincinnati and others. He has taught mostly German and languages, being the subject of his choice generally speaking, at the University of Tulsa in the western United States, and at Louisiana where he taught graduate students. He also taught at other locations of learning.

I do not recall any evidence as to what he is doing precisely at this moment in the way of teaching or otherwise. His principal field, he has sworn, is linguistics from a historical point of view.

Between 1966 and 1982 he was a professor at the University of Tulsa. The subject was diachronic linguistics. He served in World War II in the American Armed Forces. He has published a book on the Holocaust [sic]. It is entitled, "The Holocaust" 120 Questions and Answers".

He became interested in the Holocaust {3379|3380} as a subject of study as a result of having been involved with a book review that he did of a very controversial book. He mentioned when he testified in-chief that he was particularly interested in connection with the review on pages 163 to 165 of the book which dealt with the question of the Holocaust and the issue of whether extermination of Jews occurred by the use of lethal gas.

He then proceeded, on request, to define the word "holocaust" from the Greek. He said that the prefix "holo" means "complete"; "kaustos" means "burnt". It is a complete burnt offering in the Greek meaning of ancient times.

He testified that in World War II he was attached to the Intelligence Corps or Division of the American Armed Forces, and as such he had some access to documents of a historical nature. He took training in Camp Ritchie in 1945. Camp Ritchie, I infer, is in the United States.

No questions were put to the witness either in the form of questions in-chief or in cross-examination which in any way spelled out or identified the specific areas of training that the witness said {3380|3381} he took at Camp Ritchie. In any event, it appears to have equipped him to be sent to Europe and to Germany in the field of his training, in intelligence.

He arrived about mid-1945 as an American soldier. He was discharged some nine months later or thereabouts on the 3rd of April, 1946. He took up a position in the censorship area of Frankfurt as a civilian. He obtained a job translating documents in that particular section in his civilian capacity.

While he was a serving soldier in the American Forces he was ordered into a document centre in a small town in Germany. That centre contained a number of files which had been captured from German Armed Forces. Those files contained documents pertaining to the High Military German Forces during the course of World War II and its immediate aftermath.

His duty, he said, was to search out evidence relative to certain Germans who were of high rank and who were charged with certain offences which were to be, in turn, dealt with at the well-known Nuremberg trials. His colleagues, if I may use that term, who were also involved in the same endeavour, the witness said were mainly Jewish Americans who were there {3381|3382} performing the same function as Dr. Weber. All who did it, of necessity, required as a primary requisite a knowledge of German.

This witness has sworn that he could speak and write German. He has been familiar with German for most of his adult life. About that there can be no doubt. He said the documents were in large boxes in a room and they sat around examining the contents of the boxes. They undoubtedly were culling the contents of each in order to provide the prosecution at Nuremberg with the necessary ammunition that all prosecutions require in order to conduct their duties as prosecutors. It was then, he said, he developed an interest in the Holocaust.

He then, after that, became involved in a de-Nazification process where he became familiar with recent internees from the German Armed Forces, S.S., S.D. and paramilitary people who were arrested and were placed in detention camps. I think it can be inferred they then underwent a de-Nazification process.

I have mentioned his discharge in 1946. He was then asked how he prepared for the book, "120 Questions and Answers" of the Holocaust [sic] that he {3382|3383} wrote. The question, as I have written it down, was, "In preparation for the book what material did you read?" The witness' answer then came back, as I have recorded it, to the effect that the television in the United States, about 1979, began depicting a number of films on the Holocaust. That was his answer.

He read part of Dr. Hilberg's book. He read all about the book by Dawidowitz [sic], and he read a book by Butz in 1979 on the subject. He studied parts of a number of other books, but he did not read any other book that I can see, perhaps with an exception, from cover to cover.

He then made the observation that one can hardly open a news magazine these days without seeing a reference to the Holocaust.

In addition to his knowledge of the Holocaust he did a review of some writing on the Holocaust. He has written letters to the editors of various newspapers. He wrote the book, "120 Questions and Answers". He wrote some articles in 1980 on the psychological attitude to the Holocaust on the part of non-Jews. He translated something on the Holocaust done by one Stäglich, and a book by Professor Butz. {3383|3384} Stäglich's book impressed him greatly.

It is not clear to me whether or not those books impressed him greatly or not, before he wrote his own or after.

He is familiar with the writing of another writer who wrote on the demographic development of European Jewry. Its title is, "The Dissolution of European Jews."

He has no qualifications in history. His doctorate includes languages and examination of words and phrases. He is on the Committee of Historical Review apparently with one Felderer who testified here yesterday, one Faurisson who testified at some length in this trial for the defence. Dr. Butz is apparently on the same board.

When asked whether or not he read only pages 163 to 165 of the book that I earlier mentioned; the witness said that he must have read more, but it appears to me that his memory was particularly faulty in that regard. He said he did see German records that may have a peripheral bearing on the subject at hand.

Crown counsel submits that the witness is {3384|3385} not qualified as an expert. He does not have the degree of expertise within the confines of the field in which he is permitted to testify to give his opinion.

Counsel for the accused submits that he does possess such knowledge. In any event, what knowledge he does possess is a matter of weight for the jury to decide and not for the judge. He does not need a degree in history to become an expert. With that I do not disagree.

He is to be asked, if permitted to do so, about the conditions that existed in Nuremberg at the time. In the course of his evidence he was asked, I believe by counsel for the accused, whether or not any of the documents that he was examining for the prosecution [sic] were given to the defence. In reply he gave what I consider to be a rather equivocal answer which was neither yes or no. Be that as it may.

My decision is now whether or not, at the threshold, [sic] this witness is permitted to give his opinion evidence as an expert. I have already defined that in other rulings of this subject. I do not intend to do so again except to say this: {3385|3386}

In coming to the decision in which I have arrived, I have borne in mind

the principles set out in *Fisher v. The Queen*, 130 C.C.C. decided by the Supreme Court or Canada on appeal from the Ontario Court of Appeal.

It is indeed true that the weight, if any, to be accorded to the evidence given by any witness during the course of the trial held with a jury present is for the jury, and not for the judge and not for counsel. However, the decision as to whether or not at the threshold [sic], experience and expertise within the confines of the field in which it is proposed the witness is to be qualified must be and is, as a matter of law, with the judge and with no one else.

It is perfectly obvious to me that this witness does not possess, on what I have heard, the necessary qualifications to qualify him, as an expert is entitled, to give his opinion to the jury. It is proposed that he be asked to give it on the issue of the Holocaust and all that entails.

It is with some reservation that I agree that if asked, he can give his evidence as to what documents he looked at, and what he found in them {3386|3387} while he was searching for the ammunition for the prosecution at Nuremberg.

Provided that proper groundwork is laid by counsel for the accused with regard to conditions that existed at Nuremberg, and provided that groundwork is laid first before the question is put, he may be asked if he knows what the conditions were at Nuremberg after the War.

The jury will decide what weight, if any, to accord his evidence.

THE COURT: Gentlemen, are there any questions?

MR. CHRISTIE: No, sir. I don't think so.

MR. GRIFFITHS: Just one, Your Honour, with respect to the last part of your ruling.

Is that his personal knowledge at Nuremberg?

THE COURT: Personal knowledge. Yes, Mr. Christie.

— {3387|3388}

MR. CHRISTIE: Yes. Dr. Weber, please.

— The witness returns to the stand.

#### CONTINUED EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. I am going to have to phrase these questions carefully, Doctor, and before you answer, please wait. If there is any objection, don't answer. Okay?

When you were preparing the case for the prosecution at Nuremberg were you staying with the other people who were looking over the documents?

A. Yes. We were there together as a unit, sort of special team.

Q. And did you concern yourself with whether or not the defence should be made aware of the location of these documents?

A. I think it's obvious that the defence attorneys at Nuremberg, for the chief defendants such as Goering and Rosenberg and so on, should have had access to these documents quite freely.

THE COURT: That's an opinion.

THE WITNESS: Yes, sir. That's an opinion.

MR. CHRISTIE: Well, I understand now that he is not entitled to express an opinion?

THE COURT: That is correct. He is entitled to cite what documents he located and what they said, if he knows. {3388|3389}

MR. CHRISTIE: I see.

Q. Do you remember any documents that you found there at the time?

A. We discussed a number of documents. Some of the things I remember are of minimal importance, some of them were of more importance. These records, by the way, were mostly military records. I recall seeing quite a few maps and economic studies pertaining to the War on various fronts. I think mostly in the eastern front, in the case of the eastern front. I remember one little document that caused some amusement among us. The War was nearly over on the 30th of January, 1945, and the National Socialist Party put out some little pamphlet that late in the War extolling the virtues of National Socialism and what it had done for Germany and why the fight should continue to preserve National Socialism. And we were somewhat amused by that pamphlet because by that time, by the end of January 1945, the military outlook

for Germany was pretty dim. I must have looked, at least in a cursory way, at hundreds of items there.

MR. CHRISTIE: I'd like to file the book, "The Holocaust' 120 Questions and Answers", for identification.

THE COURT: You can file it for identification, yes. It will be Exhibit ...

THE REGISTRAR: "V".

THE COURT: Exhibit "V". Thank you.

— EXHIBIT. "V" (For Identification): Book, "The Holocaust' 120 Questions and Answers" by Dr. Weber. {3389|3390}

Q. MR. CHRISTIE: When you first published your views on the Holocaust did you run into any difficulties?

A. Indeed I did. I published a rather long letter, I would say, twelve, fourteen inches long, in the *Cincinnati Enquirer*. This appeared on the 10th of January, 1977. I mention that date specifically because it has some importance. I was temporarily living in Cincinnati at the time, in my mother's house. This letter was signed with a Cincinnati address. That's a very important detail. There was no hint whatsoever that I was employed by the University of Tulsa or even that I lived in Tulsa.

Now, something quite amazing happened after that. On the 16th of March, 1977, my Dean had me come into his office and he started to read this letter from the *Cincinnati Enquirer*, and he asked me, "Did you write this?" I said that I did write it, and while I was there he requested my resignation from the University of Tulsa. As the days passed on I simply refused to do this. He wanted to give me two years' salary.

Q. You can't tell about what he said or anything. Just what happened. That's all.

A. I was made the offer of two years' salary to resign my tenured position at the University of Tulsa. I refused. However, after that, some rather unpleasant things were happening to me. For example, I wasn't allowed to teach advanced courses any longer on a regular basis. Courses that I actually taught were left out of the schedule book, and that {3390|3391} sort of thing. And by 1981 I had simply had enough, and a new Dean requested my resignation and I finally agreed to a termination settlement that included approximately one and three quarter years' salary.

There were also a couple of other little benefits, and the stipulation that I was to teach one more year, namely, 1981 to 1982. I signed the contract, the termination contract on the 2nd of July, 1981, as I say with the understanding that I teach the next academic year, and that was the end of my formal academic career.

Q. Which had been how many years?

A. I've taught on the university level for a total of forty-two years. I taught three years at the University of Cincinnati. I taught for three years at the University of Missouri and Columbia, Missouri, and I taught for a total of twenty-two years at the University of Tulsa, although for four years that was interrupted by teaching at the Louisiana State University in Baton Rouge from the fall of 1962 to the spring of 1966, after which I returned with a quite propitious offer to the University of Tulsa in the fall of 1966 with a fine salary income. And then, in the following year, as arranged, I became the Head of the Department of Modern Languages at the University of Tulsa, which position I held for two years.

Q. Had you, prior to the 10th of January, when you published this letter, had any difficulty in your teaching and academic career?

A. I considered myself a fair-haired boy at the University of Tulsa, and I felt that I was {3391|3392} getting along very well.

I might mention another detail. On the 18th of January, that is, some six months after I had signed the termination agreement, an acquaintance of mine telephoned me and said that he had —

MR. GRIFFITHS: No, excuse me. That's hearsay, Your Honour.

THE COURT: Oh, I agree.

Q. MR. CHRISTIE: Was further pressure applied by certain groups?

A. I had evidence that there were, but I couldn't get documentation of that. I wanted —

MR. CHRISTIE: That's fine. Those are my questions.

THE WITNESS: From the Dean.

MR. CHRISTIE: Never mind. Those are my questions.

THE COURT: Mr. Griffiths.

CONTINUED CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. The men you were working with in the Documents Centre in Germany, were they all American soldiers?

A. Yes. They were members of the American Armed Forces.

Q. And there was a Lieutenant that was in charge of your unit?

A. Yes. That was his rank, as {3392|3393} recall it. I believe he was a First Lieutenant. I don't recall his name, however.

Q. Did you send anything out to the prosecution at Nuremberg?

A. No, sir. I had no such function. That is, I wasn't in charge of what specific items were sent there. I don't know what disposal, immediate disposal of those items were. I presume that the Lieutenant in charge was responsible for picking out the more important items and passing them on to the prosecution lawyers.

Q. All right. So he was one of these people who was Jewish that you referred to?

A. As I recall, he was of Jewish origin, yes, sir.

Q. And what was his name?

A. I don't recall. If I may make an explanation here, the American Army was rather strongly in need of people who understood German. It was not just everyone who had a fairly good knowledge of German for the examination of these documents. And under the circumstances, many of the people in the intelligence units were people who were refugees from Germany. Of course, mostly in their twenties or thirties, as was typical of people in the military service.

Q. You were twenty-one or twenty-two?

A. I was born in 1922, and during 1945 I became twenty-three years old.

Q. On your curriculum vitae it indicates you were in the U.S. Army from 1943 to 1946. {3393|3394} Is that a mistake?

A. I was on active service beginning with the 20th of January, 1943, to the 13th of April, 1946.

Q. And where were you stationed?

A. I was stationed in various places during those three and a quarter years.

Q. All right. I am not going to take you all through that. Were you always in intelligence?

A. No, sir. I was trained in Camp Ritchie, Maryland, which was west of Washington, D.C., west of Baltimore, very mountainous area. This was the intelligence camp of the army.

Q. All right. You don't know whether any documents you saw were passed on to the prosecution at Nuremberg?

A. It was not my function to dispose of such documents.

Q. All right. And it wasn't your function to pass documents along to the defence, either. You don't know what happened to them.

A. No, sir. Our immediate task was to pick out things that looked like important items in the litigations.

Q. All right. When was the last time you published an article in your field?

A. In what field, sir?

Q. Well, in your field, the field that you taught and studied in for thirty years.

A. Oh, approximately 1980 I gave a paper comparing German and English from a diachronic {3394|3395} linguistic point of view, and the summary of that was published. I gave that before a section of the South Central Modern Languages Association.

Q. Did your publishing habits, leaving aside the Holocaust for a moment, and your publishing in your field, did your publishing in your field have anything to do with the request for your dismissal, resignation?

A. That is difficult for me to determine.

Q. Okay. And you said that you were the Head of the Modern Language Department at the University of Tulsa for two years?

A. Yes.

Q. And I took that to be from '66 to '68. Have I got that right?

A. In the fall of '67 to the spring of 1969. That was just after my father

died. And I had a lot of family business at the time.

Q. And did you retire from that position, or were you asked —

A. Well, I simply continued as a full professor. You see, for those two years I was full professor and head of the department.

Q. I understand.

A. And thereafter I just simply continued as a full professor.

Q. My question was whether you stepped down voluntarily as the head of the modern languages department or whether you were asked to step down.

A. I was replaced by someone else. {3395|3396}

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: I have no questions in re-examination.

THE COURT: Thank you, Doctor.

— The witness retires.

MR. CHRISTIE: As I indicated, Your Honour, I am prepared to proceed with formal matters with the evidence of the accused, as we discussed. So I call the accused.

For the benefit of the jury, Your Honour, what I propose to do now is to go through the booklet page by page, and where there are references citing other works, to provide the copies of those references starting with page 4. And I'd like, for the purposes of this operation, to show the jury the copies of the book, "Did Six Million Really Die?"

MR. GRIFFITHS: Your Honour, I understand that there may be some other witnesses coming out of town for Mr. Christie who may be interspersed with Mr. Zundel's evidence, and I certainly have no objection to the procedure.

— {3396|3397}

ERNST ZÜNDEL, sworn

EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. Mr. Zundel, we have already confirmed, by admission of fact, that the booklet, "Did Six Million Really Die?" was published by you; is that right?

A. Yes.

Q. Together with the introduction and the following words, or what I call postscript at the end.

A. Yes.

Q. I am now going to ask you to turn to page 4, and I'd just like to trace the portion that says, on the paragraph second from the top under the words, "Discouragement of Nationalism", it says:

*"A classic example of the use of the 'Six Million' as an anti-national weapon appears in Manvell and Frankl's [Fraenkel's] book, The Incomparable Crime (London 1967), which deals with 'Genocide in the — Twentieth Century'."*

And then it goes on to say:

*"Anyone with a pride in being British will be somewhat surprised by the vicious attack made on the British Empire in this book. The authors quote Pandit Nehru, who wrote the following while in a British prison {3397|3398} in India: 'Since Hitler emerged from obscurity and became the Fuhrer of Germany, we have heard a great deal about racialism and the Nazi theory of the 'Herrenvolk'... But we in India have known racialism in all its forms ever since the commencement of British rule. The whole ideology of this rule was that of the 'Herrenvolk' and the master race India as a nation and Indians as individuals were subjected to insult, humiliation and contemptuous treatment. The English were an imperial race, we were told, with the God-given right to govern us and keep us in subjection; if we protested we were reminded of the 'tiger qualities of an imperial 'race'.'"*

And this attributes the words in quotes to the book, "The Incomparable Crime", London, 1967, and it doesn't — it gives page 14 as the source, and it goes on to quote:

*"'The white races of Europe and America' they write, 'have become used during centuries to regarding themselves as a 'Herrenvolk'. The twentieth century, the century of Auschwitz, has also achieved the first stage in the recognition of multi-{3398|3399}racial partnership'."*

I now produce and show to you a copy of the cover page of the book

called, "The Incomparable Crime" by Manvell and Heinrich Frankl, and I ask you to turn to page 14 and read the portion that is highlighted there, and compare it with the portion that's attributed to it in the book. Could you read that portion out loud, please?

A. *"Since Hitler emerged from obscurity and became the Führer of Germany, we have heard a great deal about racialism and the Nazi theory of the 'Herrenvolk'. But we in India have known racialism in all its forms ever since the commencement of British rule. The whole ideology of this rule was that of the 'Herrenvolk' and the master race. There was no subterfuge about it. It was proclaimed in unambiguous language by those in authority. More powerful than words was the practice that accompanied them in generation after generation and year after year. India as a nation and Indians as individuals were subjected to insult, humiliation and contemptuous treatment. The English were an imperial race, we were told, with the God-given right to govern us and keep us in subjection; if we {3399|3400} protested we were reminded of the 'tiger qualities of an imperial race'. The white races of Europe and America have become used during centuries to regarding themselves as a 'Herrenvolk'. The twentieth century, the century of Auschwitz, has also achieved the first stage in the recognition of multi-racial partnership."*

A. And to who were the words attributed by that book as you have read?

A. Roger Manvell and Heinrich Frankl.

Q. Are they attributed to Nehru in the quote? You will notice the portion you read is a quote.

A. That's right. Yes.

Q. And who is the author to whom that quote is attributed in the book itself?

A. To Nehru, who allegedly wrote this in the book, "The Discovery of India".

MR. CHRISTIE: Thank you. Could that be an exhibit, please, Your Honour?

MR. GRIFFITHS: Is that "The Incomparable Crime", or "Intolerable Crime"?

MR. CHRISTIE: "The Incomparable Crime".

— EXHIBIT NO. 46: Photocopy of excerpt from book, "The Incomparable Crime". {3400|3401}

Q. MR. CHRISTIE: Turn to page 5. I think you will notice, at the top of the lefthand side, it says, the second paragraph, and I am quoting "[.]

*"The aim in the following pages is quite simply to tell the Truth. The distinguished American historian Harry Elmer Barnes once wrote that 'An attempt to make a competent, objective and truthful investigation of the extermination question ... is surely the most precarious venture that an historian or demographer could undertake today.'"*

I now produce and show to you an article from "Rampart Journal of Individualistic Thought" published by Pine Tree Publications, Larkspur, Colorado, an article by the late Harry Elmer Barnes entitled, "The Public Stake in Revisionism". I'd like you to read the paragraph page 36 highlighted, please.

A. *"An attempt to make a competent, objective, and truthful investigation of the extermination question ..."*

and then it goes on:

*"... is now regarded as far more objectionable and deplorable than Professor Bemis viewed charging Roosevelt with war responsibility."*

He continues:

*"It is surely the most precarious venture that an historian or demographer could undertake today."*

Q. I now produce and show to you a {3401|3402} list of titles of publications attributed to the late Harry Elmer Barnes in support of the contention that he was eminent. Have you undertaken to obtain this yourself, sir, from someone in Washington, D.C.?

A. Yes, I did.

Q. Thank you. And is it a listing of all the titles published by that author?

A. It is. It is a list from the Library of Congress, a computerized card.

Q. A computerized card. Thank you.

THE COURT: Exhibit No. 47.

MR. CHRISTIE: Thank you, Your Honour.

— EXHIBIT NO. 47: Computerized card of book titles re Mr. Barnes.

Q. MR. CHRISTIE: Did you undertake a search of the American Nation and an Encyclopaedia Biography, Volume 44 by Elmer Barnes, historian and educator, and is this a copy of what is revealed there in that publication?

A. Yes, it is.

Q. And it gives the biography of that person.

A. Quite a complete one, yes.

Q. Yes. Thank you.

MR. CHRISTIE: May I file that? Is there an objection?

May I have Your Honour's indulgence and, perhaps, the jury for just a moment? My friend asks the question — {3402|3403}

MR. GRIFFITHS: I will express it out loud. My question was, Your Honour, whether these are matters or investigations that Mr. Zundel undertook before the charge was laid, or after the charge was laid that would go to his belief. And I think that that should be clarified as things are put to him.

MR. CHRISTIE: Your Honour, I take the position that Mr. Zundel is entitled to prove that these are investigations made predominantly after, some before, but mostly after the charge was laid.

This investigation and search for verification of the quotes is; in my submission, the right of Mr. Zundel to prove the accuracy and the truth of the quotes as attributed. If there is a desire to argue about context, then that is for my friend to question. I suggest that my client should be entitled to prove the sources of each of the quotes attributed, and to check those even after he is charged, to show that what the book says about the authors quoted in the book is true.

That is not to say any more than that, but that, I suggest, is the right of the accused.

MR. GRIFFITHS: I don't argue, Your Honour, with Mr. Zundel and Mr. Christie. He can lead as much as he wants going through authors and quotations in the book to show that they are, in fact, in the books.

The particular objection I had at this time was introducing an article from some source indicating that Harry Elmer Barnes is a distinguished historian. That, surely, is hearsay. It's not the {3403|3404} proper manner of proof for that particular item, and that would be a matter that I think would go to knowledge before the publication rather than after.

MR. CHRISTIE: Well, if I may —

THE COURT: It is an interesting question, gentlemen. I rule in favour of the defence for this reason, that what is being proposed is essentially something that goes to not really admissibility; it goes far more — although it may go to some admissibility. I have to exercise some judicial discretion. I exercise it in favour of the defence, because the main aspect of it is weight and not admissibility and it can be the subject of cross-examination and/or other evidence at the appropriate time.

MR. GRIFFITHS: Thank you, Your Honour.

THE COURT: You can join it with Exhibit 47, if you want to.

MR. CHRISTIE: Thank you. What I propose is also to file a copy of Who's Who, 1961 – 70, dealing with the late Harry Elmer Barnes, his obituary in the New York Times, and the National Encyclopaedia of American Biography published by Drifton White, New Jersey, 1953, simply identified as obtained by the accused in support of that point.

THE COURT: All right. That can also be Exhibit 47, so that we don't get into large numbers too soon.

MR. CHRISTIE: Thank you, Your Honour.

EXHIBIT NO. 47: Photocopy of "Who's Who, 1961 – 70, re Harry Elmer Barnes, added to previous documents in exhibit 47. {3404|3405}

THE COURT: I see, gentlemen, it is four thirty. There is a matter I want to discuss with counsel which is a matter of housekeeping, but it is something that I think I should mention in the absence of the jury because it is housekeeping, and that is necessarily part of the trial.

Members of the jury, you have been very patient today. Thank you for your patience. Hopefully, what I suggest may bear some fruit, but we won't know that until I suggest it.

You are free to go until tomorrow morning at nine thirty. Thank you.

— The jury retires. 4:30 p.m.  
 THE COURT: Mr. Zundel, you can step down.  
 — The witness stands down.

THE COURT: Gentlemen, what I was going to suggest to you is this. Albeit the defence may, because of their planned schedules, the weather and the like, want a filler, and if that is the case, please be frank; I have passed this way more than once myself – on the other hand, if that is not the case, then surely, so the jury doesn't become totally bored {3405|3406} with what is really a mechanical process that I can see that the defence is about to go through, surely you gentlemen can liaise with one another and only select the issues that are in contest as to what you have been doing for the last two exhibits. That will keep the jury, I think, perhaps the old judge, from not going completely around the bend, if I can use that informal phraseology. In the event that you can't, then I will be happy to sit here as long as it takes, and I am sure the jury will too, at great expense to the public, but I don't know that that's necessary.

Does that sound reasonable to you both?

MR. CHRISTIE: Your Honour, that is very instructive to me. I hope it won't be offensive to my friend to suggest that I might introduce this type of evidence perhaps by consent. It really is rather formal, and I realize it seems ridiculous to go through the formality of asking the accused in each instance – in fact, I don't know what it accomplishes, frankly, but I have a page by page analysis of every quote, and some kind of evidence – not every quote; I think there are {3406|3407 (a)} Certified correct to the best of my skill and ability.

C.S.R

CARMEN OAKE

OFFICIAL COURT REPORTER {3406|3407}  
 some I couldn't find, but most of them.

THE COURT: Mr. Griffiths, how does that all sound to you?

MR. GRIFFITHS: Your Honour, we have been starting early and going late on this every day. I wonder if we could have your indulgence to start at ten o'clock rather than at nine thirty tomorrow, and Mr. Christie and I can get together in the morning before that, and if there is any disagreement, those matters about which we disagree we can bring before the jury.

THE COURT: Yes. That brings up another subject. I will be quite happy to be flexible about the hours if I can see progress. If I can't see progress, gentlemen, if I don't discern it on a reasonable basis, I have been thinking in serious terms of sitting on Saturdays, because for obvious reasons that seems to me to be the way I intend to run the court if I must.

Bear that in mind when you confer with one another.

— Whereupon the hearing is adjourned to February 14, 1985.

——— {3407|3408}

## FEBRUARY 14, 1985

— Proceedings resumed at 10:06 a.m.

THE COURT: Yes, sir.

MR. CHRISTIE: Yes, Your Honour. My friend and I had a meeting this morning, and I think we are prepared to proceed, and I have nothing further in the absence of the jury.

THE COURT: All right. Bring in the jury, please.

MR. GRIFFITHS: Your Honour, I have indicated –my friend did wish to go through the quotations, but I've indicated he can lead as much as he needs to to go through that process and do it quickly.

MR. CHRISTIE: I think we can go very quickly through this, Your Honour.

THE COURT: Thank you.

THE REGISTRAR: The jury, please.

— The jury returned at 10:08 a.m.

THE REGISTRAR: Are counsel content the jury is all present?

MR. GRIFFITHS: Content.

THE COURT: Members of the jury, I'm sorry to have held you up. Counsel were conferring, and that is the reason.

Go ahead, Mr. Christie.

MR. CHRISTIE: Thank you, Your Honour. I first of all wanted to indicate, Your Honour, in the presence of the jury, that last night I received a transcript of a certain portion of the evidence. I reviewed that transcript and I came to the conclusion that I had made a mistake, and it was in the situation where my friend and {3408|3409}

Your Honour pointed out that a witness, Dr. Faurisson, had said something, and I said – the words I believe were, "Is this an opportunity for Your Honour and my friend to comment on the witness's evidence? I object." I've reviewed the transcript. I have come to the conclusion that I was quite wrong, and Your Honour and my learned friend were quite right, and I would like to apologize for raising the objection as I did at that time. That's all I can say, Your Honour, on that point.

THE COURT: It's accepted

MR. CHRISTIE: Thank you very much, sir. The other thing is, Your Honour, I've reviewed my situation as regards the defence, and I would like to just indicate on the record for all concerned that I anticipate concluding calling – I think a safe estimate of the conclusion of the defence's case would be probably Wednesday noon of next week, from what I can say at the moment, and I hope, therefore, that a reasonable estimate might be made on the basis of that.

THE COURT: Thank you.

MR. CHRISTIE: Other than that, sir, I only have to call my next witness.

THE COURT: Please do.

MR. CHRISTIE: Thank you, sir. I'd like to call Frank Walus.

## FRANK WALUS, sworn

### EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. Mr. Walus, were you accused as a war criminal?

A. Yes, Your Honour. {3409|3410}

Q. What were you accused of, Mr. Walus?

A. To be – from 1939 till 1944, to be a Three-Star General. That's mean a Gruppenfuehrer, S.S. Gruppenfuehrer, and that I – that I, during the wartime, I killed dozens of Jews and dozens of Poles. That what was false, was not true.

Q. When were you accused of it?

A. I was accused – it was January 26, 1977.

Q. And where were the crimes alleged to have been committed?

A. In Poland, Kielce. That's a city, Kielce. And another city approximately fifty miles from Kielce; the name of the city is Czeszochowa.

Q. And where was the charge first made against you?

A. That was made against me on January 26, 1977.

Q. And in what city?

A. At Chicago, in Chicago.

Q. Were you ever in Poland during the war or between the years 1939 and 1945?

A. No, sir.

Q. What were you doing during those years?

A. I was taken as a forced labour by the Germans, and I was working for couple of farmers. Why did I work for couple of farmers, that was, I was very weak.

Q. "Weak"?

A. Weak, that's me, I was very small and I couldn't handle any heavy job on a farm.

Q. How old were you in 1939?

A. Seventeen years old.

Q. How many witnesses identified you as {3410|3411} committing war crimes in your trial?

A. Eleven witnesses, seven from Israel and four from United States.

Q. How did they identify you?

A. Well, they identify me that during – that they know me exactly, that they saw me, how did I kill Jews, you know, that I – how the Jews – I killed Jewish kids, that – how did I kill the Jewish kids, also Poles, in one of the Polish cemetery [sic].

Q. Who first raised the charges against you that you heard about?

A. Simon Wiesenthal.

Q. What did the eleven witnesses say when they identified you? – I

withdraw the question.

Did they – what did they do when they identified you?

A. Judge Hoffman told the Jewish witnesses —

MR. GRIFFITHS: Objection, Your Honour.

THE COURT: This is nobody's fault. I'm not blaming the witness or counsel or anything.

MR. CHRISTIE: He doesn't understand the law.

THE COURT: That's right. You might try again.

MR. CHRISTIE: Yes, sir.

Q. Don't tell us what anybody said to you, Mr. Walus. Please don't say what somebody said, just tell us what they did when they were identifying you.

A. Well, there was – they was [sic] pointing me out, "We know that he's – that Mr. Walus is the same guy which we saw him during wartime, making crimes."

Q. How did you prove that you were in Germany during the war?

A. I had documents from the German Income Tax – {3411|3412} German Internal Revenue, I had documents, or I had documents from the German – like, here we call them, over here, insurance company.

Q. Yes.

A. Insurance company, and —

Q. In other words, when you worked on the German farms, you were admitted to the health scheme of Germany?

A. Yeah, and I also had documents from the International Red Cross.

Q. Were any of the people whoever pointed you out charged with any offences, to your knowledge?

A. I don't know, Your Honour.

Q. What did this do to your life?

A. Well, it hurt me very badly.

MR. GRIFFITHS: Excuse me. Objection, Your Honour. I don't see the relevance of what it did with his life.

THE COURT: How is that relevant, Mr. Christie?

MR. CHRISTIE: The same processes would be involved in the present case, Your Honour. The specific reference is to "The West, War and Islam", the connection of the media to the Zionist cause, the political influence Zionism plays in the West. The article says, "Political and religious Zionism play a disproportionately large role in the West because of Zionist dominance of the mass media, information, education and entertainment." I'm trying to demonstrate how what happened in Mr. Walus' case is also the same situation in Mr. Zundel's case. There's also a reference to certain people who call themselves Jews who have shown themselves to be vicious, greedy and militant. I intend to demonstrate how some people who call themselves {3412|3413} Jews have done types of things that fit within that category, in common-sense parlance, and this is one example. The man was charged as a war criminal. I'm trying to demonstrate how unfair some of these processes have been, how false testimony has been introduced. That's the reason, because, of course, the booklet, "Did Six Million Really Die?", disputes the validity of the war crimes trials, and I will argue the same mass hysteria seems to infect our society when allegations against individuals are made involving the word "Nazis", even now, as they did then. I will argue that it's not that much different today. That's my reason.

THE COURT: Yes.

MR. GRIFFITHS: Well, I certainly see a major difference, Your Honour. I'd suggest what puts it beyond the realm of relevance in this trial, to a charge laid in the United States, presumably by the United States authorities thirty years after the events, where there were identification problems, it seems to me there is no indication of identification problems at Nuremberg. We haven't heard whether Mr. Walus was acquitted or not, which I think is certainly relevant to the —

MR. CHRISTIE: I'll lead that.

MR. GRIFFITHS: And there is no indication that – because he was charged, that this was as a result of some. Zionist conspiracy or control of the media he was charged.

MR. GRIFFITHS [CHRISTIE]: I intend to prove that, too, because —

THE COURT: Through this witness?

MR. CHRISTIE: Yes. The same process of Simon Wiesenthal that applied here has also been applied against my client in the past. {3413|3414}

THE COURT: Who is Simon Wiesenthal?

MR. CHRISTIE: Simon Wiesenthal, I can tell Your Honour, is a world-famous, quote, "Nazi-hunter", and he's the man who went after Frank Walus. He's also been involved in making allegations against my client, writing to members of – well, the government, influencing people throughout the world, and I just want to introduce this evidence to show that influence; because the pamphlet, "The West, War and Islam" alleges that there is a very large influence called Zionism, and political and religious Zionism, and my client has reason to – has also helped this man; I will be leading evidence from this man that my client has helped him in his defence. I will lead evidence that this man was ultimately acquitted, and I will also lead evidence how close it came. That's what I intend to show. It shows —

THE COURT: You might lay some more groundwork and I will reserve on it.

MR. CHRISTIE: Thank you very much.

Q. Did you have communication from Ernst Zundel about helping your defence?

A. During – that's 1978, during my process, that mean during my trial, —

Q. Yes.

A. — I get a – I receive a letter from Mr. Zundel, and he ask me if I need any financial help. So I answered him, I answer him in German language, that – that I need a help, financial help. So he sent me during the during the trial, a couple of thousand dollars, approximately; I don't remember, four or five thousand dollar.

Q. Did the media —

THE COURT: Well, perhaps you might just change {3414|3415} that question a little bit so it's not leading.

MR. CHRISTIE: I'm sorry.

Q. What happened when it became public knowledge that Simon Wiesenthal had said there was a Nazi in Chicago and identified you?

THE COURT: We haven't heard that from him.

MR. CHRISTIE: I'm sorry, Your Honour. The witness does have some difficulty with English. I'm sorry if I'm leading, but ...

THE WITNESS: Yeah. Well, Your Honour, I was —

MR. CHRISTIE: Q. Tell us what happened.

A. During the whole of four year while I was living in Chicago, I still live at the same place under the same address; I was beaten from all kind, different people, especially the most of the time from Poles. They beat me on the street, in the stores. I was about approximately ten, fifteen times beaten [sic]. I was also beaten [sic] by – by some Jewish – Jews leader, I don't know how they call them, Jewish organization, I cannot remember. But the Jew, after my case was thrown out, he came – he came next day to my – he visited me at my house and he asked me that – he asked me for forgiveness, and I said, "Don't forget about all – don't worry about, you know," so – he owns two stores, that "Any time you need something, step in, see me, visit me, and you can take whatever you want." But I never visited him. I forgave him.

I was – excuse me – I was hospital – at that time I was beaten [sic] by the Jew, it was in downtown in Chicago; I was in a hospital eight days that time.

Q. Did this accusation of being a war criminal have an effect on your ability to defend yourself?

A. I can't understand exactly this question. {3415|3416} Could you – Your Honour, this question, get me clearly – could you ask me, give me that clearly this question?

Q. I understand. Were there stories in the papers about you?

A. Oh, yeah, oh, yeah, there was lots of story. Well, from beginning, that means from 1977, January, till the end, there was lots, lots, I mean, about that, this accusation, was in the newspaper, and also on the television, but during the time where I was accused, on January 26, there was in every fifteen minutes in the television, on the television program, "On the southwest side Chicago lives a man with the name



Frank Walus who – he's a war criminal who kills lots – dozens of Jews and dozens of Poles." That was every fifteen minutes on the television, on any station.

Q. Can you tell us whether there was [sic] any similar stories about other crimes at that time?

A. That time exactly not, but little bit later, that was about —

THE COURT: You mean other crimes generally speaking?

MR. CHRISTIE: Yes, that's just a relevant comparison.

THE COURT: I think he's going to launch into something that he would probably be stopped saying.

MR. CHRISTIE: Q. I'm sorry, I withdraw that question, Mr. Walus. What was the prosecution endeavouring to do with you?

THE COURT: Prosecution where?

MR. CHRISTIE: In Chicago, I guess.

MR. GRIFFITHS: Thank you, Your Honour.

MR. CHRISTIE: Q. What were they – where were {3416|3417} you supposed to go?

A. Well, after Judge Hoffman, that was 1980, Judge Hoffman find me guilty, so – but fourteen days later Israel ask United States government for extradition. Well, if I would defend myself, if I wouldn't had [sic] any evidence proof that I never was a war criminal, probably they would deport me to Israel and they would hang me up, you know, that's all.

Q. Were you ever in the S.S.?

A. Never.

Q. Were you ever in the German army?

A. Never.

Q. Do you know how you came to be suspected and charged?

A. I can't understand this question.

MR. CHRISTIE: Excuse me, please, for a second, Your Honour. I beg your pardon.

Q. What did this do, this situation from '77 to '80, what did it do to your friends, your family, and yourself?

A. Well, all people – I mean, all friends, I lose complete contact with any friends, you know. I still have no any contact with those friends, so I have new friends now, and wherever I step in during that time, that's mean during that accusation, in the store, wherever I – wherever I was, even on the street, everybody look, look at me, when – I really was pure devil, and excuse me, sir, that I am tell you like that, but it really was like that, when I was be a devil, they look at me, you know, people. And also I had – during that time I had two heart attacks, and I was in the hospital twice during that time.

Q. Did you have a lawyer?

A. Yes, I have a lawyer. I had two lawyers. {3417|3418} The first lawyer name was —

Q. Never mind.

THE COURT: That's all right.

MR. CHRISTIE: Q. Did it cost you money?

A. Yes, about approximately hundred twenty thousand dollar, and I still owe lots of money to people, I mean, which I borrowed from the people I still owe the people lots of money.

Q. What did you do for a living?

A. I was before I am – because of my – I had together all together six heart attacks; I am retired since 1975, I get retire.

Q. What did you do before then?

A. I was working at Electromotives (phonetic), that's General Motor[s] Corporation, as a locomotive fitter.

Q. Locomotive ...

A. Locomotive fitter.

Q. Fitter?

A. Yeah.

Q. What effect did it have on your children and your wife?

THE COURT: We haven't heard he had a wife and children.

MR. CHRISTIE: Yes, sir.

Q. You have a family?

A. Yes, a wife and four children. Well, they get – they get hurt the same way like me, and many time[s], while we was [sic] at home together, we was crying like – like little kids, like little kids we was crying. We were

praying and ask Our Lord for help. That was our ...

MR. CHRISTIE: Those are my questions.

THE COURT: Do you have any questions, Mr. Griffiths? {3418|3419}

MR. GRIFFITHS: Just a few brief questions, Your Honour.

#### CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Just take a minute, Mr. Walus.

Okay? Mr. Walus, was the proceeding in Chicago a denaturalization proceeding, something to take away your citizenship?

A. Yes, yes, sir.

Q. All right.

A. And they took away from me the citizenship.

Q. And then to deport you to Germany?

A. No, there was trying to deport me to Israel.

Q. I see. And you were acquitted?

A. Pardon me?

Q. You were acquitted?

A. I can't understand.

THE COURT: You got off? Did you get off?

MR. GRIFFITHS: Q. Nobody deported you?

A. No, no, no.

Q. In Chicago, do people sometimes get charged with murder or rape, very serious charges, and are acquitted?

A. Yeah, I hear that many time in the newspaper, in the news and newspaper.

Q. And some of those people are acquitted afterwards?

A. No ...

Q. Do you know what the word "acquitted" means?

A. No. {3419|3420}

Q. Okay. Do some of those people get off who are charged with very serious offences?

A. Well, I don't know, Your Honour.

MR. GRIFFITHS: Okay. Thank you, Mr. Walus. I have no further questions.

THE COURT: Thank you. Any re-examination, Mr. Christie?

MR. CHRISTIE: No, thank you, Your Honour.

THE COURT: Thank you, Mr. Walus.

MR. CHRISTIE: Your Honour, I have another witness this afternoon, but I am prepared to call the accused to carry on the process as quickly as possible of going through the book.

THE COURT: Yes. He is already under oath.

#### ERNST ZÜNDEL, resumed stand.

THE REGISTRAR: Just to remind you, Mr. Zundel, you are still under oath.

THE WITNESS: Yes, I understand.

MR. CHRISTIE: Could I ask if the jury could have the copies to follow of the book, Exhibit 1? Thank you. Thank you very much.

#### EXAMINATION-IN-CHIEF BY MR. CHRISTIE (Continued):

Q. Do you have Exhibit 1 in front of you, witness?

A. Yes, I do.

Q. And yesterday when we were dealing with page five and we came to the – we were dealing with the article by Harry Elmer Barnes, and I think I overlooked, {3420|3421} after having you read it, which was page 36 of the Harry Elmer Barnes, the publication in "Revisionism". Is that the article you checked, the highlighted portion?

A. Yes, I did.

Q. And does it accurately reflect what is indicated at the portion attributed to Harry Elmer Barnes?

MR. GRIFFITHS: I'm content that it does, Your Honour.

MR. CHRISTIE: Okay.

THE WITNESS: Yes.

MR. CHRISTIE: Q. Are you satisfied?

A. Yes, I am.

Q. And did you undertake and instruct a search to be made to ascer-



tain that fact?

A. Yes, I did.

Q. And in that regard did you hire the assistance or, rather, obtain the assistance of someone in Washington, District of Columbia, —

A. Yes, I did.

Q. — to obtain this information?

A. Yes, I did.

MR. CHRISTIE: Thank you. Could that be an exhibit?

THE REGISTRAR: Forty-eight.

THE COURT: Yes.

— EXHIBIT 48: Photocopy of 17 pages of article, "The Public Stake in Revisionism".

MR. CHRISTIE: Now, going down to the bottom underneath the words "Jews Called Emigration 'Extermination'", referring to the portion that says,

"A 1936 anti-German propaganda book by Leon Feuchtwanger and others entitled {3421|3422} Der Gelbe Fleck: Die Ausrottung von 500,000 Deutschen Juden (The Yellow Spot: The Extermination of 500,000 German Jews, Paris, 1936)" —

I now produce and show to you the book Der Gelbe Fleck: Die Ausrottung von 500,000 Deutschen Juden. Could you check and see if there's a highlighted portion there that is quoted in the book, and if so, please read it.

A. The book is, Der Gelbe Fleck, subtitled Die Ausrottung von 500,000 Deutschen Juden. The author is Leon Feuchtwanger. The subtitle translated is, The Extermination of 500,000 German Jews. The title of the book is, The Yellow Spot, and the German text reads, on page 7, —

Q. There's a translation attached to that. We will file it with that, so just read the translation portion if you would, the relevant portion.

MR. CHRISTIE: I've advised my friend of this, Your Honour.

THE WITNESS: The paragraph in the book, The Yellow Spot, is headed, "Viele Etappen – aber ein Ziel", translated "Many stages but one goal", begins as follows:

"Ever since National Socialism has come to power in Germany it has never ceased to take steps sponsoring the annihilation (Ausrottung) of the Jewish population. Carefully, like a spider, it has spun a web in which half a million people, regardless of their age and sex, had to become hopelessly entangled. This campaign of extermination was waged not only against the 500,000 men and {3422|3423} women, children and old people belonging to the Jewish community but it was directed also against further hundreds of thousands who were considered 'Non-Aryans' due to one of their grand-parents and were therefore outlawed and ostracised."

End of translation.

MR. CHRISTIE: End of translation. Thank you. Could that be an exhibit, please, Your Honour?

THE COURT: Forty-nine.

THE REGISTRAR: Forty-nine.

— EXHIBIT 49: Photocopy of Five Pages of German Book "Der Gelbe Fleck: Die Ausrottung von 500,000 Deutschen Juden", and one page of English translation.

MR. CHRISTIE: Q. Moving on to the next quote, it refers to

"A further example was the sensational book by the German-Jewish Communist, Hans Beimler, called Four Weeks in the Hands of Hitler's Hell-Hounds: The Nazi Murder Camp of Dachau,"

which was published in New York in 1933. Incidentally, did you notice the publication date on Der Gelbe Fleck?

A. I did not look for it.

Q. Sorry?

A. I did not look for it.

Q. All right.

MR. GRIFFITHS: I'm content with 1936, Your Honour.

MR. CHRISTIE: Thank you.

Q. I now produce and show to you the book – front page of the book, Four Weeks in the Hands of Hitler's {3423|3424} Hell Hounds: The Nazi Murder Camp of Dachau, by Hans Beimler. Would you check and

see if there is a highlighted portion there that refers to the quoted portion in the book?

A. The book title is stated correctly. The publication date is 1933, and the highlighted portion reads it refers to Dachau as a "murder-camp", the "fact of the year 1933", then the whole paragraph quoted is:

"It is capable of proof that fifty human beings have already been murdered in Dachau by the ..."

Q. How many?

A. Fifty.

Q. Yes.

A. That's what it says here.

"... human beings have already been murdered in Dachau by the perverted fiends of fascism, for the satisfaction of their depraved passions". Heads hacked in pieces, bodies torn to shreds, cry for vengeance!" – end of quote.

MR. CHRISTIE: Thank you. Could that be an exhibit, please?

THE COURT: Fifty.

MR. CHRISTIE: Thank you.

— EXHIBIT 50: Five Pages from Book, "Four Weeks in the Hands of Hitler's Hell-Hounds: The Nazi Murder Camp of Dachau".

MR. CHRISTIE: Q. Excuse me. There are other highlighted portions. Would you please read them and the page number as well then? We're going to have to put it back together.

A. On page 6, the highlighted portion reads that. it was "Beimler's experiences in Dachau", and on page 7 {3424|3425} it reads:

"Anyone horrified on reading this description of the murder camp of Dachau must not ease his heart with the words of Pontius Pilate: 'I wash my hands of guilt.'"

And then another highlighted portion:

"Whatever may befall the German proletarians in Dachau and in other blood-soaked prison camps ..."

And then the final highlighted portion:

"Thus Beimler's book upon the Dachau murder camp becomes a barred sword for the battle against murderous fascism and all that supports it."

Q. Okay. I think that's come undone. I'll have to see if we can't —

THE COURT: . The Clerk will.

MR. CHRISTIE: Thank you very much, Your Honour.

THE REGISTRAR: Fifty.

MR. CHRISTIE: Thank you.

Q. The next quote in the book is on the next column. It refers to — it says, and I quote, it's in the paragraph:

"The encouragement of Jewish immigration should not be confused with the purpose of concentration camps in pre-war Germany."

Going on, omitting some words, it says:

"Reitlinger admits that between 1934 and 1938 it seldom exceeded..."

that is, the concentration camp population,

"...throughout the whole of Germany, and the number of Jews was never more than 3,000." {3425|3426}

I now produce and show to you the — it refers to The S.S.: Alibi of a Nation, London, 1956, page 253.

I now produce and show to you the book titled The S.S.: Alibi of a Nation, by Reitlinger, page 254. Could you read the highlighted portion there and check and see if it compares to the text?

A. "Between June 1934 and the Austrian Anschluss of March 1938, there was not the shadow of any resistance to Hitler's authority. Nevertheless in these four years the population of the concentration camps seldom fell below twenty thousand."

Q. Does it say anything there about the number of Jews being never more than three thousand?

A. Not on the page 254 and 255.

Q. All right, thank you. Did you instruct someone to obtain that information and search to check that reference?

A. Yes, I did.

Q. And who did you instruct to do that?

A. Researcher in Washington, D.C., who went to the Library of Congress for me.

Q. Why did you not get the books more locally?

A. Because the man is a very capable researcher, and he has access to every book on the face of the earth, virtually, in Washington.

Q. In the Library of Congress?

A. The Library of Congress.

MR. CHRISTIE: Thank you. Could that be an exhibit, please, Your Honour?

THE COURT: Who is the author?

MR. CHRISTIE: Gerald Reitlinger, Your Honour. {3426|3427}

THE COURT: All right. Yes, 51.

MR. CHRISTIE: Thank you very much.

THE REGISTRAR: Fifty-one.

— EXHIBIT 51: Photocopy of Five Pages from Book “The S.S.: Alibi of a Nation, 1922-1945”.

MR. CHRISTIE: Q. Moving underneath the picture, quoting, “The Nazi view ...”

THE COURT: Excuse me just a minute.

MR. CHRISTIE: Sorry, sir.

THE COURT: There is a —

MR. CHRISTIE: I’m sorry if I made a mistake, Your Honour. I see what you’re referring [sic] to.

THE COURT: I don’t know if you want that slip —

MR. CHRISTIE: I don’t know what it is, sir, I’m sorry. Thank you. No, I don’t.

THE COURT: I didn’t think you did.

MR. CHRISTIE: No.

THE REGISTRAR: Fifty-one.

MR. CHRISTIE: Q. The quote is attributed to — or the words are as follows:

“The Nazi view of Jewish emigration was not limited to a negative policy of simple expulsion, but was formulated along the lines of modern Zionism. The founder of political Zionism in the 19th century, Theodor Herzl, in his work *The Jewish State*, had originally conceived of Madagascar as a national homeland for the Jews ...”

I now produce and show to you the title page of *The Jewish State* {3427|3428} *State*, (*Der Judenstaat*), by Theodor Herzl, new translation by Harry Zohn. Could you check and see if there is a highlighted portion, and if so, if it compares to the book, and if you would, please read it out.

A. The title of the book is called *The Jewish State*, translation from the German *Der Judenstaat* by Theodor Herzl, a new translation by Harry Zohn, with an introduction by Joseph Adler, Herzl Press, New York. On page 52 is says:

“But the very creation of the Jewish State will be beneficial to the neighboring countries, because the cultivation of an area enhances the value of its surroundings, on a large as on a small scale.”

Q. Are there any other highlighted portions there referable to that quote?

A. Yes. It says,

“Palestine or Argentina? Is Palestine or Argentina preferable? The Society will take whatever it is given and whatever is favored by the public opinion of the Jewish people. The Society will determine both points.”

Q. And in that reference, there’s no reference to Madagascar; is that right?

A. Not on this page, but in the book there is.

Q. You’ve read the book and —

A. In the original German years ago, yes.

MR. CHRISTIE: Yes. Okay. Could I introduce that as the next exhibit, please, Your Honour?

THE COURT: Yes. 52.

MR. CHRISTIE: Thank you.

THE REGISTRAR: 52. {3428|3429}

— EXHIBIT 52: Photocopy of Two Pages from Book, “The Jewish State (*Der Judenstaat*)”.

MR. CHRISTIE: Q. The next quote is from *The Final Solution* by Gerald Reitlinger. It says — I quote from page 5, the last paragraph:

“The first Nazi proposals for a Madagascar solution were made in association with the Schacht Plan of 1938. On the advice of Goering, Hitler agreed to send the President of the Reichsbank, Dr. Hjalmar Schacht, to London for discussions with Jewish representatives Lord Bearsted and Mr. Rublee of New York.”

And then it gives a quotation of Reitlinger, *The Final Solution*, London, 1953, page 20.

I now produce and show to you an extract of the book *The Final Solution* by Gerald Reitlinger, *The Attempt to Exterminate the Jews of Europe 1939-1945*. I’d ask you to read the portion highlighted and compare it with the book and read it out loud, if you would, please.

A. The book title is *The Final Solution*.

Q. Please don’t read the title because I don’t think it’s in dispute.

A. Okay.

Q. Just read the portion highlighted and tell me whether it compares to the —

A. On page 20 of this book it says,

“The proposal which Schacht discussed in London during December with Lord Bearsted, Lord Winterton, and Mr. Rublee was roughly as follows: The German Government were to freeze the assets of the Jewish community {3429|3430} which were to become the ...”

Excuse me a minute ...

“... become the security for an international loan, repayable in twenty to twenty-five years. On the assumption that the Jewish assets were worth 1,500 million marks, there would be enough foreign currency to finance an orderly emigration of the Jews of the Greater Reich in three to five years. Schacht then returned to Germany and at Berchtesgaden on January 2nd, 1939, he had a long personal discussion with Hitler concerning the reception of his proposals in London. Hitler was apparently impressed, for three days later he appointed Schacht Special Delegate for the promotion of Jewish emigration.”

And one final quote on page 21:

“At the conference of November 12th Goering had mentioned casually that Hitler was considering a Jewish settlement in Madagascar and now significantly the word ‘evacuation’ was coupled with ‘emigration.’ [”] End of quote.

Q. Reading on in the book, “Did six Million Really Die?”, from what — from which the last quote was, I read the words:

“The plan was that German Jewish assets would be frozen as security for an international loan to finance Jewish emigration to Palestine, and Schacht reported on these negotiations to Hitler at Berchtesgaden on January 2, 1939. The plan, which failed due to British refusal to accept the financial terms, was first put {3430|3431} forward on November 12, 1938 at a conference convened by Goering, who revealed that Hitler was already considering the emigration of Jews to a settlement in Madagascar (*ibid.* ...”

Do you know what “*ibid.*” means?

A. Like in the previous page.

Q. Like from the previous reference?

A. From previous book, yeah.”

Q. “Page 21”. Have you read that part?

A. Yes, I did just now.

Q. Does it confirm the facts set out there, to your mind?

A. Absolutely.

MR. CHRISTIE: Thank you. Could that be the next exhibit, please, Your Honour?

THE COURT: Yes.

MR. CHRISTIE:

Q. Did you —

THE COURT: That is Exhibit number ...

THE REGISTRAR: Fifty-three.

— EXHIBIT 53: Photocopy of Five Pages from Book, “The Final Solution: The Attempt to Exterminate the Jews of Europe 1939-1945”.

MR. CHRISTIE: Q. Did you instruct someone to find that out?

A. I knew about those things from my reading in German sources, and by interviewing some German officials during my investigations years ago, but I did have this checked out again.

Q. By the same person?

A. No, by a different person, different library.

Q. I see. Thank you. We're now on page 6, and the next quote says, in the paragraph: {3431|3432}

*"By 1939, the consistent efforts of the German Government to secure the departure of Jews from the Reich had resulted in the emigration of 400,000, and an additional 480,000 emigrants from Austria and Czechoslovakia, which constituted almost their entire Jewish populations."*

And then we come to a portion,

*"This was accomplished through Offices of Jewish Emigration in Berlin, Vienna and Prague established by Adolf Eichmann, the head of the Jewish Investigation Office of the Gestapo."*

Now, the next part is what I would like to draw your attention to. It refers to Manvell and Frankl (sic), S.S. and Gestapo, page 60.

I now produce and show to you a title page and an extract from the book S.S. and Gestapo: Rule by Terror, Roger Manvell, advised by Heinrich Fraenkel, and I'd ask you to open that and find the highlighted portion and see if it confirms the facts, and if so, read it out loud, page 60.

A. Yes, I have found it.

Q. Is there a portion there that supports that quote?

A. Yes.

Q. Please read it, please.

A. *"The great tragedy of German Jewry was enhanced by the very restricted legal entry into Palestine decreed by the British, who held the mandate, as a result of Arab pressure – 15,000 only were permitted legal entry during 1939, the year following the November pogrom. {3432|3433}*

*German policy at this stage was to rid herself of her Jews at the expense of any nation willing to adopt them: their property was confiscated by the State, and for the most part they emerged as penniless refugees. The SS and the Gestapo used their 'influence' to hasten the lucrative emigration of people Hitler no longer wanted. The Gestapo became the central authority which, at a price, gave exit permits to anxious and fearful Jews. An extraordinary situation arose when members of the Zionist underground formed to sponsor and organize illegal immigration into Palestine found themselves working in association with the SS and Gestapo officers in Germany and Austria for the express purpose of making the countries 'Jew-free'. A common policy united these deadliest of enemies. SS Captain Adolph Eichmann readily agreed to establish a training camp for young Jews in Austria where they could learn farming in anticipation of being smuggled illegally into Palestine."*

Q. So that's the portion there that's referable to the quote; is that right?

A. No, there are other sections which are highlighted because it has a bearing on it.

Q. Yes. Okay, go ahead.

A. *"The anti-Jewish policy which phased its way through Himmler's tidy mind found its first expression in the encouragement of mass emigration, ..." {3433|3434}*

That's one of them. And then there's another one which says that

*"By 1938 he was an SS Captain in charge of the office for Jewish emigration in Austria ..."*

which has a direct bearing on that quote.

Another quote is,

*"Mass-emigration, therefore, represented Nazi policy for the Jews throughout the prewar period."*

And another quote is that

*"By September 1939 only some 280,000 Jews were left in Germany and Austria."*

MR. CHRISTIE: Thank you very much. Could that be the next exhibit, please?

THE COURT: Fifty-four.

MR. CHRISTIE: Thank you, sir.

THE REGISTRAR: Fifty-four.

— EXHIBIT 54: Photocopy of Five Pages from Book, "S.S. and Gesta-

po: Rule by Terror".

MR. CHRISTIE: Q. Moving down to the paragraph which says,

*"German Policy Towards the Jews after the Outbreak of War",*

*I'd like to draw your attention to the portion that begins with the words, "On September 5, 1939 Chaim Weizmann, the principle Zionist leader, had declared war against Germany on behalf of the world's Jews, stating that 'the Jews stand by Great Britain and will fight on the side of the democracies ... The Jewish Agency is ready to enter into immediate arrangements for {3434|3435} utilizing Jewish manpower, technical ability, resources etc. ... (Jewish Chronicle, September 8, 1939."*

I now produce and show to you what purports to be the Jewish Chronicle of the 9th – or the 8th of September, 1939, and I'd ask you to read the highlighted portion, compare it with the text in the book and read it out loud.

A. The article in the Jewish Chronicle of 9/8/39 is headed "Notes of the Week". Headline: "All Zionist Support for Britain", and the quote by Dr. Weizmann reads:

*"Dr. Weizmann, writing in that capacity to the Prime Minister, declared: 'I wish to confirm, in the most explicit manner, the declarations which I and my colleagues have made during the last month, and especially in the last week, that the Jews stand by Great Britain and will fight on the side of the democracies.'" End of quote.*

Q. Is there another quote in that article highlighted as well?

A. Yes, there is on page 8 the same thing.

It says:

*"Our Partner in Zion",* headlined.

Q. Read that quote.

A. *"The quarrel between the N.Z.O. and the Zionist Organization has been long and bitter. But on the war issue they stand exactly ..."*

*"They stand exactly ..." What is the word missing?*

*"... (in) exactly the same position, loyally and enthusiastically supporting the cause {3435|3436} of Britain and her allies. The N.Z.O., in its statement, used a particularly apt phrase when it describes Britain as 'our partner in Zion.'" End of quote.*

Q. Are there any other quotes in that article referable to the —

A. Yes, on page 29.

Q. "Utilization of Jewish manpower, technical ability and resources"?

A. Yes.

Q. What – read those, please, quickly.

A. There are the same quotes represented by Dr. Weizmann:

*"Letter to the Prime Minister." "The Jewish Agency is ready to enter into immediate arrangements for supplying Jewish manpower, technical ability, resources, etc."*

And under the headline, "N.Z.O. Stands by Democracy", we have

*"The New Zionist Organization on Sunday called on the Jews of the world to aid Britain, France, and Poland in their fight against Hitler."*

And the final quote:

*"The Jewish nation's place is therefore on all the fronts where these countries fight for those very foundations of society whose Magna Charta is our Bible."*

Q. Did it say "the Jewish nation"?

A. Yes, it does.

Q. Pardon?

A. "The Jewish nation's place". {3436|3437}

Q. Thank you.

A. And the final quote, on page 30 says, quote:

*"The war that has been thrust upon Great Britain by Nazi Germany is also our battle. All assistance we can render to the British Army and the British people we will give willingly."* End of quote.

MR. CHRISTIE: Thank you. Could that be the next exhibit?

THE COURT: Fifty-five.

MR. CHRISTIE: Thank you, sir.

— EXHIBIT 55: Photocopy of Four Pages from Article in "The Jewish Chronicle".

MR. CHRISTIE: Q. The next quote alleged in the booklet, "Did Six Million Really Die?" deals with Reitlinger, and I'd like to read the sentence previous then show you the article and ask you if it conforms to the

text. Quote, at the bottom of page six on the right[-]hand side:

*"The protocol of a conversation between Hitler and the Hungarian regent Horthy on April 17th, 1943, reveals that the German leader personally requested Horthy to release 100,000 Hungarian Jews for work in the 'pursuit-plane programme' of the Luftwaffe at a time when the aerial bombardment of Germany was increasing."*

Then it says, "Reitlinger, Die Endlo[su]ng, Berlin, 1956, page 478.

I now produce and show to you the book by Gerald Reitlinger, Die Endlo[su]ng. It's in German, and I'd {3437|3438} ask you to check that text, compare it with the book, and read it out loud, hitting the highlighted portion.

A. It's Gerald Reitlinger's book, Die Endlo[su]ng.

Q. Is this in German?

A. Yes, it is.

Q. Do you speak German?

A. I sure do.

Q. Do you read German?

A. I sure do.

Q. Do you speak English?

A. Reasonably well.

Q. Do you speak other languages?

A. Yes, I do.

Q. What?

A. French, some local dialects. I understand other languages.

Q. Would you read the part that's highlighted in the book?

A. It's in German.

Q. Is there a translation attached to the book?

A. Yes, it is.

Q. It is?

A. It is a copy of his English book, so we assume that the translation is the same as in the German book.

Q. Have you checked the translation?

A. Yes.

MR. GRIFFITHS: I'm content that it is, Your Honour. {3438|3439}

MR. CHRISTIE: Q. All right. please read the English version, specifically, that part that's highlighted.

A. *"It must be considered probable that Hitler had ordered Himmler to make these arrangements soon after the successful browbeating of Admiral Horthy at Klessheim on March 16th, 1944. It is certain, at least, that as early as April 9th, Hitler told Field-Marshal Milch, Commander-in-Chief of the Luftwaffe, that Himmler was to find 100,000 Hungarian Jews for the construction of underground aircraft factories. There was nothing unguanine about this project, which sprang from the intense Allied bombing of the German aircraft factories from February 19th onwards. But, as we shall see, the Jager plan was destined to be used, just as the 'Buna' project had been used in 1943, to camouflage the massacre of Jews. To find 100,000 so-called 'Jager workers' 400,000 Hungarian Jews had to be sorted at the Birkenau siding."*

MR. CHRISTIE: Could that be an exhibit?

THE COURT: Fifty-six.

MR. CHRISTIE: Thank you.

THE REGISTRAR: Fifty-six.

— EXHIBIT 56: Photocopy of Eight Pages from Book "Die Endlo[su]ng" in German with English Translation.

MR. CHRISTIE: Q. Turning to page number 7, the next quote alleged in the booklet is to page 77 of The Final Solution by Gerald Reitlinger. It exists on – under the paragraph "Emigration Still Favoured", and I'm {3439|3440} going to read the sentence previous to that. Have you found that part?

A. Yes, I have.

Q. All right. It reads:

*"Eichmann had in fact been commissioned in August to draw up a detailed Madagascar Plan, and Dannecker was employed in research on Madagascar at the French Colonial Office (Reitlinger, The Final Solution, p. 77)."*

I now produce and show to you a copy of the book The Final Solution by Gerald Reitlinger. I'd ask you if you could expeditiously read page

77, the highlighted portion, check the text and read it out loud.

A. Page 77:

*"The two circulars, sent out from Luther's department, were dated July 2nd and August 15th, and signed by Rademacher, but the second circular shows that the details had been worked out by Eichmann, since the enclosures are signed by his assistant Dannecker and bear the letterhead of Kurfu[r]stenstrasse 116. This fits in with the assertion made by Dieter Wisliceny, a close friend and associate, that Eichmann was commissioned to draw up a Madagascar plan in August and that Dannecker, the future organiser of the Jewish deportation trains to Auschwitz, was employed in research on Madagascar at the French Ministry for Colonies, and that the matter occupied Eichmann for the next year."* {3440|3441}

On page 79:

*"The war with the Soviet Union has in the meantime created the possibility of disposing of other territories for the Final Solution. In consequence the Fuehrer has decided that the Jews should be evacuated not to Madagascar but to the East. Madagascar need no longer therefore be considered in connection with the Final Solution."* End of quote.

MR. CHRISTIE: Could that be the next exhibit, please, Your Honour?

THE COURT: Yes.

— EXHIBIT 57: Photocopy of Four Pages from Book "The Final Solution"

MR. CHRISTIE: Q. Did you instruct the preparation of that research and have you checked it yourself?

A. Yes, I did, yeah.

THE REGISTRAR: Fifty-seven.

MR. CHRISTIE: Q. Are you familiar with the Madagascar Plan?

A. Yes, I have been for quite some time.

Q. Are you familiar with the Luther memorandum?

A. Yes, I am.

Q. Moving on to the next quotation, I'd like to read – that is just underneath that, it says "Schmidt, Hitler's Interpreter". I'd like to read the preceding sentence and then ask you to check the text.

*"It certainly met with Hitler's approval, for as early as June 17th his interpreter, Schmidt, recalls Hitler observing to Mussolini that 'One could found a State of {3441|3442} Israel in Madagascar' (Schmidt, Hitler's Interpreter ...)"* etc.

I now produce and show to you an extract of the book entitled Hitler's Interpreter by Dr. Paul Schmidt, S-c-h-m-i-d-t. I'd ask you to check the text for any highlighted portion and then read it out loud.

A. On page 177 it says:

*"I noted with some surprise that Hitler's attitude to England seemed to have changed. He suddenly wondered whether it really would be a good thing to destroy the British Empire. 'It is, after all, a force for order in the world,' he said to the rather nonplussed Mussolini. Even his fanatical rage against the Jews seemed to have abated. 'One could found a State of Israel in Madagascar,' he observed to Mussolini when they were discussing the future of the French colonial empire."* End of quote.

MR. CHRISTIE: Could that be an exhibit, please, Your Honour?

THE COURT: Fifty-eight.

MR. CHRISTIE: Fifty-eight, thank you, sir.

THE REGISTRAR: Fifty-eight.

— EXHIBIT 58: Photocopy of Four Pages of Book "Hitler's Interpreter".

MR. CHRISTIE: Q. The next quote in the book is regarding the book Dr. Goebbels: His Life and Death, and I believe that – I've got it out of order; my mistake.

Going further down, it deals with Reitlinger's book, The Final Solution again, and it says, and I quote:

*"The directive reads: 'The war with the Soviet {3442|3443} Union has in the meantime created the possibility of disposing of other territories for the Final Solution. In consequence the Fuehrer has decided that the Jews should be evacuated not to Madagascar but to the East. Madagascar need no longer therefore be considered in connection with the Final Solution.'"*

Have you read that portion out of Reitlinger's text?

A. Yes, I did.

Q. Does it compare?

A. Yes, it does.

Q. Is it accurate?

A. Yes, it is.

Q. Thank you. Did you instruct people to research into that matter and check it?

A. Yes, I did.

Q. All right. And going on, it quotes the book, Dr. Goebbels, I mentioned. Reading the sentence previously:

*"Only a month later, however, on March 7th, 1942, Goebbels wrote a memorandum in favour of the Madagascar Plan as a 'final solution' of the Jewish question (Manvell & Frankl, ...) etc.*

I now produce and show to you the extract of the book called Dr. Goebbels: His Life and Death by Roger Manvell and Heinrich Fraenkel.

I ask you to check the text for the highlighted portion and read it. Could you give us the page of the highlighted portion, sir?

A. Yes, it does. {3443|3444}

Q. Could you give us the page number, please?

A. It's a little in disarray. Page 7 ...

Q. Is it page 165?

A. It's page 185.

Q. All right. Could you read us the quote, please?

A. "On March 7, 1952:

*'The Jewish question must be solved within a pan-European frame. These are 11,000,000 Jews still in Europe. To begin with, they will have to be concentrated in the East; possibly an island, such as Madagascar, can be assigned to them after the war. In any case there can be no peace in Europe until every Jew has been eliminated from the continent.'*

Q. What would be the word for 'eliminated', in German?

A. To eliminate —

THE COURT: Just a moment. I thought that —

MR. CHRISTIE: I will withdraw the question.

THE COURT: Yes.

MR. CHRISTIE: Could that be the next exhibit, please?

THE WITNESS: There's one more quote on page 207.

MR. CHRISTIE: Q. All right, if you have another quote referable to that on that page, please read it.

A. *"The Jewish question must be solved within a ..."*

Q. Excuse me. Before you do that, I'd like to identify where it's referable. {3444|3445}

A. It's page 207 in the Manvell book. It just —

Q. Go ahead and read that portion then, please.

A. *"The Jewish question must be solved within a pan-European frame. There are 11,000,000 Jews still in Europe. To begin with, they will have to be concentrated in the East; possibly an island, such as Madagascar, can be assigned to them after the war. In any case there can be no peace in Europe until every Jew has been eliminated from the continent."*

It is from Dr. Goebbels: His Life and Death. They are two different books and it's twice quoted the same, two different versions.

Q. Two different versions of the book?

A. Right.

Q. And you've checked that point?

A. Yeah.

Q. I see what you mean.

A. One is an English edition and the other is an American edition.

MR. CHRISTIE: All right. Can that be the next exhibit, please?

THE COURT: Sixty.

THE REGISTRAR: Fifty-nine.

THE COURT: Sorry, fifty-nine.

— EXHIBIT 59: Photocopy of Six Pages from Book, "Dr. Goebbels: His Life and Death".

MR. CHRISTIE: Q. The next quote is on page 7 in the paragraph "Even as late as May 1944 ...", at the top of the page on the right hand said, "... the Germans were prepared to allow {3445|3446} the emigration of

one million European Jews from Europe. An account of this proposal is given by Alexander Weissberg, a prominent Soviet Jewish scientist deported during the Stalin purges, in his book *Die Geschichte ...*"

What's that?

A. *Die Geschichte von Joel Brand*.

Q. What does that mean in English?

A. "The History of Joel Brand".

Q. It says "Cologne, 1956". It says:

*"Weissberg, who spent the war in Cracow though he expected the Germans to intern him in a concentration camp, explains that on the personal authorisation of Himmler, Eichmann had sent the Budapest Jewish leader Joel Brand to Istanbul with an offer to the Allies to permit the transfer of one million European Jews in the midst of the war."*

Then it goes on:

*"If the 'extermination' writers are to be believed, ..." etc.*

I'd like to now produce and show to you what purports to be an extract from the book you mentioned. If you could just read the title — now, this apparently has not been translated. If you could translate the portion, please, as quickly as you could, and I'll file it, and if the Crown wishes they can dispute the translation.

A. Alex Weissberg, *Die Geschichte von Joel Brand*, which is "The History of Joel Brand".

Q. If you could give us the page number and —

A. On page 200. {3446|3447}

Q. Yes.

A. Do you want me to read it in German or just to try to —

Q. Just in English, if you could, please.

A. It is a quote, and it says, "You are convinced, Mr. Brand, that the Germans will liberate or set free the Jews if we accept your offer. If one can believe Eichmann, then not the entire rest. There live approximately one and a half million Jews under German domination. He will give or set free one million, and all that for ten thousand trucks, for less, for one — for a few million dollars. I am completely convinced of this."

THE COURT: Mr. Christie, is that a translation being read from the German by the witness?

MR. CHRISTIE: Yes, it is.

THE COURT: The exhibit can't come in until there is a translation on it.

This trial is being conducted in English, not in German.

MR. CHRISTIE: Yes, sir. The witness swears that is an accurate translation.

THE COURT: How do I know that the jurors read German? I don't. If it's going to come in, we have got to have a translation.

MR. CHRISTIE: Yes, sir. Can I do that by an undertaking to introduce that later?

THE COURT: Yes. If you want to make it a letter exhibit; it will not come into a number until such time as that occurs.

MR. CHRISTIE: Thank you.

Q. Are you writing on that exhibit, sir?

A. No, just a note that it has to be translated. {3447|3448}

MR. CHRISTIE: All right. Could I withhold that then, sir, until a little later, because I'd have to keep it out.

THE COURT: You have referred to it. It should go in now, and you can have it back. The Clerk will give it to you.

MR. CHRISTIE: Yes, okay.

THE REGISTRAR: "W".

MR. CHRISTIE: That's Exhibit "W", if you'd just make a note of that.

— EXHIBIT "W": Photocopy of Pages from Book "Die Geschichte von Joel Brand".

MR. CHRISTIE: Q. Going on further, there's the much-contested portion about Chambers Encyclopaedia. It deals under the — with the —

THE COURT: Are we still on page 7?

MR. CHRISTIE: Yes, sir. It's under the topic heading "Population and Emigration", and it says, second paragraph in that heading, quote:

*"In the first place, this claim cannot remotely be upheld on examination of the European Jewish population figures. According to Chambers Encyclopaedia the total number of Jews living in pre-war Europe was 6,500,000."*

I now produce and show to you the extract from Chambers Encyclopaedia, and I'd ask you to read the underlined portion on page 99 of that encyclopaedia. I believe it's already in evidence.

MR. GRIFFITHS: It's already in evidence.

THE WITNESS: Do I still read it?

MR. CHRISTIE: Q. Just read it out loud. I think it's already in evidence.

A. "... only a handful of numerically unimportant communities in neutral countries {3448|3449} escaped and of the 6,500,000 Jews who lived in the Nazi-dominated lands in 1939, barely 500,000 remained alive when the war ended six years later."

MR. CHRISTIE: Thank you. I don't think I'll file that, Your Honour, in view of the fact it's already in evidence.

Q. Now, there's another reference to – further down, there's one to Aufbau, which I do not have, and there's one to, and I quote,

"This is acknowledged by the World Jewish Congress in its publication Unity in Dispersion (p. 377) which states that: 'The majority of the German Jews succeeded in leaving Germany before the war broke out.'"

I now produce and show to you the book known as Unity in Dispersion: a History of the World Jewish Congress, published in New York in 1948. I'd like you, if you would, to open it – check the title, open it and check the page 377.

A. Yes, I have it.

Q. And could you read us the highlighted portion of that page, please?

A. "Quite different is the problem of the Jews from Germany. The majority of German Jews succeeded in leaving Germany before the war broke out and a substantial number of them settled in Latin American countries."

MR. CHRISTIE: Could that be an exhibit, please, Your Honour?

THE COURT: Sixty.

THE REGISTRAR: Sixty. {3449|3450}

— EXHIBIT 60: Photocopy of Eight Pages from Book "Unity in Dispersion: a History of the World Jewish Congress".

MR. CHRISTIE: Q. Turning now to page 8, the second paragraph on the left-hand side says:

"The exodus of Jews before and during hostilities, therefore, reduces the number of Jews in Europe to approximately 5,000,000. In addition to these emigrants, we must also include the number of Jews who fled to the Soviet Union after 1939, and who were later evacuated beyond reach of the German invaders. It will be shown below that the majority of these, about 250,000, were migrants from Poland. But apart from Poland, Reitlinger admits that 300,000 other European Jews slipped into Soviet territory [sic] between 1939 and 1941. This brings the total of Jewish emigrants to the Soviet Union to about 550,000. In Colliers magazine, June 9th, 1945, Freiling Foster, writing of the Jews in Russia, explained that '2,200,000 have migrated to the Soviet Union since 1939 to escape from the Nazis,' but our lower estimate is probably more accurate."

I now produce and show to you what purports to be an article by Freiling Foster in Colliers magazine on the date alleged, and I'd ask you to read the highlighted portion.

Q. "Russia has 5,800,000 Jews, 41 per cent of the present Jewish population of the world, of whom 2,200,000 have migrated to the Soviet Union since 1939 to escape the Nazis." {3450|3451}

MR. CHRISTIE: Thank you. Could that be an exhibit, please, Your Honour?

THE COURT: Sixty-one.

MR. CHRISTIE: Thank you.

THE REGISTRAR: Sixty-one.

— EXHIBIT 61: Photocopy from Colliers of Article "Keep up with the World".

MR. CHRISTIE: Q. Reading on further, under the paragraph heading "3 Million Jews in Europe", there is a sentence which begins with the words, "This is a major factual error", and then it says, the next sentence:

"The 1939 Jewish population census for Poland put the number of Jews at 2,732,600", and in quotes "Reitlinger, Die Endlosung", which

by now I understand to mean "The Final Solution". Is that right?

A. That's right.

Q. Okay. It says page 36 for that quote.

And I'd like to produce and show to you the extract from that book, that is, The Final Solution by Gerald Reitlinger. I'd ask you to check the underlined portion under the heading "Deportations, 1939-1941", and read me the highlighted portion and tell me if it compares to the text.

A. "In the speculation of the day there was little curiosity concerning the fate of the largest national group of Jews in Europe – 2,732,600 in September, 1931, perhaps 3,250,000 in September, 1939. Under the secret terms of the Ribbentrop-Molotov pact of August 23rd, 1939, about 1,170,000 of these Jews passed under Russian rule."

Q. Was that on page 50? {3451|3452}

A. That's on page 34.

Q. Thirty-four. So the page number alleged in the Harwood book is wrong?

A. Type-setter's error.

Q. I'm sorry?

A. It's a type-setter's error.

Q. Other than that, how do you compare it with the text of Exhibit 1?

A. It essentially states the same.

MR. CHRISTIE: Thank you. Could that be the next exhibit, please, Your Honour?

THE COURT: Sixty-two.

THE REGISTRAR: Sixty-two.

— EXHIBIT 62: Photocopy of Four Pages from Book "The Final Solution".

MR. CHRISTIE: Q. Further on, the words begin in the sentence "Moreover, the journalist Raymond Arthur Davis, who spent the war in the Soviet Union, observed that approximately 250,000 had already fled from German-occupied Poland to Russia between 1939 and 1941 and were to be encountered in every Soviet province."

Then it says, "Odyssey through Hell, New York, 1946".

I now produce and show to you a transcript of the book – or a copy of the book Odyssey through Hell by R. A. Davies – Raymond Arthur Davies, copywrite [sic] 1946. I'd ask you to check the spelling of the name and see if it's spelt correctly, for "Davies".

A. There's a spelling error in the name.

Q. How is it really spelled?

A. There's an "E" missing in "Davis".

Q. All right. So it's actually "Davies", is it? {3452|3453}

A. That's right.

Q. Could you check the highlighted portion to see if it compares to the text, Exhibit 1, and read out the text of that book that is highlighted?

A. "Some three million Jews lived in Poland (excepting areas now in the U.S.S.R.) before the war, Doctor Sommerstein told me. Of these, possibly a quarter of a million were saved by the Red Army between 1939 and 1941."

Q. Is there any further highlighted portion?

A. Well, the book elucidates further on, yes. On page 103 and page 102 it says:

"Dr. Sfarid told me that more than a quarter million Polish Jews had found refuge in the Soviet Union during the war."

It ends up by saying,

"They were distributed throughout the whole of central and western Soviet Asia. There were 12,353 Jews ..." and so on.

It lists them per Soviet republic.

MR. CHRISTIE: I see. Could that be an exhibit, please, Your Honour?

THE COURT: Sixty-three.

MR. CHRISTIE: Thank you.

—EXHIBIT 63: Photocopy of Four Pages from Book "Odyssey through Hell".

MR. CHRISTIE: Q. Going on, I don't think I have anything more on that column, until we get to the number or the section under "Russian Jews Evacuated". And going down halfway through that paragraph it says:

"Reitlinger agrees with the Jewish authority Joseph Schechtmann, who admits that huge {3453|3454} numbers were evacuated, though he

estimates a slightly higher number of Russian and Baltic Jews left under German occupation, between 650,000 and 850,000 (Reitlinger, *The Final Solution*, p. 499)."

I now produce and show to you an extract of the book *The Final Solution*. I'd ask you to check the highlighted portion on page 499 and compare it with the text.

A. "Mr. Joseph Schechtmann estimated that from 650,000 to 850,000 Jews had been trapped by the Germans. This figure, based on such Russian reports as came to hand, seems an astonishingly fair one within its very wide limits, but to-day it is the fashion to regard such figures as a form of dupery ..."

Q. "Dupery"?

A. Yeah, "... by the Soviet press ..." and it continues on.

MR. CHRISTIE: Could that be the next exhibit, please, Your Honour?

THE COURT: Sixty-four.

— EXHIBIT 64: Photocopy of Three Pages from Book "The Final Solution".

MR. CHRISTIE: Q. Going on, I'd like to read the portion that's attributed to Philip Friedman in *Their Brothers' Keepers*, published by Holocaust Library, New York. — This is Exhibit 54 – 64, I'm sorry, *The Final Solution* quote.

I now produce and show to you the extract of the book *Their Brothers' Keepers*, by Philip Friedman as I described, with a Foreward [sic] by Reverend John A. O'Brien, S.J. {3454|3455}

A. On page 13, the quote reads:

"But at least a million Jews survived in the very crucible of the Nazi hell, the occupied areas.

*How this million survived is the theme of our story.*" It goes on.

MR. CHRISTIE: Okay. Could that be the next exhibit, please, Your Honour?

THE COURT: Sixty-five.

— EXHIBIT 65: Photocopy of Three Pages from the Book "Their Brothers' Keeper".

MR. CHRISTIE: Q. I now produce and show to you an extract and translation from *Baseler Nachrichten* [Nachrichten].

THE REGISTRAR: Sixty-five.

MR. CHRISTIE: Q. Could you open it to the highlighted portion of the translation which is attached, and then I'll read the text, which says, "Precisely this conclusion was reached by the reputable journal *Baseler Nachrichten* of neutral Switzerland. In an article entitled ..." oh, it's in English – "... ("How high is the number of Jewish victims?", June 13th, 1946), it explained that purely on the basis of the population and emigration figures described above, a maximum of only one and a half million Jews could be numbered as casualties."

Could you read the highlighted portion of the translation of that article?

A. "How high is the number of Jewish victims?", was the headline.

"It can be derived from this list, which is {3455|3456} unfortunately not based on official figures, it is true, but the basic figures of which are all originating from official sources, that all in all less than 1.5 million Jews must be preliminarily considered 'dead or missing'.

It is to be hoped that a considerable percentage even of this number of people will be found to be still alive, once the precise statistics are available. In view of the enormous degree of importance which the 'extermination of the Jews' has reached in the world public opinion, it is absolutely indispensable for the United Nations to create without further delay an official investigation committee, to find out how the number of victims of the Jewish people really is.

One thing is certain already today: the contention that this figure runs up to 5-6 million (an allegation which has been assumed also by the Palestine Committee, which is very difficult to understand) is untrue. The Number of Jewish victims may vary between 1 and 1.5 million, because a higher number of Jews were not 'within reach' of Hitler and Himmler. It may be assumed and hoped that the final figure of losses of the Jewish people, will even be lower than this figure. But clarification is necessary – this is why an investigation on the part of a special committee of the U.N. should establish the {3456|3457} truth which is so terribly important for the present and for the future."

And that is the end of the article.

MR. CHRISTIE: Could that be the next exhibit, Your Honour?

THE COURT: Exhibit 66.

— EXHIBIT 66: Photocopy of German Article from "Baseler Nachrichten" and Attached English Translation.

THE COURT: We will take twenty minutes.

MR. CHRISTIE: Yes, sir. Thank you very much.

THE REGISTRAR: Sixty-six.

Members of the jury, you may retire.

— The jury retired at 11:30 a.m.

THE COURT: Gentlemen, we're on page 8. We have 22 pages to go. I would think there are not enough minutes in this day to get past page 20. If you have witnesses to call tomorrow, Friday, you will not, in my view, be finished by the time you estimated in front of the jury that you would be finished. Now, surely there is a better way of doing this. If you want your client to read all of these things, far be it from me to say that he can't do that. I don't. But what I do suggest you do is to get all of it together so instead of me writing down Exhibit 135 at the end of the day, you might get it all together, let him read it all at once, if the Crown agrees, whatever you can consent to, and then put it in as one exhibit. That will save a half a day. If you have no other witnesses to call and you are worried about filling in time, as indicated yesterday, please don't. I will co-operate.

MR. CHRISTIE: Yes, sir. I appreciate that very much, Your Honour. I've been trying to think of a way and I didn't think of a way. {3457|3457a}

THE COURT: Does that strike you, Mr. Griffiths, as —

MR. GRIFFITHS: Whatever, Your Honour. I indicated that I was prepared to consent to the accuracy of the quotes.

THE COURT: I am quite accustomed to sitting in long cases, but I don't know that you want to take twelve gentlemen and put them through this for a whole day when there is an easier way of doing it. It will not endear twelve human beings to anyone. Twenty minutes.

— Proceedings adjourned at 11:35 a.m.

#### (VOLUME XVI FOLLOWS)

This is to certify that the foregoing (pages 3408 – 3457a) is a true and accurate transcript of my notes to the best of my skill and ability.

N. Porteous, C.S.R.

Official Court Reporter {3457|3458}

## VOLUME XVI

— Upon the hearing resuming.

MR. CHRISTIE: Your Honour, I would like to say something about this matter. My client wanted me to express this, that he has expended a great deal of time and effort to prove the accuracy of the quotes in the book. He feels his reputation has been maligned extensively over the past few months, and sometimes, in some cases, years, but he has been accused of being a falsifier and a purveyor of false news, so that he felt very strongly that he would like to prove the accuracy of the information that he published.

However, he acknowledges, as I am sure any reasonable person would, that it is a waste of the public's time – I suppose everyone in this room's time, to go through this tedious process.

My friend has been very generous, understanding, and I must say entirely fair in his offers to help, but my concern, quite frankly, was to establish the sincerity of the man in the efforts that he made, even though it might be repetitious. I think that probably is an error of my judgment on my part.

My instructions are, then – and I have {3458|3459} discussed this with my friend – to offer this concession. Now, it's like many concessions, I suppose. It's not without some conditions, and the first is that I be entitled to express that we don't wish to take more time with this out of consideration for the Court and the jury, in front of the jury. And sec-



ondly, that my friend concede[s] on the record in front of the jury that ninety per cent of the quotes from the book, "Did Six Million Really Die?" are accurate, in front of the jury.

Then my client would – we have this all prepared in the form of a box full of file folders with each page numbered on the file folder with each quote highlighted in the book, on the pages of the book pasted to the front of the file with a number, and the quote in in the file. This could be filed as one exhibit, and then my friend, when he wishes to argue about context, which I am sure that is part of his case, it will be all there, presumably in order, because we worked hard on it, for later argument.

I will be, I think, giving up whatever effect there might have been on the client showing what is a serious inquiry here, but it will save a great deal of time. That one box will then be marked as an exhibit {3459|3460} with its contents, presumably in the order in which it is.

The only reason, Your Honour, that – I would like to stress – the only reason we bothered to pursue this page by page analysis is that at the outset I think Sergeant Williams made the comment that the book was full of lies. I know that Dr. Hilberg made the comment that it was full of lies, distortions and half truths, or some vague phrases to that effect.

I am not making a value judgment, but I can't remember precisely what the words were. So I would like to ask if – and I think my friend concedes that we may do this, because he's had seven and a half months of investigation to decide whether or not what we have said about the exhibit is true – and on that basis I think we could speed this matter dramatically and then, maybe, I can make my estimate more accurate.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Content, Your Honour. I am certainly prepared to indicate in front of the jury that ninety per cent of the quotations are accurately reproduced. I make no admission as to context, but no admission is expected with respect to that.

MR. CHRISTIE: No. I agree. If {3460|3461} that can be made in front of the jury, we will cease and desist at the stage we are at, and the rest can be filed in one item in one box and save all that time, I think.

There is one other. item I wonder if I could ask Your Honour. I wanted to clarify with the witness who is still here and has been sitting in court, unfortunately since he testified – Walus – one final thing which I didn't do at the time because he wasn't emotionally up to it, and the final thing I wanted to clarify is what ultimately happened in his case. I know that Your Honour tried very clearly to put it in simple terms and he didn't seem to understand, by "getting off", what does it mean – he didn't seem to relate to that.

THE COURT: How did he get free?

MR. CHRISTIE: Well, I can explain, I think, Your Honour, and I may be wrong because my understanding of his English is not much better than his English, but he said that he appealed, and then the government investigated his evidence, and I understand that the case was then brought – because he could prove from documents from German sources which were inadmissible {3461|3462} at trial, I think this is why the conviction existed because the documents were held inadmissible at trial – and he then introduced them, I guess, to the authorities. Now, they then dropped the case.

THE COURT: In other words, the allegations were withdrawn.

MR. CHRISTIE: I think that's correct. Although he had to appeal, and then there was a discussion of those. Am I right? I think I understand correctly.

THE COURT: Mr. Griffiths, is there any contest about that issue? I am not asking you for comment as to whether the witness can come back to the box. I am asking you whether or not there is any contest about the fact that this gentleman's case was withdrawn at some time, or in any event, he succeeded and he wasn't extradited.

MR. GRIFFITHS: No contest with that, Your Honour, and I indicated to Mr. Christie, I felt that was clear from what was said in the witness stand by Mr. Walus, that ultimately he got off, and that he had these documents that he testified to, insurance documents and other working papers indicating — {3462|3463}

THE COURT: It seems to me he made that clear, gentlemen. I am not prepared to let him come back to the box, but I am also canvassing

whether or not it can be said before the jury that the charges were either withdrawn or were eventually in some way dropped. He is still here. Does that sound reasonable?

MR. CHRISTIE: Well, yes. I guess that is reasonable, Your Honour.

The other thing is that I wanted to bring out that, although he got an apology from the government, he never got anything else.

THE COURT: Well, we are not litigating his case. We are litigating your client's case.

MR. CHRISTIE: Yes, I understand, Your Honour. It is to do with, "The West, War and Islam", the reason being that it shows the effect of some people's pursuit of these types of claims, and the shallowness of the prosecution of some of these types of claims, and the effect of them, because it does say in "The West, War and Islam" that certain vicious people who call themselves Jews have taken advantage of their control or their influence in the media. And the {3463|3464} fact of that, I think, could be demonstrated in Mr. Walus' case. That will be my argument and I will be asking for the jury to decide whether they consider that as fair comment or not. Political and religious Zionism is referred to as playing a disproportionately large role in the west because of mass media.

THE COURT: Well, is your witness going to say that Zionists control the media?

MR. CHRISTIE: Well, if he could have expressed that – yes, that is what he told me, and that is what he was going to say.

THE COURT: No. It's too late.

MR. CHRISTIE: Thank you very much.

THE COURT: Is there anything else?

MR. CHRISTIE: No, sir.

THE COURT: Bring back the jury, please.

MR. CHRISTIE: So may I briefly put my position in front of the jury?

THE COURT: Very briefly, if you please.

— The jury enter[s]. 12:12 p.m. {3464|3465}

MR. CHRISTIE: Your Honour, as I indicated a moment ago, my client wanted to proceed to prove each of the items in the booklet point by point because of the serious allegations that were made against him of falsifying or preparing a false piece of information, but in view of the fact that that process will inevitably delay consideration of the matter, and probably the convenience of a great number of people, I am instructed to offer, then, to proceed in the following manner:

That if the Crown will make a concession and admit as a fact that ninety per cent of the quotes in the item Exhibit "Did Six Million Really Die?" are accurate in front of this jury, then we will undertake to file the source material in support of our case on that point in one box as one exhibit with numbered files, numbered in the same way as each page with the documents in support of each quote in the file, and then my friend can argue context and we can both argue from those at a later time when we are allowed to speak on those matters.

If that is agreeable to my friend, then propose that we will do that, if he will admit that {3465|3466} fact.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: With pleasure, Your Honour. I can indicate that I am prepared to admit that ninety per cent of the quotations in the pamphlet, Exhibit 1, are accurate in the sense that the words that are in the pamphlet are found in the books that are quoted, and as my friend has indicated, that admission does not go to the context in which the quotations are used in the source books, but just for the accuracy of the quotations, word for word.

THE COURT: Thank you. That will be Exhibit 67.

— EXHIBIT NO. 67: Box containing reference material re quotations in Exhibit 1.

MR. CHRISTIE: On that basis, then, Your Honour, I have no further evidence until this afternoon, about two fifteen, if we could.

THE COURT: All right.

MR. CHRISTIE: I have a witness arriving from a great distance, and he will be available at two fifteen, if we could, Your Honour.

THE COURT: Mr. Griffiths, insofar {3466|3467} as any cross-examination is concerned with regard to this narrow matter that we have been



hearing about yesterday afternoon and this morning, what is your position?

MR. GRIFFITHS: Briefly, Your Honour, I would rather do all the cross-examination at a later time of Mr. Zundel, and let the case proceed.

THE COURT: Is that agreeable to you, Mr. Christie?

MR. CHRISTIE: Yes, sir. Certainly.

THE COURT: Members of the jury, in your absence, this must be perfectly obvious to you that this matter has undergone some discussions, and it is fortunate that there has been an agreement, as you have just heard. Had there not been, we would have been here for a long time. I think it is probably fortuitous that that happened. The next witness will be ready at two fifteen – another long lunch.

Thank you.

— The jury retires. 12:16 p.m.

— Luncheon adjournment.

—— {3467|3468}

— Upon resuming.

THE COURT: I was talking to my Clerk about the existence, I think, of one of the earlier exhibits that is in the German language and not with an English translation. It will be found, and at the appropriate time I will hand it to you for a translation.

MR. CHRISTIE: Is that the one we brought in this morning?

THE COURT: No. It has been in for two or three weeks. Is there anything before I call the jury?

MR. GRIFFITHS: Just one thing, Your Honour, and I may be premature in the end, but I raise it in any event. I understand that Mr. Christie's next witness is a Mr. Keegstra, and my concern, Your Honour, is exactly the same as I expressed with Mr. Walus, that Mr. Keegstra has nothing relevant about these matters that are before the Court to say. When I raised that about Mr. Walus Mr. Christie jumped in and he said, "Oh, yes. He is going to talk about the {3468|3469} Zionist-controlled media", and of course, we heard nothing like that from Mr. Walus. So there is just evidence from Mr. Christie going before the jury – he may have expected Mr. Walus to say something about that, but in fact he didn't. And what Mr. Walus ended up saying really has no relevance to these issues before the Court, and I am concerned that we are going to run into exactly the same problem with Mr. Keegstra.

THE COURT: All right. Then I am going to ask Mr. Christie.

MR. CHRISTIE: Well, my friend is wrong as to who my next witness is, and he is overstating the case slightly when he says that Mr. Walus' evidence is irrelevant.

I would be prepared to indicate that he would indicate the pressure of the press, the effects of the press, the media. He didn't say "press", he said television. How as a result he was beaten up seventeen times, or how many times – I am not sure he said seventeen. It would certainly be my argument that he had something relevant to say about the effects of that kind of publicity on the public, and that it is he said it was over fifteen minutes in Chicago. Chicago is {3469|3470} a very big place.

I think it's quite obvious that the issue was promoted to a large extent through the media in the Walus case. He said so. I would respectfully suggest that before we decide what may or may not be relevant, we have also the obligation to consider what the evidence is. Throughout the book, "Did Six Million Really Die?" there is an allegation the the Nuremberg trial was unfair, and hysteria of the day played a part in that. Dr. Barton gave us evidence about mass hysteria. He told us he, himself, was brainwashed when he was in the Bergen Belsen camp. I intend to argue that we have mass hysteria even today because it is an emotional topic, and that not repressive measures, not prosecution, in fact, because it is not a matter of news, it is a matter of public debate which it should be.

So that was the position of the defence on Walus and on a number of other issues; but in respect to the evidence of Reverend Ron Marr, who I intend to proceed with this afternoon, first I hope to have the opportunity of having the right to argue about the right {3470|3471} to call evidence – usually the Crown is not in a position to try and preclude the defence from evidence and witnesses that it seeks to call, but if my

friend is going to make me justify the calling of evidence, I am prepared to do that at the time when the witness is being brought forward.

I am aware of my friend's grave concerns in all these matters, but I think, with the greatest respect, he is overly concerned about it. I think with 'Walus' evidence, he gave evidence about what the press had done, the media had done to promote the teaching that he was a war criminal before he was ever tried.

I intend to lead evidence as to similar situations in respect to teaching both sides of the Holocaust, but I hope that I can get beyond the stage of having to justify even the right to call the witness, as my friend is trying to cast upon me now.

I would like to call the witness, Reverend Ron Marr. I don't want to debate the Keegstra case any further.

— The jury enters. 2:30 p.m. {3471|3472}

**RONALD JAMES MARR, sworn**

EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. How old are you, sir?

A. Fifty-one.

Q. And what is your occupation?

A. I am the publisher and editor of the Christian Enquirer and two other publications.

Q. And are you a Minister of the Gospel?

A. I am.

Q. How long have you so been?

A. About '61. How many years that is. 1961.

Q. And do you publish a publication known as the Christian Enquirer?

A. I do.

Q. I now produce and show to you the Christian Enquirer of February 1983, and specifically draw your attention to the article, "International Bankers Hold Control". Do you [recognize that publication and that article?

A. I do.

Q. Did you publish that article?

A. I did.

Q. And how long have you been publishing that newspaper?

A. 1970.

Q. And what is the circulation of that newspaper? {3472|3473}

A. Nearing a hundred thousand.

Q. And where are the subscribers to the newspapers?

A. All over North America in particular, and some abroad.

Q. And where do you publish, sir?

A. Where from?

Q. Yes.

A. Niagara Falls, New York, and Niagara Falls, Ontario.

Q. And what is the purpose of this publication?

A. To call the Christian Church to a sense of responsibility for society.

Q. And do you publish frequently on the subject of bankers and the subject of control?

A. Not frequently, but we do, and one of our other publications, The Prophecy newsletter, deals with it in far greater detail.

Q. Do you stand behind the truth of that article?

A. I have not read it in the last ten minutes, but I believe since I published it, I could do that.

Q. Yes. And what effect upon you does the proceedings at bar have in terms of your ability to publish your views?

A. It causes me immense concern. I think it's of the gravest gravity that any person in Canada is called upon to defend his right to say what he believes to be true, whether he is right or wrong. {3473|3474} I certainly publish things that are controversial, and couldn't guarantee, beyond all possibility of being wrong, that I was always a hundred per cent correct in all my perceptions, no matter how hard I tried, and I would hate to think that every time I published anything, that I might be called to Court to defend the idea that I had at that point as being something I had no right to say, simply because somebody else disagreed with it.

Q. This article on bankers says that they have world control?

A. It says that they have – they hold control over the world out of their

economic power, and as we all know, money is power, and if the bankers have access to the volume of dollars that obviously they do, their power certainly has to be massive.

D'Israeli suggested that he would quite gladly trade political power for economic power because he would then have the true power, and I think that is just about what we would have to recognize.

Q. Does your article speak also of the relationship between international bankers and world government?

A. Very much so. We believe, and I think we have massive evidence that we are compiling great details on – one of our men is doing research almost on a daily basis on the question of world government. There is no question at all that there is a thrust toward world government. Nor is there any relevance that the bankers are among those promoters of {3474|3475} world government.

Q. So that you believe there is a relationship between world government and bankers?

A. I do.

Q. And if such things as that were prohibited, what effect would that have upon your publication?

A. Would you mind rephrasing your question?

Q. If discussing such things was prohibited, what effect would that have on your publications?

A. Discussing such things?

Q. Yes.

A. It would limit, obviously, our right to discuss the issue, and the sovereignty of Canada, and the sovereignty of the United States, the sovereignty of every country in the world. We now both have a sovereign power which is a world power and a sovereign Canada or a sovereign United States. And that is what we are discussing. And do we really want to have a world power that is greater than our national power which may be a dictatorial power? Do we really want that? And that is what we are discussing. And if we are prohibited from discussing it, where do we go from there?

Q. Have you expressed views on other matters in your paper such as Jews and humanism and scientific theories of evolution and that sort of thing?

A. Yes.

Q. And were those views controversial? {3475|3476}

A. I think every view is controversial. I never expect to meet anybody in all the world that agrees with me on every point, and I've often said that if two of us agree always on something, one of us is unnecessary; but I think we've got to expect controversy on every point that we ever bring up. So these are obviously controversial.

I would like to clarify, in regard to the question of Jews, the only time I think I've mentioned the Jewish question twice in my publication and got blistered from both sides in my situation, it is a no win situation, and all I was calling for was balance, and not suggesting that Zionists could never be wrong, nor suggesting that arbitrarily always they were wrong. And yet you can't win, so I largely avoided that question as being an unprofitable question.

Q. It creates too much controversy?

A. To much controversy and no benefit.

Q. Did you also write on the subject of censorship?

A. Yes. Frequently and often. And in Canada we have had attempts on all kinds of levels and do have all the time at censorship. We had a law passed by the Federal Government a short period of time ago that prohibited Canadians from participating fully in the electoral process, and it was something that eventually, thank God, was overturned by the courts, very properly so, but it caused us great grief and great concern that I would not be able to suggest as an individual, or you as an individual, that we were for or against a particular individual that was running on {3476|3477} a ticket or for a particular purpose or as a group of people we couldn't get together and do it. The democratic process was being destroyed, and frankly, that is what is occurring in this very idea of having a trial at all on the issue that is before this court. It is suggesting that it is possible for a court to come up with the truth and determine what is the truth, and then that everybody must

agree and salute and say, "Aye, sir", or else go to jail. That is not a democratic premise and should never been in a court at all.

Q. Does it worry you that publishers are on trial?

A. Well, of course.

THE COURT: Now, now, now. Mr. Christie.

MR. CHRISTIE: No further questions.

Thank you.

THE COURT: Yes. Mr. Griffiths.

#### CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Sir, what denomination are you a Minister of?

A. I am ordained with the Baptists. I am preaching at a church that is Congregational United Church of Christ.

Q. And are you publishing the Christian Enquirer on behalf of the Baptist Church, as a {3477|3478} Baptist Church newspaper?

A. No, sir.

Q. Or on behalf of any other denomination?

A. No, sir.

Q. It is your own paper.

A. Yes, sir.

Q. Are you from which side of the border?

A. When you catch me, I am living in the United States, Lewistown, about a thousand yards from the monument and the park on the Canadian side.

Q. You live there and work here, do you?

If I may see this for a moment. And by "this" I am referring to the February '83 issue of the Christian Enquirer.

MR. CHRISTIE: I am not opposed if my friend wants to file it.

MR. GRIFFITHS: Thank you, Mr. Christie.

Q. Who are the international bankers?

A. Who are the international bankers?

Q. Yes.

A. I use that term in this sense, sir – the key bankers, internationally. Okay? In the various countries of the world. And they do get together in meetings, and I do not think they are very hard to define. If you need help, I'd suggest you go to the bankers. {3478|3479}

Q. No. I am asking help from you, sir.

A. That's my answer.

Q. You used the phrase, and I am asking you who they are.

A. You have my answer.

Q. That's the best you can do. All right. And the international bankers, whoever they are, you say are forming a world government or would like to form a world government?

A. No, I did not say that.

Q. All right. What is the relationship, if any, between the international bankers and world government?

A. International bankers are promoting the idea of a world government as are many people.

Q. I believe you said, "We believe there is a great thrust towards world government and bankers are involved."

A. That's right. They are involved.

Q. And what is the international banker's involvement in this great thrust towards world government?

A. They want to see one.

Q. Well, we don't know who they are yet. What makes you say they want to see one?

A. Their own words. I can't give you the quotation now, unfortunately. I can't give you all the evidence. I don't have it in my pocket. But we have a great deal of research on that. I will be glad to provide someone to bring it upon request. {3479|3480}

Q. I am not requesting for all the evidence, just for some. You made a statement.

A. Mm-hmmm. And I stand behind the statement.

Q. All right. So tell me.

A. I don't have it with me. I don't have it memorized.

Q. You came over here to testify this morning?

A. No, I did not come here to testify particularly on that point.

Q. You said they published very few things on the Jewish question. What is the Jewish question?

A. Well, in the Christian domain there are largely two positions on the Jewish nation. The one is that Israel can do no wrong, almost. It's virtually that. The other is that the Jewish people, and particularly those who are accused of being conspiratorial, can do no right. And I say that neither one of them are correct, that they are human beings like everybody else and need to be evaluated individually.

Q. All right. You printed that call for tolerance on a number of occasions?

A. Two in particular.

Q. And you found that that was unprofitable so you didn't publish any more calls for tolerance?

A. I did not say that, either.

Q. I thought you said it was unprofitable. {3480|3481}

A. I did say that.

Q. And you are referring to discussions of the Jewish question that you've just told us about, calls for tolerance.

A. That's correct.

Q. So I am assuming calls for tolerance were – unprofitable.

A. Okay. You are twisting my words, and I did not say that.

Q. Tell us what you meant.

A. I beg your pardon?

Q. Tell me what you meant, then.

A. In particular I was simply stating our position, and I did in one of them in particular, not for tolerance per se, but for a balanced position. I said simply that either positions tended to be imbalanced, and that we needed a balanced position on the question, and that we needed – I did not use the term tolerant. I used the term balanced.

Q. No. Tolerance was my term, and I suggested to you a call for a balanced position was a call for tolerance, for each side to understand the other side; is that fair?

A. Depending on what you do with the words once you've gone there, yes.

Q. What do you print about scientific evolution?

A. Well, may I have a moment, Your Honour, just to check something?

THE COURT: Sure.

THE WITNESS: I trust I can lay my {3481|3482} hands on it quickly. It was just in front of me a moment ago, but naturally, it won't show up when I want it.

Q. MR. GRIFFITHS: Take your time, sir.

A. The one item that I did print just a short period of time ago that I thought was lying right here in front of me and that is in my material was that in Israel a group got together to discuss creationism versus evolution, and the question thereof. And the orthodox Jewish people involved produced a statement saying that scientific evolution, so-called, did have no base at all in science; and I pointed out in that particular instance that this would be the position that we would share, and we do share, that the concept that evolution does not have adequate scientific base, we share that in common with these particular orthodox Jews.

Q. All right. That's fine. The world government that you mentioned, is this like the United Nations?

A. Is it like the United Nations?

Q. Yes. Is it one that moves towards a world government that you've told us about?

A. In the sense that apples and oranges are both fruits, yes, but in a particular sense, to say that they are of the same tree, not necessarily so.

Q. I see. Well, can you give me an example, then, of what kind of world government we are moving towards? {3482|3483}

A. I would not know what we are going to get in the end. I have published something on it in what that particular case I alluded to, the proponent of world government, I think, had suggested approximately ten world divisions that would be supranational in nature. And they were suggesting on that particular study that it would be approached. that

way. There are a great many thrusts for world government from a great many sources, and I am sure that they, among themselves, do not agree.

Q. All right. And do you have any connection with banking yourself?

A. I use a bank.

Q. Anything else?

A. No. I don't have any money there.

Q. But as I understand, you are opposed to all forms of censorship?

A. My, I wasn't expecting that one. I would support only one area of the control of expression – two: If it is deliberately harmful to the body or potentially medically harmful to anybody's body in the sense that it is encouraging someone to harm another person physically, I think that should be stopped. The other obviously is pornography, salacious literature, and I am sure there are legitimate questions of where you stop.

THE COURT: I am a little unclear. You agree in the control of free speech in the sense that it should not be used to perpetrate bodily harm on the individual?

THE WITNESS: In the immediate sense, {3483|3484} not in the distant by-and-by, perhaps, sense, but if it's a threat.

THE COURT: To avoid immediate bodily harm.

THE WITNESS: Right.

THE COURT: All right.

Q. MR. GRIFFITHS: So that libel and defamatory libel are not things that concern you.

A. Yes, they are, but I am not thinking of those in terms of censorship at all. I am thinking a person goes ahead and does it, takes his chances and then pays the cost of having done so.

Q. All right. Either civilly or criminally.

A. I am not prepared to discuss that question. I am sure I wouldn't answer that.

THE COURT: And the other area, you agree that there should be censorship for what?

THE WITNESS: Limitations on, Your Honour —

THE COURT: Is there a difference?

THE WITNESS: — salacious literature.

THE COURT: All right. I will write down "limitations".

THE WITNESS: Yes. The word censorship conveys meanings to all of us that are undesirable.

THE COURT: On what, salacious literature?

THE WITNESS: Mm-hmmm. {3484|3485}

THE COURT: Anything else?

THE WITNESS: Not that I can think of now.

THE COURT: Thank you.

Q. MR. GRIFFITHS: And do you have any background in commerce?

A. In business?

Q. Yes, sir, the study of commerce or business.

A. Not the study of it, but I have been president of several corporations for a good number of years.

Q. And political science, do you have any background in political science, study of political science?

A. Not in study, but as a writer on that subject, a student; if you are talking about studies in the formal sense, the answer is no. If you are talking about studies in a constant ongoing sense, very definitely, and very specifically and in great detail.

Q. All right. Do you feel any obligation to ensure that your reporters are reporting accurately to the best of their ability?

A. Yes, sir. Very much so.

MR. GRIFFITHS: No further questions.

THE COURT: Mr. Christie. {3485|3486}

#### RE-EXAMINATION BY MR. CHRISTIE:

Q. In regard to that last question, since you were asked whether you had an obligation to check your reporters' accuracy, do you think that that should also be an obligation of the state?

A. No, I do not.

MR. GRIFFITHS: I don't see how this arose out of the last question or

the cross-examination.

THE COURT: I will allow it.

Q. MR. CHRISTIE: My friend asked you about – this business of —

MR. CHRISTIE: No. Nothing further. Thank you.

THE COURT: Thank you. You can step down.

— The witness retires.

MR. CHRISTIE: James Keegstra, please.

—— {3486|3487}

# **JAMES KEEGSTRA, sworn**

## **EXAMINATION-IN-CHIEF BY MR. CHRISTIE:**

Q. Mr. Keegstra, how old are you, sir?

A. Pardon?

Q. How old are you, sir?

A. Fifty.

Q. And where do you live?

A. Eckville, Alberta.

Q. And are you married?

A. Yes, I am.

Q. How long have you been married?

A. How long?

Q. Yes.

A. Twenty-nine years.

Q. And do you have children?

A. Yes.

Q. How many?

A. Four.

Q. Did you endeavour to teach both sides of the Holocaust?

A. I definitely did endeavour to teach both sides.

Q. What happened to you in the media when {3487|3488} you did?

A. Well, the media attacked me very viciously. They at no time did they come and ask me, or confirm any of the reports they had. They apparently got the reports from someone else, and of course, they said they had taken them from the notes of students, and they made many misquotes, told outright lies, this type of thing, to smear my name, to promote hatred against me, to make sure that I would definitely lose my, not only my job which I had already lost, but also my certificate as a teacher; and of course, it appeared they made every type of effort to make sure that I couldn't make a living from then on. They approached [sic] the clergy, Christian clergy, asked them to denounce me. This is the Zionist group. And of course, every editorial, every editorial apparently in the country, whether they had ever talked to me or even heard of me or anything of that nature, were quite willing to smear me and slander me and do whatever they felt to make sure my name became a by-word.

Q. By-word for what?

A. A by-word in the sense that whenever that name was mentioned, I assume it would conjure up the fact that here was a man that gave a different view of the {3488|3489} Holocaust and this type of thing.

Q. Had you ever been attacked like that before?

A. No. I had never been attacked like that before, so it was quite a shock, to say the least.

Q. And how have you been able to make your living since?

A. Well first of all it was through odd jobs, but – and of course, I had been on unemployment for a while. However, I was then able to open up my own garage business for the repair of automobiles; and this is what I was doing.

Q. How long have you been a teacher?

A. I have been a teacher for twenty-one years.

Q. What is the effect of this controversy on your family?

A. Well, of course, you see, now, if they find out, of course, that the name is Keegstra, the reactions are mixed and varied, and of course, because of the hatred that has been promoted against me, naturally they feel hatred coming from those who are only informed by the media, not properly informed with the truth. {3489|3490}

Q. And what was it you endeavoured to do when you taught both sides of the Holocaust?

A. Well, as a teacher and following the curriculum, which I did, of the school, the Department of Education, we were to deal with the ideology, the philosophy [sic], the politics, the religion, the beliefs of the nineteenth century and how they affected the twentieth century and how they were involved in the two World Wars and this type of thing. Then – oh, and of course, we were also instructed that we were supposed to be very analytical and we were to express any point of view we could so that the student could then put this together and come up with truth. And so basically it was – we were to discover truth. And so, of course, it didn't matter which issue we came to, we attempted to give both sides. And so, of course, being that the Holocaust is quite a large item in the World War II arena, this topic then, of course, had to be discussed.

Now, they do give us, in the Teachers' Association, the right to express our own opinion and our own research, and so this is basically what I did. They were told what I guess you would say is the accepted view, and of course, I told them, because of my research and the research of others, that we felt that there was another side {3490|3491} to the Holocaust story.

Q. In respect to that other research did you have any other knowledge of the Institute of Historical Review?

A. At that time I did not.

Q. Where did you acquire the other side of the Holocaust?

A. Well, I acquired it through quite a number of authors, both – well, many Roman Catholics, many Jewish – quite a number of authors. And these were supplied generally through the organization called the Canadian League of Rights.

THE COURT: I'm sorry?

THE WITNESS: Called the Canadian League of Rights.

Q. MR. CHRISTIE: And having tried to teach both sides of the issue, do you have any regrets?

A. I never have regrets for anything I did when I taught my students all points of view. Naturally, because I am human, like everyone else, we have our biases, and so my students were well aware. I didn't try to deceive them like so many have into, you know, not giving my bias. They knew exactly where I stood. So they were always cautioned {3491|3492} that, hey, this man has a bias. You are going to have a bias when you grow older, and so you must get all the facts, put them together in a coherent, logical, systematic pattern so that you can establish truth.

Q. Why are you here today?

A. I am here today basically to aid a fellow individual because he, too, is in the search for truth, to establish truth.

MR. GRIFFITHS: Objection, Your Honour.

THE COURT: I agree.

Q. MR. CHRISTIE: In your experience, were you aware of any negative stereotyping of German – children of German descent?

A. Oh, definitely. We were well aware of that, that there was a stereotyping. However, I have to admit that through my research I didn't feel there was any justification for this stereotyping.

Q. Thank you. Those are my questions.

Answer questions from my learned friend, please.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour.

—— {3492|3493}

## **CROSS-EXAMINATION BY MR. GRIFFITHS:**

Q. Are you aware of any negative stereotyping of the children of black people?

A. Yes.

Q. Children of Italian people?

A. I would say that every – I would say that probably every race has some type of stereotyping, even whites.

Q. What is your bias?

A. My bias is toward Christianity.

Q. Is that what you indicated to your students?

A. Definitely.

Q. And what has that got to do with the Holocaust?

A. Well, of course, Christianity itself states very bluntly, if you know the truth, then the truth will set you free. And it's on that basis that I was motivated to make sure that my students had the opportunity to arrive at as much truth as possible.

Q. And what truth did you tell them?

A. That, in the search for truth, persons must expose themselves to all their experiences, all the {3493|3494} facts and evidence that he can, and then he has to start making hypotheses and these are then tested. And that is what I attempted to instil in my students so that they would come to a position of seeking truth and how to seek it, too, also.

Q. Your Christian bias wasn't just used by you as an instruction in the Holocaust, was it? It was used throughout the course.

A. Definitely.

Q. In fact, through all of history.

A. Definitely.

Q. And can you tell us what role you indicated to your students Jews played in the course of history?

A. Well, this, of course, to give a simple answer, is rather difficult. We had to go through studying religions, politics, and of course, we had to involve whoever was involved in the revolutions, in the formation of different organizations and institutions. We had to involve whoever was responsible. And in many cases, in the revolutions, this atheistic Jewish individual was involved.

THE COURT: What atheistic ... {3494|3495}

THE WITNESS: Well, as Mr. Winston Churchill [sic] said, the bolsheviks were composed of atheistic Jews.

Q. MR. GRIFFITHS: Is that your answer with respect to all history – being controlled by atheistic Jews?

A. No, not all of history. Up to 1776. But after 1776, with the formation of the illuminati, we find that the involvement increases.

Q. Increases to what extent?

A. To a great extent.

Q. Did you have anything to say to your students about who was responsible for the assassination of Abraham Lincoln?

A. Did we comment on that? Yes.

Q. Did you comment on that to your students?

A. Yes.

Q. What did you say?

A. It was John Wilkes Booth.

Q. Did you tie that in at all to any Jewish organization?

A. Well, he was Jewish. {3495|3496}

Q. And did you have anything to say to your students about the causes of the French Revolution?

A. Oh, definitely. These were the revolutions we were to discuss, and we were to discuss the ideologies and philosophies and what's behind them.

Q. And what role, if any, did you indicate to your students that the Jewish people or organizations played in the French Revolution?

A. Well, through their own admissions they played a role, through Jacobin Clubs and this kind of thing.

Q. Through whose admissions?

A. Jewish writers.

Q. Who is that?

A. Well, I know just offhand, to think of some, Marx, if I am not mistaken, alluded to it.

Q. Alluded to ...

A. And Lenin. Lenin makes, if I am not mistaken, Lenin made a statement in the Bolshevik Revolution that the only mistake the French Revolution made was that not enough were killed.

Q. You are telling us that Lenin was Jewish? {3496|3497}

A. I never told my students he was, although there are some who say he spoke Yiddish all the time, and apparently, according to some historians, he was given a Jewish burial. So from that point – these are just things that I pointed out to my students, that there are different points of views to all these things.

Q. And did you have anything to say to them about the Jewish role in

World War I?

A. Yes. Right.

Q. And what role did you tell them the Jews had with World War I?

A. A lot of it was through advisors. They advised governments, like Bernard Baruch and these gentlemen, and also the fact that some leading bankers at the time were involved in financing.

Q. And that's all you said.

A. Oh, there's probably even more.

Q. No, but is that all you said to your students?

A. Basically that was the main thrust. Right.

Q. The main thrust of the cause of World War I. {3497|3498}

A. Oh, no. The cause of World War I, as I told them, one theory is that the cause of World War I was to bring down the Christian empire of England, of the British Empire.

Q. And who was it that was trying to bring down the British Empire of Britain in World War I?

A. I would suggest through my studies I had found that it was the Communist-Zionist movement.

Q. Did any of these matters that we have been talking about, quite aside from the Holocaust, have anything to do with your losing your position, your teaching position?

A. Originally my teaching position was – in other words, the reason for my termination of my contract with that school board was on the fact that they had said that I had disobeyed a lawful order of the school board.

Q. And what was the lawful order of the school board?

A. Well, this was something that was very hard to determine. We even had an expert at the Board of Reference Hearing, and he could not really determine what that order was.

Q. Would you care to share it with us so {3498|3499} we can try to determine it as well?

A. They said that I was to teach social studies critically and analytically, that I was supposed to express all points of view. Oh, what were some of the other things? I think, basically, that was it. I mean, they may have said it in much more verbiage, but the nitty-gritty was that to be sure that I was critical, analytical, expressed all points of view and this type of thing. This was in there.

Q. And you are presently facing a charge right now in Alberta, a criminal charge?

A. Yes, I am.

Q. And you had a preliminary hearing on that.

A. Yes.

Q. And at your preliminary hearing you are entitled to your counsel or yourself to ask for a ban on publication, are you not?

A. Yes.

Q. And you did not ask for that.

A. No.

Q. No.

MR. GRIFFITHS: Your Honour, would this be a convenient time for the afternoon break? {3499|3500}

THE COURT: Yes. We will have an adjournment. Now, just before we do, Mr. Keegstra, you have used a word – you were mentioning the death of Abraham Lincoln, and then you mentioned – the year 1776 was mentioned. You mentioned something about illuminati.

THE WITNESS: Yes.

THE COURT: What is that?

THE WITNESS: The illuminati was an organization formed by a fellow by the name of Adam Weishau[p]t, and this man outlined a five-point programme under which he hoped to bring about a one-world government, or a new world order.

THE COURT: Composed of what?

THE WITNESS: Well, I would presume he always stated it would be those that followed him. In other words, he would be the – he even called it a religion. He said, of course, his religion would be the elite.

THE COURT: What religion was he?

THE WITNESS: He never said what his religion was. It was just the illuminati, which means, you know, light, or the angel of light, Lucifer.

THE COURT: Does that have something to do with light, Lucifer, you say? {3500|3501}

THE WITNESS: Right.

THE COURT: Does that have anything to do with the Holocaust or anything?

THE WITNESS: Oh, no, but —

THE COURT: I am just wondering why that came in. I was writing very quickly here.

THE WITNESS: I was asked the question. I don't know why he asked the question. I'm sorry, I don't know what effect it would have.

THE COURT: All right. Thank you. Fifteen minutes.

— The jury retires. 3:15 p.m.

— Short adjournment.

— The jury returns. 3:45 p.m.

— Upon resuming.

THE COURT: Yes, go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

Q. Did you have anything to say in your course, Mr. Keegstra, about the role of Catholics?

A. I was teaching history.

Q. Yes.

A. And therefore all who had involvement {3501|3502} in any, let's say, had any role in history, had to be discussed. So naturally, we discussed Catholics.

Q. And do you teach anything, or have anything to say about any relationship between Jews and Catholics?

A. I may have. Naturally, I suppose there would be some relationships between them. To your question I could not give an answer because — except to say that there were a number of Roman Catholic authors who had the theory that, yes, there was a large Jewish involvement in world affairs.

Q. Okay. And was that part of your teaching, then, through the Roman Catholic authors, of the large Jewish involvement in world affairs?

A. No. Like I said, I also have Jewish authors that said the same thing, like Alfred Lillienthal [Lillienthal].

Q. And is that what you mean when you say that you express all points of view in class?

A. I would say, basically, that was part of it, but —

Q. Alfred Lillienthal's point of view, and you give somebody else's point of view, but with different authors? {3502|3503}

A. Oh, no. Then we also discussed what is called at least, this is what the superintendent also called it the mainstream history. Definitely we discussed this, too, by authors such as Toynbee and this kind of thing.

Q. Was there any relationship between the marks that you would give out to students and the students' acceptance of your opinion?

A. No. The only thing a student had to realize, that when he wrote an essay he had to have documentation or evidence for his point of view and then he would get a mark, or she. It could not just be an opinion, you know, just expressed. It had to have some type of backing.

Q. And would you provide sources of information from the organization you mentioned, the Canadian League of Rights I think it was?

A. I would present some of that material. It was available to them. However, they had a whole library also available to them at the school, and they also had available to them the official textbook which we discussed, also.

Q. Did you have anything to say to the students about the inherent evil of Jews?

A. Just of the religion of Judaism when {3503|3504} it comes to Talmudic teaching.

Q. And what would you say to the students about that?

A. I would tell them that, generally speaking, like in every organization, there was a group at the top that does the deciding, that does the organizing, that does the planning. It's a small group. And a lot of times the rank and file have no idea what the plans, objectives and goals. and motives of those in this sort of elite group have, and sometimes I would say that rank and file, you know, those who call themselves Jewish, would be surprised at what some of the, the small group of elite,

have said if they knew the truth of it.

Q. Well, my question was whether you had anything to say to them about the inherent evil of Jews and Judaism.

A. Yes, because they expressed such things as even good Christians should be put to death — this type of thing. They teach a millennium, a Messianic millennium in which they are going to be an elite.

THE COURT: What is a Messianic millennium?

THE WITNESS: Well, "Messianic" [Messianic] means {3504|3505} "saviour". You know, they are going to — they portray themselves, basically, as the saviour of the world. They are going to usher in a new age.

THE COURT: Yes.

Q. MR. GRIFFITHS: And did this teaching have anything to do with your dismissal?

A. I now realize it did, but all I said was — at the time they told me it was because I had not — I had disobeyed a supposed lawful order of the board, but I am sure this had a bearing.

Q. All right. You were upset about the publicity that you have received?

A. I am, yes. Our town was a very peaceful town. There was no hatred in it until the media got a hold of it.

Q. Did you or anybody else today call numerous representatives of the media to let them know you were coming here?

A. I certainly did not.

Q. Do you know if that was done?

A. Not by my group.

Q. Your answer is no, it was not, then, not in your presence. {3505|3506}

A. Not in my presence.

Q. Thank you. No further questions.

THE COURT: Yes, Mr. Christie.

#### RE-EXAMINATION BY MR. CHRISTIE:

Q. You were asked why — you weren't asked why, but you were asked whether you asked for a publication ban at your hearing. Why did you not ask for a publication ban?

A. The basic reason that I didn't ask for a publication ban is that under no circumstances had anyone, up to this point, shown that I had done any wrong. No one had been willing to debate in an open and public-arena debate where I was wrong in the presence of, you know, the experts, and that is why we took the decision, that because I had nothing to hide, why have a publication ban.

Q. What is your attitude towards tolerance of other people's views?

MR. GRIFFITHS: Objection, Your Honour.

THE COURT: I agree.

MR. CHRISTIE: Well, my friend tried very hard to bring out his attitudes. I don't see why we {3506|3507} can't bring out some more of them.

THE COURT: You can bring out what the rules say you can bring out, Mr. Christie, and the rules say you can't bring that out, and won't.

Q. MR. CHRISTIE: My friend asked you whether you had any comments about all who were involved in Catholicism. Did you ever make such a generalization about all people?

A. No. I think I explained it later on, that I always expressed the fact that leaders had ideas and motives which a lot of times the rank and file had no idea of. In other words, I think a lot of times if the people, the ordinary people, knew some of these attitudes, ideas, motives of their leaders, they would be upset.

Q. And how do you believe that the public, or those you call the rank and file, can find out about such things as motives of leadership?

A. In our day and age the media — it's rather obvious that the media is limited in what it can say, and therefore most people must rely on the media for their knowledge. And because the media does not give a true picture in most cases, it is very difficult for people to get the truth. {3507|3508}

Q. And how do you feel they should be able to get the truth?

A. Well, the educational system should be one that teaches students how to logically and systematically come to truth through the, you

know, the critical analysis of all points of view. And definitely, this is education. And this is where it ought to be done.

Q. You mentioned something about – in answer to my friend – Talmudic teachings. Where is the Talmud?

A. The Talmud is what is recognized by, I would say, most rabbis in Judaism as their holy book, and this is where their civil laws and all this type are incorporated.

Q. Mm-hmmm. And have you read into that field at all?

A. I have not read the Talmud itself, but I have read works by Elizabeth Dilling (ph) and, of course, by Mr. Friedman.

Q. Was he a Jew?

A. He was a Jew.

Q. What was his first name?

A. Sorry, I don't know whether I know {3508|3509} his first name. Benjamin, if I am not mistaken.

Q. Benjamin Friedman?

A. I am pretty sure that was his first name.

Q. What books did he write?

A. Well, the one we have is, "Facts are Facts".

Q. Do you feel that – what do you think about the slant in the media that you've referred to –

MR. GRIFFITHS: Objection, Your Honour. That is not something that was new in cross-examination.

MR. CHRISTIE: I am not so sure about that, but anyway ...

Q. In relation to the media and political Zionism do you think the public gets both sides from the present situation?

MR. GRIFFITHS: Objection, Your Honour. Same thing.

MR. CHRISTIE: Thank you very much, Mr. Keegstra.

THE COURT: Thank you. You can step down.

— The witness stands down.

— {3509|3510}

MR. CHRISTIE: Your Honour, I have, I believe, three or four remaining witnesses. One is coming from West Germany at the moment. The other two are flying from various places, and one is already here – the latter being a very short witness.

I am not able to call that person yet because they have just arrived from the State of Illinois, and I haven't had a chance to talk to them.

I wonder if I might ask at this time, at four o'clock, to adjourn to tomorrow morning, and I might then be able to continue my case.

THE COURT: There is nothing else to go on with now?

MR. CHRISTIE: No, sir. I'm sorry.

THE COURT: Will all three be here tomorrow?

THE WITNESS: No, I'm sorry. Tomorrow is Friday, I think, and the witness from West Germany is arriving tomorrow afternoon. He was here but he went back and is coming back.

THE COURT: How long do you anticipate the witness in the morning would be?

MR. CHRISTIE: I don't think very {3510|3511} long, Your Honour, and that troubles me.

THE COURT: Troubles me, too.

MR. CHRISTIE: But I am afraid the problems with scheduling have been rather extensive, and I've had people coming from various parts of various continents, and it has created a bit of a problem for me. I apologize for this inconvenience.

MR. GRIFFITHS: I am sympathetic, Your Honour. The shoe was on the other foot not too many weeks ago, and Mr. Christie doesn't know how long or how short I will be in cross-examination [sic]. I just wanted to say that to you.

THE COURT: Members of the jury, please don't come to any conclusions. Please keep an open mind. Ten o'clock tomorrow morning.

— The jury retires. 4:00 p.m.

— Whereupon the hearing is adjourned to February 15, 1985.

— {3511|3512}

## FEBRUARY 15, 1985

— Upon the hearing resuming.

THE COURT: Is there anything, gentlemen, before I bring in the jury?

MR. CHRISTIE: Your Honour, the Registrar gave me a copy of the exhibit with which Your Honour asked to have translated, and the translation has been provided for the extracted portion that is highlighted on the exhibit.

I have provided my friend with a copy of the translation I have.

MR. GRIFFITHS: Yes. I am content, Your Honour.

MR. CHRISTIE: So if I may, I will just return the exhibit together with the translation of the excerpt on page 200.

The other thing Your Honour mentioned in respect to translation was the exhibit that is a lettered exhibit number, a letter which I can't recall, from the book, "Macht Ohne Moral", and the only reference to that exhibit is the display of a photograph which had been montaged with the addition of further bodies from a previous photograph and which is referred to in the book, "Did Six Million Really Die?" as an example of {3512|3513} forged photographic process. It was from the portion of the book referable [sic] to Udo Walendy's research into forged photographs, and that was an example cited in the book, only for the purpose of showing the photograph.

THE COURT: Now I remember. I don't think that[ ] needs a translation, if that is the purpose of it. All right. Thank you.

Is there anything further?

MR. CHRISTIE: No, sir. My first witness is ready.

THE COURT: Thank you. Call in the jury, please.

— The jury enters. 10:08 a.m.

THE COURT: Go ahead, Mr. Christie.

MR. CHRISTIE: Mr. Brentar.

### JEROME BRENTAR, sworn

#### EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. Mr. Brentar, what is the date of {3513|3514} your birth, sir?

A. July 17, 1922.

Q. And how old does that make you, sir?

A. Sixty-two.

Q. And where were you born, sir?

A. In Cleveland, Ohio.

Q. And where do you live now, sir?

A. In Cleveland, Ohio.

Q. And are you married?

A. Yes, sir.

Q. And do you have children?

A. Five.

Q. And were you in the service of the United States Army in the War in Europe in 1945?

A. Yes, sir.

Q. And have you since had academic training in a particular field?

A. Would you repeat that, sir?

Q. Have you had academic training in a particular field?

A. Yes. I studied social work and sociology at Michigan State University, and at Western Reserve University in Cleveland, Ohio.

MR. CHRISTIE: I am not seeking to qualify the witness as an expert, Your Honour.

Q. In your personal experience in Europe, did you have firsthand knowledge of the practice and use of forged documents to obtain refugee status?

A. Yes, sir.

Q. For what organization were you {3514|3515} employed at that time?

A. I worked for the International Refugee Org[an]ization in Germany.

Q. What organization is that, sir?

A. That is an arm of the United Nations which was created in 1946. It is an off-shoot of ANRRA to[ ] assist in the relocation of millions of people who found themselves in Germany and had no future in Germany, and our job was to see that those who wanted to return home to their country of origin were given permission, and those who didn't want to, we would find homelands for them in Canada and the United States and Australia, countries which wanted to accept refugees.

Q. So did you have the power to accept refugees?

A. Yes. I was employed as a screening officer for approximately a year dealing with the eligibility of refugees, whether they qualified within the mandate of the IRO Constitution as bona fide, or bona fide refugees within that framework.

Q. And did you speak the German language?

A. Yes, I do, sir.

Q. And in your capacity as an officer did you come to see the use of forged identification documents?

A. Yes, sir.

Q. How frequently?

A. I was assigned basically to screen the exodus of Jewish Refugees coming from the Soviet {3515|3516} Union. They came some time in the latter part of '48, '49 and '50, and I had mostly to do with them. And they practically all of them that I screened had phony I.D. cards.

Q. How did you know that, sir?

A. Because I know what a genuine I.D. card looked like because I had so many of them, but they were very good imitations of legitimate I.D. cards. And then, none of them spoke German, and they said that they allegedly lived and worked in Germany or were brought in as slave labourers or for other reasons. None of them spoke German, not even a word, and anybody who spent any time in Germany would at least know "Danken schöne" [Danke schön] and "Gutten morgen" [guten Morgen], and they were devoid of any knowledge of German, and the geography that I exposed them to, they were completely lost. And then I had a Jewish fellow working for me, he was my assistant and he told me that these documents —

MR. GRIFFITHS: Objection.

MR. CHRISTIE: Never mind. In your particular line of endeavour did you have superior officers?

A. Yes, I had.

Q. Did you complain about this process — you described it as Jewish immigrants from the Soviet Union presenting false I.D.?

A. Yes.

Q. Did you complain about that?

A. I complained to them, "What am I going to do? They have phony documents." And they said, "Let them go." {3516|3517}

Q. In your experience of your office could you comment on the ethnic or religious background of most of the people in it?

A. Most of them were Jews from the Soviet Union, some from Poland, but the bulk of them were from the Soviet Union.

Q. And how did they come to be, in your knowledge, in those positions of authority in the IRO?

A. Well, there were some channels that brought them in, which I found very peculiar, because to get out of the Soviet Union was most difficult.

THE COURT: Just a moment. We may be talking two different things.

MR. CHRISTIE: Yes, sir.

Q. There is a confusion arising here. I am speaking about the people who were in the administration of the IRO.

A. Yes.

Q. Did you have any ability to know them personally?

A. Well, some of them I did get to know, the ones whom I worked immediately under. And then I knew the names of some of them in the higher echelons, most of whom were in Geneva, Switzerland.

Q. Did you have, from your firsthand knowledge of these people, any knowledge of the ethnic background?

A. There were a number of Jews.

Q. Were your complaints about the {3517|3518} presentation of forged documents acted upon at all?

A. No, sir.

Q. Did you continue to complain?

THE COURT: He said that he complained.

MR. CHRISTIE: All right.

Q. What did you do about these forged documents?

A. I just had to permit these people to gain their eligibility as bona fide refugees, even though I knew that they were not bona fide refugees.

Q. Why did you have to do that?

A. This is my job. I was told to do it this way, and I have no alternative.

Q. As a result of these experiences did you become involved as an investigator for the defence in a war crimes trial?

A. Yes, sir.

Q. And are you still acting in that capacity?

A. Yes, sir.

Q. And who is the accused in that case?

A. Ivan John Demjunjak [Demjanjuk], from Cleveland, Ohio.

Q. Have you been obstructed in your search for evidence on history?

A. I have, sir.

Q. By whom?

A. Basically the OSI.

Q. What's the OSI?

A. The Office of Special Investigations {3518|3519} in Washington, arm of the Department of Justice.

Q. Do you know the office well and the people in it?

A. Most of them. Most of the ones who I had dealings with, yes, sir.

Q. And how many are there in that office?

A. There are fifty lawyers and paralegals working in the office. Fifty.

Q. Do you have knowledge of them on a personal basis?

A. Well, I know Neil Shirer, who was in charge. I know Clan Ryan, who was the original man in charge, and Neil Shirer succeeded him.

Q. And do you know the religious background of those people?

A. Yes. Forty out of fifty are Jews.

Q. And in regard to the difficulty that you have experienced, what have you done on behalf of this accused, John Demjunjak [sic]?

A. I became involved by reading an article in the newspaper;

Q. Don't quote the article.

A. Well, it was a story about John Demjunjak [sic] being indicted on the basis of an I.D. card provided by the Soviet Union through the office [sic] of the Special Investigations.

Q. So why did you become involved?

A. Because I know how prevalent phony documents were in Germany, that they were — they could have been bought for a pound of coffee if one {3519|3520} wanted to, or birth certificates, or certificates of ineligibility for military service. Witnesses could be bought for a pound of coffee or a carton of cigarettes. So I knew that there was something phony about that document.

Q. What did you do, sir, to investigate the case?

A. I volunteered as a witness.

Q. What did you do to investigate the case?

A. Well, I went, first of all, to Hamburg, Germany, to Karl Streiber, who was the Oberfu[ü]hrer of Trawcki [Trawniki] camp in Poland.

Q. Why did you go there, sir?

A. Because his signature was on the card that it was allegedly issued in Trebnicki (phonetic) [Trawniki] and I went to see him once on the Island of Majorca where he was vacationing or had his winter residence, and then I met him twice in Hamburg.

Q. When was that, sir?

A. This was in '82 and '83.

Q. And did you present the card that you were seeking confirmation of?

A. Yes, I did, sir.

Q. And without giving anything as to what he said, did you form an opinion as to the authenticity of the card?

A. Yes, I did.

Q. Did you then conduct further investigations?

A. Yes, sir. {3520|3521}

Q. What further investigations did you do?

A. I went to see, at the suggestion of Mr. Stribe, a Mr. Rudolf Reiss.

Q. The man Stribe was the last man you spoke about?

A. He was the first man I spoke to. Then I went to see Mr. Reiss in Hamburg, Germany.

Q. Yes.

A. Because he told me that Mr. Rudolf Reiss was the paymaster during his service in Trebnicki [sic], and he had more of these I.D. cards, and he could set me straight whether there was — on any information I wanted, any specific information about the card, because he, Mr. Karl Streibe, said he only signed the cards, but the cards were much closely



scrutinized by Mr. Rudolf Reiss.

Q. And so you went to see Mr Rudolf Reiss?

A. Yes. Yes.

Q. And as a result of that did you endeavour to call him as a witness, Rudolf Reiss?

A. Yes, I did, sir.

Q. And was that effected by the authorities of the OSI?

A. Absolutely. They tore into him as if he was on trial, and not as a witness.

Q. Were any threats involved?

A. Well, the man it came to such a position where he said, "Tell me, am I on trial, or am I as a witness here to authenticate the document?" {3521|3522}

Q. All right.

A. And they constantly brought in, "How many Jews did you kill? Were you a member of the Totenkopf?"

Q. To whom did they make that accusation?

A. To Mr. Reiss.

Q. And he was your witness?

A. He was my witness. And they had a big headline, "Ex-Nazi to testify." And he said, "My God. I am not a Nazi. Not everyone of us is a Nazi."

MR. GRIFFITHS: I don't want to hear waht [sic] he said.

THE WITNESS: I'm sorry.

Q. MR. CHRISTIE: Don't tell us what he said. There will be an objection. Now, what did you do to find out facts for the defence of John [ ] Demjunjak?

A. I went to Chelmno, Germany, to see a Heinrich [ ] schaffer (phonetic) who was a paymaster and I brought him a copy of the I.D. card and he said —

Q. Don't tell me what he said.

A. And he said —

Q. Never mind.

A. Then I went to see Otto Hobn (phonetic) in Berlin who was allegedly in Treblinka and who was used by the plaintiff as a witness, and I got a different story from him, too, and then I went to see Kurt Franz who was the commander of the Security Guards, the Ukrainian guards in Treblinka, and I showed him the I.D. card which was used against John Demjunjak [sic], and he says — {3522|3523}

THE COURT: No. No.

THE WITNESS: I'm sorry.

Q. MR. CHRISTIE: Where was he at the time?

A. He was in prison in Germany.

Q. Did you know if he was investigated by the OSI?

A. Yes.

THE COURT: Wait a minute.

MR. CHRISTIE: I simply asked him a question as to whether he investigated that, and not what he said. And if I can stop the question —

THE COURT: I think we can take it that the answer is yes.

Is that correct, witness?

THE WITNESS: Yes, he was, sir.

Q. MR. CHRISTIE: Did you go to Treblinka in Poland?

A. Yes, I did, sir.

Q. Why?

A. Because I wanted to learn more about Treblinka. I went to the archives there to see if I could find a similar I.D. card and also to find somebody who might have worked in Treblinka who might have seen Ivan.

Q. What is Demjunjak [sic] accused of being?

A. He is accused of being Ivan the Terrible of Treblinka who was in charge of the gas chambers in Treblinka.

Q. Yes. Now, did you find witnesses that you felt would be useful in the defence of Mr. {3523|3524} Denjunjak [sic] in Treblinka?

A. Yes, I did, sir.

Q. How many?

A. I found five, but three of whom were very qualified. So I chose to stay with the three.

Q. And what did you do to endeavour to have them come to the United States and testify?

A. I had our attorneys issue subpoenas to have them come, and they got their visas, too, of — the people got their visas to give their visas on the Friday, because Saturday they had the reservations to come to Cleveland.

Q. What [ ] happened to their trip?

A. Well, they went to pick up the third visa at the American Embassy, and when they came there they were told to sit down and —

THE COURT: Just a moment.

MR. GRIFFITHS: Excuse me.

Q. MR. CHRISTIE: What happened to their trip? You can't say what anybody said. There will be an objection.

A. I'm sorry. Their visas [visas] were nullified.

Q. By whom?

A. By the American Consul in Warsaw.

Q. Thank you. Did you find other people who you wanted to bring to the United States in the defence of John Demjunjak [sic]?

A. Well, I came across — this was the attorney for Mr. Kurt Franz who knew about the Dusseldorf trials of 1934 — {3524|3525}

Q. How did he know about the Dusseldorf trials?

A. Because he was the defence attorney, and he got an affidavit for me signed by Eliah Rosenberg, who is also a witness against John Demjunjak [sic].

Q. And did Mr. Eliah Rosenberg testify?

A. In the affidavit written on the 24th of December, 1947, on his way from Vienna to Israel, he stated, among other —

Q. Never mind what he stated. You can't prove what he stated. I want to know what you did to get evidence, Rosenberg.

A. I went to Israel.

Q. Why did you go to Israel?

A. To speak to Mr. Rosenberg about the statement that he killed Ivan during the uprising in 1943 in Treblinka.

Q. Why did you not simply try to use the affidavit?

A. The OSI kept putting me off, and said, "Did you speak to this Mr. Rosenberg?" I said, "Well, why do I have to speak to him? He spoke on this affidavit. The signature is on 12 pages that he spoke the truth when he made this affidavit, and you can compare this."

Q. Never mind what was said. What happened when you went to Israel to get —

A. I went to get the address.

Q. Did you get the address? {3525|3526}

A. Yes.

Q. Did you find him?

A. No, I didn't find him. He moved.

Q. Did you get another address?

A. I went to the Ministry of the Interior, and he helped me find him.

Q. Were you allowed to approach Mr. Rosenberg?

A. No. They blocked my way, the OSI, in conjunction with the Israeli police.

Q. So in regard to the three people at Treblinka, your trip to Israel to get in touch with Eliah Rosenberg, and in your efforts to communicate with Kurt Franz, who was paying for all this?

A. I paid out of my own pocket.

Q. Why did you do that?

THE COURT: Just a moment, Mr. Christie, please.

MR. CHRISTIE: I want to get at his intentions.

THE COURT: I know you do, but there is a certain way of doing it, and I would have thought that you wouldn't want to cross-examine your own witness, now, would you?

MR. CHRISTIE: No. I quite agree, Your Honour.

THE COURT: Please don't.

MR. CHRISTIE: Thank you, Your Honour. I suppose it is my tone of voice.

THE COURT: No, it's not only your tone of voice, but also the way you frame the questions. {3526|3527}

MR. CHRISTIE: Thank you, sir. I will try to follow Your Honour's advice

in this respect, and instructions.

Q. Were you prevented in any other way from your investigation of this matter?

A. Yes. When the three witnesses were blocked from coming to testify as to the innocence of John Demjunjak [sic], I went to Warsaw back again. I took the three people to the War Crimes Commission in Warsaw, which investigated alleged war crimes, and I had a composite made from the information that they supplied to this artist, and then — Q. Of who?

A. Of the Ivan that they knew of Treblinka, and not John Demjunjak [sic]. And I went to the American Embassy to have this authenticated and to have their signature notarized, but they refused to do it.

Q. Who is "they"?

A. The counsel there. They just said no.

Q. Never mind what they said. Were you aware at any time of the Walus case?

A. Yes, I was.

Q. What did that have to do with the Demjunjak [sic] case?

A. It follows a parallel — an innocent man who was made a scapegoat.

Q. Why are you involved in these cases?

A. Well, I am a social worker by inclination, and I fought in World War II for justice {3527|3528} and to restore the freedoms which have allegedly been deprived of these people, and if I risked my life doing that, I figured [figured] risking some money was a far lesser price to pay in search of truth and justice.

Q. How long have you known Ernst Zundel?

A. Mr. Zundel, I think for the last three years.

Q. Has he asked you to undertake any research for him in regard to Auschwitz?

A. He asked me to obtain some documents from the Auschwitz Museum and archives.

Q. And did you do so?

A. Yes, sir.

Q. Did you give them to him?

A. Yes, sir.

Q. Did you have any communications at the request of Mr. Zundel with a Joseph Ginsberg?

A. Ginsberg ...

Q. Or Burg.

A. Yes. I went to see Mr. Burg in Munich. I had a nice conversation with him and learned an awful lot from him.

Q. Is he Jewish?

A. Yes, he is.

Q. How was that interview conducted?

A. In German.

Q. And you speak German.

A. Yes, sir.

Q. Was it in any way recorded?

A. Yes, I made a recording of it. {3528|3529}

Q. What kind of recording?

A. I had a cassette recorder in my pocket, with his permission, of course.

Q. And at whose request was that interview? [sic]

A. Well, I think I was — well, Mr. Zundel mentioned what an interesting person he was, and that I could learn an awful lot, and I am always in search of knowledge, and I went to see him and had a very nice conversation with him.

MR. CHRISTIE: Yes. Thank you. Answer any questions from my learned friend, please.

THE COURT: Mr. Griffiths.

#### CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Mr. Brentar, in 1946, you said, you started working screening refugees?

A. No, sir. It was in 1948 that I started with the International Refugee Organization. I was in the U.S. Service until January 1946. I went back

to Michigan State after my discharge.

Q. Okay. And how long were you with the International Refugee Organization?

A. I started to work for them in the end of August 1948, and I worked there until July 1956. I'm sorry, 1950.

Q. Two years, then?

A. Yes, sir. {3529|3530}

Q. And are you retired now from your job?

A. No.

Q. What's your job now?

A. I am a travel agent now.

Q. So you are self employed as a travel agent?

A. Yes, sir.

Q. And so you are not working in the field of social work and sociology, and haven't really since you got your degree. Is that fair?

A. Yes. Yes.

Q. What's UNRRA?

A. That is United Nations Rehabilitation and Relief Administration

Q. And the United Nations Refugee Organization that you were working for was associated with UNRRA?

A. That was an off-shoot of UNRRA. UNRRA was created to give direct aid to people, food and shelter and medical attention. And then, after they were rehabilitated, or somewhat rehabilitated, then they formed UNRO to help them emigrate to other countries.

Q. So the refugee organization was still a United Nations Organization?

A. Yes. It was still under the United Nations.

Q. Okay. And the particular section that you were dealing with was screening refugees from the Soviet Union? {3530|3531}

A. Well, it was screening of all refugees, but I was brought in basically because of the influx of refugees from the Soviet Union, and there were other nationalities, too, but mostly from the Soviet Union.

Q. Mostly from the Soviet Union. And were there other departments or other arms of the International Refugee Organization that were concerned with refugees from other areas than the Soviet Union?

A. Oh, yes. Anybody from eastern Europe who chose not to return to their homeland Poland, Ukraine, Croatia, Serbia, Slovakia, Hungary, Rumania, Bulgaria — all these eastern European countries.

Q. Or Germany.

A. No. The Germans at the time were still not qualified for resettlement. They became qualified later on.

Q. After 1950?

A. I think it was back — yes, after 1950, because I left the organization in July, and shortly after they began to qualify German ethnics for immigration.

Q. So you would have no information about how many phony documents were coming from other groups?

A. Well, there probably were, but cannot remember. The ones from the Soviet Union, they stood out because they are most prevalent.

Q. And that was the group that you were working with?

A. Pardon, sir? {3531|3532}

Q. And this was the group that you were largely working with.

A. Yes.

Q. So I guess my question is, you are not aware whether or not it was all the same with the other groups because your experience was just with this one group.

A. From what I was able to gather, no group was as well organized as the Jewish group in the creation of these fabricated documents, because they had the Simon Wiesenthal Centre in Litz where many of these documents, I was told, came from.

Q. Well, you say that from your knowledge?

A. This is what I was told by my Jewish employee.

Q. Did you ever follow that up?

A. I was told to do my job and to pass the people, and —

Q. That is not my question. Did you ever follow it up?

A. It was not my responsibility or within my jurisdiction.

Q. So the answer is no.

A. But I made this known to the people whom I worked for.

Q. Okay. Were you still in the service from 1948, or is this a civilian job for —

A. This is a civilian job.

Q. And who was in charge of your office? {3532|3533}

A. I worked for a Miss Agnes Hoxley.

Q. A nice Jewish name. How many were in your office?

A. Only she and I as the international personnel. And then we had four subordinates who worked for us as associates. They worked under us.

Q. Okay. Now, we heard something, a bit about the war crimes trial of a man that you are investigating now, or working for now. What was his name again?

A. Ivan Demjunjak [sic].

Q. All right. And is that proceeding still going on?

A. Yes, sir.

Q. And it's going on in Cleveland, Ohio?

A. Yes, sir.

Q. And what is the proceeding exactly? Is the trial going on in Cleveland, his guilt or innocence?

A. The man is now facing extradition to Israel.

Q. I see. And who has requested that extradition to Israel?

A. The Israelis and the OSI.

Q. And are there any other countries that are seeking Mr. Demjunjak [sic]?

A. Well, they claim Russia is, but that is not proven. The Israelis are more concerned than Russia is.

Q. But the formal extradition papers {3533|3534} is a request by Israel for his extradition.

A. Yes, sir.

Q. And how long has that proceeding been going on in Cleveland, Ohio?

A. Since 1981, sir.

Q. Almost four years.

A. Yes, sir.

Q. Has there been a presentation of evidence yet?

A. Pardon, sir?

Q. Has there been a presentation of evidence yet?

A. We have given them all the evidence that can prove the man's innocence.

Q. No. My question, sir, is whether there was a hearing, a formal court hearing.

A. Yes, sir, but we have appealed and it is under appeal now.

Q. What was the result of the formal courtroom hearing?

A. The result was, our attorney argued that —

Q. No.

THE COURT: What did the judge say?

THE WITNESS: The judge is considering the appeal.

Q. MR. GRIFFITHS: No. What was the result of the hearing?

A. The hearing, our contention was —

Q. No. What was the result of the hearing? {3534|3535}

A. We presented him a five hundred page brief.

Q. What was the result of the hearing?

A. He accepted the brief. That was the hearing.

Q. There is a hearing that you are appealing. The judge made a ruling, presumably, of the hearing you are appealing. What was the ruling the judge made?

A. It's under consideration.

Q. Do you understand my question? What are you appealing, if it is still under consideration?

A. We are appealing that the man is innocent and that Israel has no jurisdiction to ask for him because the crimes are not committed in Israel and were committed — or the alleged crimes that he is accused of didn't take place during the War and not when Israel was created and Israel did not have jurisdiction over any possible fact to laws.

Q. Now, has the judge made a ruling on that already?

A. Well, this is what is being considered now.

Q. Was there a courtroom proceeding like this, with a judge sitting up deciding whether there was enough evidence to warrant an extradition

hearing?

A. Yes, there was. Not as much people as here, but there was.

Q. All right. At the end of that {3535|3536} hearing did the judge make a decision?

A. The case is being continued until he lost the brief over.

Q. All right. So it isn't a question of an appeal. You are still at the first instance here.

Q. No. It's an appeal, and together with the brief — you see, I am not an attorney. I don't know all these —

MR. GRIFFITHS: Excuse me, Your Honour. If I have your patience for just a moment, I may be able to clear this up.

Q. Was there a hearing, the judge made a finding and the same judge is now reconsidering his finding?

A. Yes. You see —

Q. Is that right?

A. I am an investigator. I am not an attorney. So I am only concerned to present the documents that are necessary to prove the man's innocence and let the attorney take it from there.

Q. All right. The proceeding in Cleveland, Ohio is not a trial; it is an extradition hearing. Is that right?

A. It is, yes.

Q. And the trial ultimately would take place, if he was extradited, in Israel; is that right?

A. Well, he would be extradited to Israel and then —

Q. And a trial.

A. And a trial would take place, yes. {3536|3537}

Q. There is no trial going on in the sense of prosecution witnesses, defence witnesses and a final determination of guilt or innocence in Cleveland, Ohio.

A. No, not at this time.

Q. You told us you got involved with this because of a newspaper article you read about this gentleman and you told Mr. Christie that witnesses in Germany could be bought for a pound of coffee. Is that what you said?

A. That's right.

Q. And do you know of any witnesses that were bought for a pound of coffee in Germany?

A. I don't know them now, but I knew them in Germany when I worked there.

Q. What were they testifying for, a pound of coffee?

A. A carton of cigarettes, pound of coffee, a pound bacon, because there was —

Q. Well —

MR. CHRISTIE: Could he finish, please? I would object to my witnesses —

THE COURT: The answer wasn't responsive to the question. Crown counsel is perfectly entitled to ask the question again to get a responsive answer.

MR. CHRISTIE: I appreciate that, Your Honour, but my concern is that while the witness was giving the answer, my friend started the question again.

THE COURT: I just gave a ruling. Go ahead. {3537|3538}

Q. MR. GRIFFITHS: Where was he testifying, these witnesses that were bought for a pound of bacon, a pound of coffee?

A. This was information that circulated throughout Germany. There was such pandemonium hunger that people were doing anything for —

Q. You don't know this of your own knowledge?

A. This was a consensus [sic] of opinion.

Q. They were rumours?

A. Not necessarily so.

Q. Well, they weren't rumours to you. Name the person you know who testified for a pound of coffee or a pound of bacon and what trial he testified in.

A. There was no way of knowing which of the ones were, but judging from the information, the way they supplied the information, they were not legitimate witnesses.

Q. There weren't any Jewish witnesses that were testifying for a pound

of bacon, were there?

A. I don't know. I didn't ask them.

Q. You then went on, you told us the trail that you followed to try and obtain evidence, documentary and otherwise, in the defence of Mr. Demjunjak [sic], and my understanding was that your testimony was that the OSI branch of the Justice Department in the United States blocked you every way.

A. Wherever they knew I was going to be, they did.

Q. Did you find that they had been {3538|3539} there before you in the course of their investigation to prepare the prosecution?

A. Yes, sir.

Q. All right. So they had done a thorough job as well.

A. A one-sided job, sir.

Q. And do I understand you that you have some information that the OSI was responsible for the witnesses from Poland not getting their visas?

A. Yes, sir.

Q. What information is that?

A. Because I was sent a telegram that the witnesses had their visas taken away from them, and I called the Attorney, Mr. Mark O'Connor, and he called Warsaw, and Warsaw said that at the instructions of the OSI their visas were nullified.

Q. All right. Warsaw is a big place. Who was Mr. Demjunjak's [sic] attorney speaking to in Warsaw?

A. He was speaking to the Consul who issued the visas, Mr. Hames Helmo (phonetics)

Q. Were you in contact with Mr. Helmo?

A. No, I wasn't, sir.

Q. Did you go over the second time?

A. Yes.

Q. Did you get in touch with Mr. Helmo?

A. Pardon, sir?

Q. When you went over a second time to have a composite drawing drawn up did you get in {3539|3540} touch with Mr. Helmo?

A. Yes, I did, sir, and he refused to notarize the signatures of the three witnesses who gave the depositions and the information supplied to the artist to bring about this composite which I was taking back with me to Cleveland.

Q. Okay. Did you have information as to what witnesses and documents the District Attorney or the prosecution in Cleveland, Ohio, will be relying on in their extradition proceedings?

A. Well, they had the five witnesses who testified against Mr. Demjunjak [sic], one of whom was Mr. Rosenberg who claims that that man, Ivan Demjunjak [sic], was the Ivan of Treblinka that they were searching for.

Q. All right. They had five witnesses and you were aware of who those witnesses were.

A. Yes, sir. Yes.

Q. And did those witnesses come and testify themselves, or did they submit their evidence at the extradition proceedings by means of an affidavit?

A. No. The original trial — you see, this is all in the appeal state because the original decision was ruled against Mr. Demjunjak [sic]. And just prior to that I got into the case and did my own voluntary investigating.

Q. Your voluntary investigating was after there had been a decision by the judge?

A. Well, just about the time when I was called to the witness stand to testify, shortly after the decision against Mr. Demjunjak [sic] was given.

Q. All right. So five people, including {3540|3541} Mr. Rosenberg, had already testified when you got involved?

A. Yes, sir.

Q. Okay. Your lapel button is flashing. Are those your initials?

A. No. I belong to the Singers' Club of Cleveland.

Q. I see. So when you were looking for Mr. Rosenberg in Cleveland, he had already testified?

A. Yes, sir.

Q. And been cross-examined by Mr. Demjunjak's [sic] lawyer.

A. The first attorney, Mr. John Martin.

Q. Yes. Who is his lawyer.

A. Yes.

Q. Were there documents as well that the Justice Department people, the OSI, were using at this extradition?

A. Yes. They were using an alleged I.D. card provided to them by the KGB of the Soviet Union.

Q. I see. Is that from the National Archives?

A. Well, from their department, the KGB.

Q. From the KGB.

A. Yes.

Q. Were there other documents?

A. That was the main document around which the whole case was built. {3541|3542}

Q. There were other documents; that was the most important one.

A. That was the one of paramount importance.

MR. GRIFFITHS: Thank you, sir. I have no further questions.

THE COURT: Mr. Christie?

MR. CHRISTIE: Thank you. Those are my questions.

THE COURT: Thank you. You can step down.

— The witness retires.

MR. CHRISTIE: Your Honour, there is a matter of slides which I would like to try to introduce, and I would like to introduce that. I suppose we should do that in the absence of the jury.

THE COURT: Members of the jury, you will excuse us, please.

— The jury retires. 10:55 a.m.

THE COURT: Yes, gentlemen.

MR. GRIFFITHS: Your Honour, I must say I object to evidence that is being submitted to the Court for discussion as to its admissibility being {3542|3543} referred to in the presence of the jury before it is found to be admissible.

THE COURT: I can only assume this is an obvious ploy on Mr. Christie's part.

MR. CHRISTIE: I can mention what it is.

THE COURT: No, you can't, Mr. Christie. What you do is, you stand up and you say, "There is a matter I would like to discuss with the Court in the absence of the jury." You don't bother telling the jury what the matter is until I rule on it. Unless you say that that was entirely accidental on your part, then I must assume it was deliberate, because you have already told me about your vast experience at the bar.

MR. CHRISTIE: I don't recall telling Your Honour of any vast experience at the bar.

THE COURT: Yes, you did. It is on the record. So it was naivete on your part, or deliberate?

MR. CHRISTIE: Your Honour, if there is any imputation of malice aforethought, then I firmly and sincerely deny it. I think my friend is becoming sensitive about these matters, but I have {3543|3544} suggested I have not, at any time, raised the issue of any vast experience at the Bar, nor do I think it necessary for Your Honour to comment upon my experience at the Bar unless I have done something wrong.

THE COURT: You have just done something very wrong.

MR. CHRISTIE: Well, Your Honour, I frankly maintain the position that, to simply say that I wish to discuss the matter of admissibility of an item in the absence of the jury is not improper. I have never been told, in my experience —

THE COURT: It is not proper and you will not do it again. Now, let's get on with it.

What slides do you want to show?

MR. CHRISTIE: Your Honour, on the previous occasion I endeavoured to introduce evidence, and I would like to put on the record in the form of a voir dire the reason why I maintain the now relevance and admissibility of the exhibits which, until now, Your Honour held were inadmissible because the accused might not testify.

I wish to call the accused on the voir dire to put on the record the relevance to the issue of {3544|3545} the reason for his belief and the fact

that he is already a witness, and he will swear under oath that he is willing and able and will testify under oath, the same in front of the jury and in the absence of the jury.

I would like to call him on that point.

THE COURT: Mr. Christie, there is a case of *R. v. Parsons*, it is from the Ontario Court of Appeal. Included in that case is the law as it pertains to voir dres.

Voir dres are held only for specific purposes, and this isn't one of the occasions. If as and when your client is called by you to give evidence on this trial —

MR. CHRISTIE: He has been.

THE COURT: — with leave of the Court for a specific reason, we are not going to hear from him again until such time as he is called to testify, at which time, if that evidence is introduced, I will rule on it. I will not rule in advance.

MR. CHRISTIE: I must insist on this right, Your Honour, that I call the accused to put {3545|3546} on record the circumstances surrounding this particular item, which is the slides of Ditleb Felderer and Dr. Faurisson, and I would like the right to put it on record, as I indicated.

THE COURT: You are putting it on record now.

MR. CHRISTIE: I must put it on record, in my submission, in the form of the sworn testimony of the accused as to certain things, and I would like the right to do so, sir.

THE COURT: It's denied.

MR. CHRISTIE: I would like to say, Your Honour, that there is, in respect to this particular exhibit, a problem in that the witness, Felderer, who is still here and who can produce those slides and identify them and produce the reasons why it is relevant by virtue of the fact that he told the accused the things which describe those slides makes that exhibit pertinent to the state of mind of the accused. That information was communicated prior to the alleged offence, the alleged offence of publishing false news in 1983, and Mr. Felderer communicated the information of these slides prior to that time. He, in {3546|3547} fact, communicated it in 1981 and '82, and it is my request that the accused be allowed to testify now as to the fact that he received that information from Mr. Felderer, that he will testify, as he has already on the stand, that Mr. Felderer may then introduce [sic] those slides and describe them in the same way he described them to the accused in front of the jury to show that is the accused has a reasonable basis for his belief based on them.

Your Honour, in the last ruling, said that he could not introduce the slides because I gave my undertaking, and Your Honour referred to it as a worthless undertaking.

THE COURT: I did not say it was worthless. I said you could not give it.

MR. CHRISTIE: I heard Your Honour say that it was a worthless undertaking.

THE COURT: I did not mean it in a derogatory sense, Mr. Christie. An undertaking is worthless if it cannot be fulfilled.

MR. CHRISTIE: Well, Your Honour, the undertaking which was worthless in the sense Your Honour has described will be fulfilled. He will give {3547|3548} evidence; he is a witness before the jury and will continue to give evidence before the jury.

The difficulty that I have and makes me request that the accused be allowed to introduce this evidence now is simply this, that Mr. Felderer leaves today and, therefore, cannot be available to provide the evidence at a later stage.

If it is impossible now to allow that evidence to be introduced, it will not be possible at any other stage to introduce it. The same applies to Dr. Faurisson whose slides were also provided at the time to the accused to assist him to form the opinion that the book was true.

Now, if my client has the right to testify as he has in the past, and if my client has the right to testify that he formed an opinion based upon evidence provided by Dr. Faurisson and the witness, Felderer, then he should be allowed to introduce that at some stage.

It is obvious that if I cannot call that evidence now, it will never be available to me. The accused has already testified out of a sense of responsibility to the Court to do, at an early stage, {3548|3549} what

would have to be done, in my opinion, at any stage. That was to prove the formalities of the correct identification of the references in the book, "Did Six Million Really Die?"

It was my intention to do that so that I could indicate to Your Honour that my worthless undertaking has been fulfilled, that he is a witness on the stand in front of the jury and, therefore, I can tell Your Honour that he is prepared to swear and able to swear now that he relied upon Mr. Felderer's slides, which are not something that is not relevant to his opinion.

Your Honour says it is irrelevant to the truth. Your Honour made that decision, but I don't think that Your Honour can make the decision that it is irrelevant to my client's opinion. I have not yet heard Your Honour say that; but it would seem to me that if it is relevant to my client's opinion and if he is willing, ready and able to testify to that fact and if he is willing, ready and able to take the stand now as I have the right to have him do and swear that he intends to call that evidence and swear under oath what this evidence is in the absence of the jury, it is {3549|3550} simply a matter of convenience so that his evidence may be tendered now rather than never.

If Mr. Felderer and Dr. Faurisson have to go back to France or, rather, to Sweden and France and to other parts of the world, then, because of the stipulation that my client had not yet taken the stand at the time when I last proposed to call this evidence, and because of the ruling that he may not now testify, I assume that was the direction of Your Honour's comment, as to the basis for his belief, then the defence will be frustrated in producing before the jury the pieces of factual information upon which the accused based his opinion.

These photographs include photographs of the American gas chamber and the comparison with the alleged German gas chamber. These photographs include the firsthand eye witness observations of Mr. Felderer in the form of photographs produced on the scene with his own camera in his own presence and with lens settings and film he can describe, and if all that is irrelevant to Your Honour, it may not be irrelevant to my client's formation of his opinion; and if we are not allowed to produce that evidence, then we are not {3550|3551} allowed to put before the Court and the jury those things which were the factual basis for my client's opinion.

That, in my respectful submission, would be to frustrate the major portion of the defence in the presentation of the basis for the accused's honest belief in the accuracy and truth of the book, "Did Six Million Really Die?" which, to a large part, denies the truth of the gas chamber as it has been so far alleged.

That is a reason why I most fervently insist upon the right of the accused to testify, to make relevant, to place on record the reason for the relevance of his desired and proposed evidence of the photographs produced by Felderer and Faurisson. And if I cannot, at this stage, do what I have requested the right to do, then of course, the defence will not be able to produce evidence of the basis for my client's belief, in fact, the best evidence, in fact, the evidence which he already testified he relied upon to a very large extent, namely the firsthand eye witness observations of Felderer and Faurisson; then we will, Your Honour, not have had the opportunity to put before the {3551|3552} jury the defence both of His [sic] honest belief in the truth, and the truth itself, as he believes it to be derived from the firsthand observation of eye witnesses at the scene.

Your Honour said that you feel that forty years later there is nothing relevant to be drawn from the photographs. That is a matter that Your Honour has every right to say. It is Your Honour's opinion. I don't dispute that, nor Your Honour's right to have that opinion. I only wish to maintain that my client has a right to his opinion and the right to show the jury the basis of that opinion based upon what he has done for many years, to search for the truth, and have to say.

Therefore I would like to be able to put before the jury his reasonable basis of belief.

Thank you.

THE COURT: Yes, Mr. Griffiths.

MR. GRIFFITHS: Your Honour, the argument in the past on the admis-

sibility of the slides, both Dr. Faurisson's and Mr. Felderer's, has centred around the truth issue, if I can call it that, whether {3552|3553} these slides, taken some forty years afterwards, of concentration camps or of gas chambers that are entirely different in concept and purpose from that of mass gassing in Germany, are not relevant to the issue of truth because of obvious changes that have been made in the camps.

That argument still prevails, I would suggest.

Now, as I understand Mr. Christie's argument, he is not saying he is not submitting well, he is not submitting these things for the truth of them, but if the jury wants to take it as the truth they can, but the reason he wants to submit these things is to show Mr. Zundel's belief.

With respect, Your Honour, I think if Mr. Zundel testifies again before the jury, as he will, he is not finished yet, that at that time he could indicate that this is the basis of his belief, and the information that he has with respect to the slides, and the jury, I would suggest, would have to be charged most carefully that these are not evidence of proof of anything, but only to his belief.

THE COURT: Mr. Christie. {3553|3554}

MR. CHRISTIE: I don't object to that. I am sure that Your Honour will charge them that way because it is for them to decide both the issue of truth and the issue of my client's honest belief.

I would very much like to make it as convenient as possible and not to interrupt the normal flow of proceedings, but when I am stuck with problems of transportation as I have, I must ask the right to even now put my client on the stand in front of the jury, let him say, as I am instructed he will say, let him say it now that it is the basis of his honest belief – it is my instruction that it is the basis of his honest belief – and let the jury decide the reasonableness of that basis.

So far we have the benefit of Mr. Felderer's cross-examination which portrayed him in less than a flattering light, one might say. We have not yet seen the results of his actual work. There are many people who I could, taken outside the sphere of their work, be made to look ridiculous at times; but what had Felderer actually done, produced what Zundel received, it is not in the flippant and funny nature. That is the issue. I put him on the stand {3554|3555} knowing his flippant, funny nature, but I wanted to show that what Felderer produced, my client derived some knowledge.

If my friend wishes to say that that knowledge is irrelevant because it is forty years old and the buildings have changed and all the rest, he has every right to do that in the cross-examination of my client and he also has every right to do that in submission, and Your Honour will no doubt charge them as my friend indicates, and I have no objection to that; but I am only asking for the right to put before the jury the real substance of what Felderer gave Zundel, not his flippant image, not his humour, but the substance of his communication.

So that's why I am afraid I have become rather concerned about this, because my friend has all the benefit of Felderer's flippancy, and no indication of what he actually communicated is in the jury's mind at all. And that is rather unfair, in my submission, and that is something that, if I am entitled to call the evidence that actually was communicated between the two, I could correct. Otherwise half the story, half beneficial to the Crown of what Mr. {3555|3556} Felderer said, will be available to the jury. The other half of what he actually communicated to the accused will not be before the jury, and that would, in my submission, be unfair. And I think I almost detect a suggestion that maybe it might be, for my friend – I hope I don't put words in his mouth – but I suggest that he is saying, and I think I can agree with him, that – I don't know if I am interpreting correctly, but if he is saying that for the benefit of proving whatever reasonable basis or unreasonable basis Felderer's pictures were, they might go in and Your Honour will instruct the jury that they will not go for the truth, I have sympathy for Your Honour in the difficulty that the case presents, but I don't think it is an insurmountable difficulty. I have every confidence that Your Honour can tell the jury that the Felderer slides are not to prove the truth of the opinions expressed but that those opinions were based and communicated to the accused as a method of ascertaining, perhaps, his seriousness of inquiry, per-

haps his level of concern for the truth. That is one of the issues.

And I concede that there might be a {3556|3557} by-product, that the jury might think that what Felderer said was the truth, although there were previous opportunities of portraying him as a clown. Maybe they will see him in a new light, but if there is an advantage to the accused in the form of evidence about intent that therefore we should exclude it because the beneficial effect might outweigh the prejudicial value of the accused, I don't think my friend means to contest this or to say that, but I think that would be the result if we exclude it, what might be the substance of the communication between the two parties.

And I see my friend is anxious to reply and I am not implying that that was his intent, but it would certainly be the fact if I was not allowed to show what, in fact, was communicated between the two and what was the substance of the communication.

THE COURT: Anything else either side? Counsel always have the last word.

MR. GRIFFITHS: Just one very brief minute, Your Honour, I'm sorry, but my suggestion is, Your Honour, what Mr. Felderer says he said is not important.

THE COURT: Not what? {3557|3558}

MR. GRIFFITHS: Is not important to this trial. It is what Mr. Zundel believes that he said. And I would object to Mr. Felderer being called for the purpose of rehabilitating Mr. Felderer in his cross-examination.

THE COURT: I have your point.

MR. GRIFFITHS: But Mr. Zundel at some point will say, "Well, I received these slides and this is my understanding of what they are and on that basis I formed an opinion."

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: Your Honour, it is extremely important what Felderer told the accused about these slides. My client did not go to Auschwitz. How can he say what communication was made to him?

MR. GRIFFITHS: It is not for the truth, but for the honest belief.

MR. CHRISTIE: Yes, indeed. The source of that honest belief is to a large extent Felderer. Now, am I not allowed to lead before the jury what Felderer told the accused? Are we supposed to say, "Here is a picture." The accused, for the purpose of who took it, to swear what it is. My friend says {3558|3559} you can't do that because it will prove the truth of the picture, so what might accrue to the defence on the issue of truth should be overcome and prevented so nothing can be said about what Felderer told the accused. If that is the case, I am stuck with the proposition that we can introduce the slides and it can be shown on the screen, and if the accused can say what it is without ever having been there and speaking for the Crown now as if I were the Crown, I can then cross-examine him to say that he never was there and he doesn't know what it is.

Well, that would be satisfactory to the Crown. I find that a proposition that verges on the total elimination of the effect of the defence's evidence, and the prevention of the defence from calling what is the firsthand eye witness present, the photographer, to prove he took the pictures and to tell us what he photographed.

It strikes me as a remarkable proposition that we, in a case in Canada, cannot call the photographer to prove he took the photograph, to say he gave the photograph to the accused and he described to the accused what the photograph was. That is all I am asking for the right to do. {3559|3560}

If my friend wants to show once! more how ridiculous he thinks Mr. Felderer is, I don't object to that. He will have every opportunity to do that again, but I hope that I can have the benefit of showing to the jury what my client got from Felderer and what he understood from Felderer was the substance of what he got, because Felderer took the pictures.

The same applies to Faurisson, and I can only assure you of one thing. I don't intend to spend hours boring the jury with pictures, but there are some very good descriptive pieces of evidence that my client relied upon.

Your Honour has not seen them all. Your Honour has seen the slides of Faurisson which were rather obscure.

My friend has the right to raise these arguments before the jury, but

have I not the right to bring before the jury just the reasonableness of the belief of the accused and how he got it and where he got it? I don't think I am asking for more than that, and I don't think that justice should give me less than that.

—— {3560|3561}

#### REASONS FOR RULING

THE COURT: Counsel for the accused, in the absence of the jury, has moved the Court for leave to call the accused to testify as a witness.

The purpose, as I understand it, for this request, is to permit Mr. Zundel and two other witnesses, who have already been called to the box, cross-examined and dismissed, to be recalled to testify in the presence of the jury concerning a number of photographs taken by one Felderer. Mr. Felderer has testified that he took, as I recall the number, about thirty thousand photographs of various concentration camp sites in and about Europe on a multitude of occasions. Mr. Felderer, when he was testifying, as I recall it, alluding to the photographs, was not permitted by my order to show them.

The cross-examination of Felderer and of one Robert Faurisson, who also testified for the defence, was concluded in the usual manner. It is now proposed that Mr. Zundel be called to testify with respect to the fact that he received from Felderer the photographs in question and based his belief on {3561|3562} the contents of the photographs, not only from what he saw in them, but also from what he was told by Felderer.

As I understand it, the defence also wants to call Felderer and Faurisson. Both of these witnesses, I am told, are about to depart back to their countries of origin in Europe.

As I gather, Mr. Christie has expressed some concern as to the impression Felderer might have given to the jury when he testified in-chief and was cross-examined. Mr. Christie, quite frankly, recognizes that the impression that was left by Felderer on the jury might be something, at least from the defence point of view, less than satisfactory.

There is no doubt from what I have heard from Mr. Christie that he would like to, in addition to questioning all of these witnesses on the photographs, and anxious to do the best he can if he is permitted to do so, to rehabilitate, as it were, the credibility that he suggests directly that Felderer may have lacked at least in the eyes of the jury.

This accused, with the consent of the Crown and the defence, has testified on one other {3562|3563} occasion for a specific reason. That reason was a formal one. It involved the accused being permitted to give evidence on the sources of the quotations in Exhibit 1 that the defence admits that he has published.

It is now proposed that the accused be called again for the restricted purpose I have mentioned.

I pointed out to Mr. Christie initially, and I do so now by way of formal reasons, that the motion is premature. If, as and when Mr. Zundel testifies, or indeed if, as and when the other witness testifies with respect to the defence, provided that the photographs or slides are *germain* [sic] to what is said, then the matter can be brought up again. If the photographs and slides are considered to be relevant and probative of an issue that the jury must decide, then consideration will be given to their admissibility.

Under no circumstances am I going to permit this accused to be called to testify on a restricted subject unless he is called to testify as a witness on behalf of the defence on this trial and {3563|3564} be subject to cross-examination on all of his evidence. I just will not permit the accused to again come to the box to testify on a certain restricted specific subject. That is so especially when it is perfectly obvious to me that the defence wants to rehabilitate one of a previously called defence witnesses who, at least from what I heard from Mr. Christie, in the eyes of the defence, may not have done as well before the jury as he was at one time expected to do.

For those reasons the motion is dismissed without prejudice to bring it again if, as and when counsel shall deem it proper as the course of the defence proceeds.

——

THE COURT: Now, do you have any more witnesses this morning?

MR. CHRISTIE: No. I suppose as a matter of formality, but I'd like to ask the right to call the accused on this limited issue, to put before the jury the very thing that I wanted to put before Your Honour. {3564|3565}

THE COURT: I have just said you cannot do it. You can't. It is as simple as that.

MR. CHRISTIE: I suppose that nothing could stop me from calling the accused on the whole issue.

THE COURT: Nothing. Once you call him, then that is, insofar as this Court is concerned, he is testifying and he will be cross-examined totally on the trial, if Crown counsel wishes to do it. He will not be called for a specific purpose.

If you want to call him as a witness on the trial for the defence, you may certainly do that. Obviously you have a right to do it.

MR. CHRISTIE: I think I do.

THE COURT: Certainly you do.

MR. CHRISTIE: But I think that I should be able to call him now on the issue of his — to put before you his evidence to the effect, and put it on the record, not just in a submission, put it on the record that what I said is true, and my friend won't allow me to do that.

THE COURT: It is not a question of {3565|3566} your friend allowing you to do anything; it is a question that I have ordered that he is not going to be called on a specific issue.

If he is going to be called, he is going to be called as a full witness for the defence.

MR. CHRISTIE: That means that all my defence witnesses will be backed up. Felderer and Faurisson will have to leave today and the consequence is that the slides will be totally without authorship.

THE COURT: Mr. Christie, I have no control over whether Dr. Faurisson and Mr. Felderer leave today or a month today. I have no control over that.

MR. CHRISTIE: I know that.

THE COURT: I don't suppose you do, either. All I am saying is, you can call any witness you like in any order, but once having done it, that witness is there and can be cross-examined as is the right of your opposition, the same right that you have.

MR. CHRISTIE: Yes, Your Honour, but may I just — I don't mean to be repetitive, but is it not correct, in my understanding, that the accused has put himself in a position where he is {3566|3567} already a witness and can be cross-examined? Maybe I haven't understood well enough, Your Honour.

THE COURT: Let me make it crystal clear to you. You can call any witness on behalf of the defence that you wish in any order that you wish. If, however, you elect to call a witness from this point onward, then that witness can be cross-examined throughout, on the whole of the trial of what the witness says. And in the event that you do call your client, as you have a perfect right to do or not to do, as you shall decide and as he shall decide, then I am saying to you it will not be for a specific purpose where you can expect the witness then to be excused after the specific subject has been discussed to be cross-examined at a later date. He is open to cross-examination on the whole of this case. Now, do I make that clear to you?

MR. CHRISTIE: Yes, sir. Can I ask one other question?

THE COURT: Certainly.

MR. CHRISTIE: Does that mean that if he did testify on the specific subject he could not testify again? {3567|3568}

THE COURT: I am not going to permit you to call him on a specific subject, and that's the end of it. There will be no more questions and answers.

MR. CHRISTIE: Yes, sir. Thank you, Your Honour.

In view of Your Honour's ruling, I am afraid that I am without further evidence this morning. I have a witness available at two o'clock this afternoon, or two fifteen.

THE COURT: We will adjourn.

MR. CHRISTIE: I wonder, Your Honour, before the jury comes in, if I could provide Your Honour with the curriculum vitae of a witness that I

propose to qualify as an expert, for your consideration over lunch? I gave my friend a copy earlier.

— The jury enters. 11:55 a.m.

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: Your Honour, in view of the hour and the difficulty I have in terms of transportation, I wonder if I could have till two fifteen to call my next witness? I can only tell Your {3568|3569} Honour that this witness has travelled all night, arrived at seven in the morning, again on an all-night flight, and I didn't have him available because, for one thing, he needed some sleep, and I don't know how long the evidence of the morning witness would be. He can be here at two, two fifteen.

THE COURT: Is that the only witness you had scheduled other than the ones we heard from?

MR. CHRISTIE: This afternoon, yes, sir.

THE COURT: Yes. Two fifteen.

— The jury retires. 11:58 a.m.

MR. GRIFFITHS: Your Honour, I was just speaking to Mr. Christie about the argument regarding commission evidence, and I just wanted to advise Your Honour and Mr. Christie that when that argument comes up, in addition to the Bullement case, I will be relying on His Honour Judge Borins' decision of Rowbottom No. 2, and the decision of the Ontario Court of Appeal in *R. v. Demeter* which – that part of {3569|3570} that decision concerning commission evidence.

MR. CHRISTIE: I wonder if my friend could assist me with the citations if he has them.

MR. GRIFFITHS: I have them. I will give you copies of them.

THE COURT: When might that argument come up, gentlemen?

MR. CHRISTIE: I was thinking, Your Honour, whatever is convenient – my friend is prepared, apparently, at any time. So am I. I thought if the time permits this afternoon it might be convenient or not. I am prepared Monday morning, although I have another witness starting Monday morning. Perhaps we should leave it this afternoon to when the matter is more clear, Your Honour.

— Luncheon adjournment.

— {3570|3571}

— Upon the hearing resuming.

— The jury enters. 2:20 p.m.

THE COURT: Yes. Go ahead, Mr. Christie.

MR. CHRISTIE: Thank you. May I call my witness, Dr. Gary Botting.

### **GARY BOTTING, sworn**

#### **EXAMINATION-IN-CHIEF BY MR. CHRISTIE:**

Q. Sir, where were you born and when?

A. I was born near Oxford, England, the 19th of July, 1943.

Q. And what citizenship are you?

A. Canadian.

Q. And your marital status?

A. I am married, four children.

Q. And what is your occupation?

A. Professor of English, and a writer.

Q. And where are you a professor of English?

A. At Red Deer College, Red Deer, Alberta.

Q. And what is your educational background? {3571|3572}

A. I have a B.A. from Trent University and an M.A. from the Memorial University of Newfoundland, Master of Fine Arts from the University of Alberta, and a Ph.D. from the University of Alberta.

Q. And in what areas did you obtain your Ph.D?

A. In contemporary and modern literature.

Q. Was there a specific focus in your contemporary literature study?

A. In particular, literature surrounding and following the War, the Second World War.

Q. Has there been any particular study in that area in regard to the subject of myth in post-War prose?

A. The basis of my studies, of my dissertations, was fundamentally the relationship between history, literature and myth, and the way history tends to become syphoned through literary process to become myth or

mythical reality so that the myth of a given culture, or the culture myth which we all accept to be truth or, you know, the bulk of the population accepts to be truth is quite different from the original history that started it off.

Q. And in your studies of that subject {3572|3573} do you deal with the Holocaust literature?

A. Yes. I dealt with quite a bit of Holocaust literature, mostly English literature, however.

Q. You mean literature in the English language.

A. Yes. Literature in the English language.

Q. And in your present occupation of Professor at Red Deer College, how long have you been so employed?

A. Since 1972, August of 1972.

Q. And in the course of your teaching there, have you received any, or have you had the necessity to involve yourself in the analysis or presentation of Holocaust literature?

A. Yes, I have. This came to a head in particular this year when I had – I was trying to discuss two separate titles.

MR. GRIFFITHS: Excuse me just a moment, Dr. Botting, if I may.

THE COURT: Yes. Go ahead.

MR. GRIFFITHS: Just so I am clear, we are qualifying Dr. Botting, at this point, as an expert? {3573|3574}

MR. CHRISTIE: No. We are in the process, I think, of dealing with his actual experience in the realm of the Holocaust literature, and we are dealing with his experience in relation to his qualifications to speak on the subject as an expert. I have provided my friend with the information which I intend to lead on the subject, and I've also provided him with a memo of the witness' proposed evidence.

I can tell Your Honour in the presence of the jury the areas in which I will seek to qualify him, if you wish, and then we can direct all further questions more precisely in that area. That is what I am endeavouring to do.

THE COURT: I don't know that seeking to qualify him – witnesses are witnesses unless they become experts.

MR. CHRISTIE: Yes.

THE COURT: Do you not agree?

MR. CHRISTIE: Oh, yes.

THE COURT: Then he is a witness. You won't need to qualify him in anything unless you intend to ask for his opinion.

MR. CHRISTIE: I appreciate that, and {3574|3575} that is why I thought, well, I am dealing with the matter as fact that if he does it in his day-to-day work, I don't need to qualify him on that.

THE COURT: Anything else, Mr. Griffiths?

MR. GRIFFITHS: No. I just needed a clarification.

MR. CHRISTIE: At a certain point – maybe I should clarify. At a certain point, dealing with his personal knowledge, I will be asking to qualify him to express his opinion.

THE COURT: On what subject?

MR. CHRISTIE: I have provided my friend with that information. I can tell Your Honour now, if you wish, first of all, as a scholar who has researched in the interrelationship of history, literature and culture myth, and I have provided Your Honour with the curriculum vitae.

THE COURT: You are going a little too quickly. First you want to qualify him as an expert in what?

MR. CHRISTIE: As a scholar and expert who has researched the interrelationships of history, {3575|3576} literature and cultural myth. Secondly, as a Professor of English literature who has taught at the University level using Holocaust literature to express his opinions upon that literature. Thirdly –

THE COURT: Just a moment.

MR. CHRISTIE: Yes, sir.

THE COURT: Using his opinions on what – on Holocaust literature?

MR. CHRISTIE: Yes. Its relationship to the necessity of his job. In other words, what he needs to have to teach the subject of Holocaust literature. Of course, there's some firsthand experiential [sic] evidence that he will be leading on this subject which I don't really care if he is qualified as an expert on that aspect. There is a firsthand experiential [sic]



knowledge that I will be dealing with.

THE COURT: What's the third?

MR. CHRISTIE: The third is as a writer who has focused on the themes of authoritarian and Orwellian motifs.

THE COURT: On the theme of authoritarian and Orwellian motifs. What's a "motif"?

MR. CHRISTIE: I am not an expert.

THE COURT: Motifs. Yes. {3576|3577}

MR. CHRISTIE: In contemporary society. Those are the three areas which I wish the witness allowed to express his opinions.

THE COURT: When do you want to qualify him, later or now?

MR. CHRISTIE: Well, Your Honour, there are, in fact, two varieties of evidence the witness can lead. He has factual firsthand experiences as a Professor in this area of access to Holocaust literature. I will be leading that as a matter of fact. It also involves his teaching as a Professor, and I will be leading evidence in the course of my film, shall we say, examination on the subject of what studies and special training he has in the areas of which I was speaking.

Those three areas. Then, at the end, I will ask for the right to have him qualified to express his opinion in these areas. I assume, then, that I may make some submissions, and my friend make his, and ask for your ruling. Nonetheless, there will be leading of evidence of a nature relevant to the effect on social and racial tolerance of the very book in question, which he is familiar with, and similar books called revisionist literature. He has dealt with those {3577|3578} in those courses. I don't want to go too far. I had better just let the witness give his evidence. I shouldn't even have gone and described it any better than simply saying those are the two types of evidence I propose to lead.

THE COURT: Well, you will let us know when it becomes time to qualify.

MR. CHRISTIE: Yes. I will not ask for an opinion from the witness until such time as I am requesting of Your Honour a ruling, and I am sure my friend will object if I did, and quite rightly so.

MR. GRIFFITHS: Thank you, Mr. Christie.

MR. CHRISTIE: Thank you.

Q. Dr. Botting, have you written a book by the title of "The Orwellian World of Jehovah's Witnesses"?

A. Yes, I have, along with my wife. Excuse me, I have to qualify that. Along with my wife. We co-authored it.

Q. And in terms of research, you are, in fact, a Jehovah's witness?

A. Yes.

Q. And you studied, I believe, in the realm of the Orwellian works. You have studied extensively about that? {3578|3579}

A. Yes. All of Orwell's works and his basic opinions are expressed in the journals and letters.

Q. To what extent has the study of Orwell been a part of your academic research?

A. Considerably – well, both before and after I received my doctorate, I studied Orwell. Probably he was the first major novelist that I studied. Eventually I settled on doing a dissertation on Golding, the Nobel Prize winner for '83.

Q. And your book of the Jehovah's Witnesses, can you describe that for us in terms of its circulation? It is a best seller, I believe, is it?

A. In Canadian terms it certainly is. It's gone through two editions so far. It is published by the University of Toronto Press. And to describe it, more basically, it gives a breakdown of the Jehovah's Witness sect, an inside view, trying to tie it to the Orwellian theme that we saw prevailing there as we grew up. It also deals with predictions that Jehovah's Witnesses made for the end of the world which didn't come true, their own personal Holocaust, I suppose, in terms of Jehovah's Witnesses' point of view.

Q. In your teaching, do you present and {3579|3580} analyze the Holocaust literature?

A. Yes.

Q. And in what courses do you do that?

A. Just – actually, in introductory university courses. I have discussed it

in senior courses as well, but most of those are of a writing nature, and coping with Holocaust themes in a literary way is a somewhat different approach to the Holocaust and attendant tragedies and so on. This is always grist for a literary mill, if you like.

Q. Are there many novels on the Holocaust itself?

A. Yes. Well, hundreds, thousands. Sure.

Q. And what degree are you concerned about the freedom to have access to that literature?

A. Well, I am very concerned, especially since when I am trying to offer two points of view, or more than one point of view, one of those points of view is denied my class and myself by government intervention.

Q. Has that actually happened?

A. Yes, it has.

Q. In respect to what book? {3580|3581}

A. In respect to "The Hoax of the Twentieth Century", which was a text that I was using as suggested reading along with Green's "Holocaust", which was the required reading on the course.

Q. In other words, you have attempted to obtain and to use the two conflicting views on the Holocaust.

A. That's right.

Q. And what point of view does "The Hoax of the Twentieth Century" present?

A. It presents the Revisionist point of view, if you want to call it that. I mean, this is a label that not everybody would use, but it's the notion that the Holocaust has been greatly exaggerated.

Q. And why would you present that, or seek to present that literature?

A. Well, the alternative, the other book, which was required reading for the course, "Holocaust" by Gerald Green, offered a radically, shall we say, pro[-]extermination thesis stance. So you have the two stances that are polar opposites, if you like. Hopefully, we could have come to some sort of semblance of compromise in our discussions or, at least, seen the parameters [sic] of where truth potentially lies by looking at other books, of course, in the library, {3581|3582} by doing research papers, looking at Holocaust literature from the library.

Basically, it was a starting off, or kicking off point for individual research on the part of individual students.

Q. Have you also taught journalism?

A. Yes, I have.

Q. Where and when?

A. Red Deer College, from 1972 to 1975.

Q. And have you engaged yourself in writing other books and works?

A. Yes. I am the author of many plays, books of poetry, critical works on literature themes, and so on.

Q. Mm-hmmm.

A. About thirty, I suppose, altogether.

Q. Thirty works.

A. Around there.

Q. And in your teaching of the subjects related to the Holocaust, what have you run into in the way of censorship?

A. Well, in the case of the Butz book, the books were handed over to the R.C.M.P. by the administration {3582|3583} of the College when they came in from the United States because they had contravened, apparently, a border – well, I think it was a Deputy Minister's Order to prohibit the books from entry into Canada. They are now in the possession of the Crown.

Q. Have you read the book, "The Hoax of the Twentieth Century"?

A. Yes, I have.

Q. And were you seeking to have your students read that?

A. If they wanted to. It was not required reading. It was suggested reading, though.

Q. And why?

A. Because I thought it would offer a very revealing point of view, quite different from that presented by Green which, of course, is fictional, but taken as Gospel by the whole generation of people in America as well as in Europe, especially after it became, once again, transformed into the television medium in the mini-series by NBC.

Q. So it has been represented as fact although it is fiction.

A. That's right. {3583|3584}

Q. And so were you able to obtain that book for your students?

A. Only on a very ad hoc basis. Not officially, no.

Q. And it was, in fact, I gather, the bookstore that actually seemed to have some fears about the book and turned it over to the R.C.M.P.

A. Well, it was a clerk in the bookstore who opened the books to put it on the shelf, and when she saw the title, she freaked out and said — gave the word to the manager at the bookstore, who gave the word to the President of the — or the Administrative Manager of the College, who gave the word to the President.

THE COURT: The witness was there, of course.

THE WITNESS: No, but —

THE COURT: I didn't think so. Just control it, Mr. Christie.

Q. MR. CHRISTIE: Dealing with your experience as a teacher and a journalist, could you tell us, before 1972, were you involved in graduate teaching at the University of Alberta?

A. No. As a graduate student — before {3584|3585} 1972?

Q. Yes.

A. No. Graduate student there as a Ph.D. I was also teaching at the University level there.

Q. What were you teaching?

A. Again, English Literature.

Q. And were you a teacher prior to that?

A. Yes, I was, at a high school in Peterborough, Ontario.

Q. And when you were in Peterborough, Ontario, were you also a journalist?

A. Yes. I worked for the Peterborough Examiner.

Q. Between what years did you work for the Peterborough Examiner?

A. I started with them in 1954.

Q. And when did you complete working for them as a journalist?

A. 1968. And then one year thereafter,

Q. Were you a journalist elsewhere prior to that?

A. Yes. In Hong Kong from 1961 to '63. {3585|3586}

Q. And where did you work there?

A. The Saturday Morning Post, and Reuters. I was a stringer for Reuters.

THE COURT: What does a stringer mean?

THE WITNESS: Oh, a person who feeds stories to particular news agencies such as Reuters, or Canadian Press.

Q. What effect does the prohibition to allow you to use the book "The Hoax of the Twentieth Century" have upon your teaching capacity?

A. Sorry, what effect does the banning have? Basically, well, that I had to remove the "Holocaust", as well, from the course. I couldn't really treat that book without treating a balanced view, because I felt that the intention that I had in introducing the "Holocaust" in the first place was to allow students to try to gain a balanced perspective on their own. It didn't matter which direction they lean. It was just a matter of trying to go through, I suppose, a kind of academic exercise, although that sounds a little callous under the circumstances; but that was the intention, anyway.

Q. So as a result you've removed the {3586|3587} Holocaust literature from the course altogether.

A. That's right. Well, I have a different tack this time, using different books this semester.

Q. It seems you have complete control over that course; is that right?

A. Yes. That's right. I should qualify that a little, because the English Department was asked to determine whether or not the reading material that I had introduced was indeed appropriate the way I was using it, and the conclusion was that it was, indeed, appropriate.

Q. And in regard to the subject of the Holocaust and your activities in terms of teaching it, did you endeavour to find a way whereby the book could be made available to your students?

A. I really didn't pursue that too much, but there were some interested students who pursued it on their own.

Q. Did you endeavour to check with the authorities and attempt to get the book released from the R.C.M.P.?

A. Yes, I did.

Q. What did you do in that regard? {3587|3588}

A. I contacted the Deputy Minister of Revenue Canada — well, I issued a complaint that the book should be released, and it was ridiculous to ban it, in my opinion, under the Deputy Minister's injunction. The fact was that the Deputy Minister had no notion of what I was talking about, he told me, and —

Q. Well, we can't say what somebody said, but I am asking you what you did.

A. That's all. Well, that was it. We had our correspondence.

Q. Did you write on the 8th of August to The Honourable Roy MacLaren?

A. Yes. He was then the Minister, I should say, of Revenue Canada.

Q. Why did you do that?

A. To protest the seizing of the books from the University of Calgary bookstore, and also from Red Deer College. It was later that I objected to the seizing of them from Red Deer College.

Q. Did you complain about any other form of censorship?

A. Well, the censorship that I was most concerned about at this point was the principle of {3588|3589} seizing two books from a university library.

Q. Where is that?

A. University of Calgary. You know, I felt this was a dangerous precedent to get into, because it challenged freedom of speech, freedom of thought, and therefore, I asked them to reinstate the books. They were reinstated shortly after that.

Q. And did you get your books back from the R.C.M.P. that were seized from the bookstore at Red Deer College?

A. No. They were still impounded.

Q. And I'd like to now peruse and show to you your letter of the 8th of August, 1984. Is that a copy of your letter?

A. Yes, it is.

Q. And what reasons did you give, in that letter, for desiring that the book be released to your students?

A. Well, first of all, that in my opinion the book does not —

MR. GRIFFITHS: Well, I don't think we are at the stage yet where Dr. Botting is qualified to give his opinion as an expert. {3589|3590}

MR. CHRISTIE: I appreciate that. We will withdraw that question.

Q. Did you complain elsewhere about the seizure of the book?

A. I also sent a letter — sorry, a copy of this letter and another letter to the Attorney General of Alberta, Neil Crawford.

Q. And have you been threatened as a result?

THE COURT: Now, Mr. Christie, you know better than that. Surely you can ask a question which wouldn't suggest the answer directly. That, of course, affects the weight. Now, surely you can think up a question that will not just put the answer right into the witness' mouth.

MR. CHRISTIE: Well, I wanted to get to the point.

THE COURT: Well, don't bother. Just do it the way you have been trained to do it.

Q. MR. CHRISTIE: What was the effect of your writing to complain about these matters?

THE COURT: If any.

THE WITNESS: There was correspondence {3590|3591} between the Attorney General, or the Attorney General's office and myself, and between the Deputy Minister and myself, and the Attorney General's letter I took to be a veiled threat. Basically, he said —

THE COURT: Never mind what he said.

THE WITNESS: Okay.

Q. MR. CHRISTIE: What effect did this have on your willingness to stand up to protection of that book, or the right to get it, shall we say?

A. Well, principles are principles, as far as I am concerned, and I suppose this, if anything, I felt obliged to continue to do what I could to establish the principle of freedom of the press and freedom of thought and so on.

Q. Are you familiar with the Gerstein documents?

A. Yes, I am.

Q. Are they taught as if they were true?

A. Are they taught? You mean by me, or ...

Q. Well, in the literature that is available on this subject, are they taught as if they were {3591|3592} true?

A. They have been in the past. I think they have been brought into question in recent years.

Q. And have you read a book such as the book, "Did Six Million Really Die?"

A. Well, it was published in a different format by the Historical Review. Yes, I did read that. I didn't realize that that was the same Zundel publication. I was very surprised to find that out.

Q. And having checked the book "The Hoax of the Twentieth [sic] Century" and – excuse me, may I show you Exhibit 1? Have you seen that book before, or the booklet?

A. Just – well, something very much like it, but – and this I saw today for the first time.

Q. Mm-hmmm. Did you ever look at the contents and see if you have seen them before?

A. Basically I did do a comparison. It is very, very similar to the other publication that I was alluding to – same cover except for the title. Mostly the same pictures. Just a few editorial amendments, would say.

Q. In relation to your studies and your {3592|3593} teaching of the Holocaust literature have you undertaken research into the scope of that literature?

A. Yes, I have.

Q. Are you familiar with it?

A. Yes.

Q. And are you still a qualified English Professor at the University of Red Deer College?

A. Red Deer College, yes.

Q. And were you teaching there recently?

A. Yesterday.

Q. Are you aware of any consequences of coming here to give evidence?

A. I am aware that there are strong social pressures that, perhaps, would want to curb my evidence somewhere. I believe that to be true.

Q. What are your feelings about that?

MR. GRIFFITHS: Objection, Your Honour.

THE COURT: I agree.

Q. MR. CHRISTIE: In your studies prior to getting your Ph.D and when you studied for your Master of Fine Arts were you studying anything to do with the literature of dissent? {3593|3594}

A. Yes. I've always been interested in literature of protest and literature of dissent, especially drama.

Q. Has this anything to do with post-War literature?

A. Well, the whole tradition of literature developed out of the Second World War. Actually, several traditions, but one of those is the theatre of the absurd, for example. Now, existential themes became focused on, increasingly, after the War, but my focus was more, as I say, in English literature and literature that was written right in England itself, but also in Canada and America, some modern German literature as well, which is Thomas Mann and Hesse (ph).

Q. Do you have any sympathy for Nazism?

A. Not really. My father was killed in the Second World War, so ...

Q. Where is he buried?

A. In Bergen-Belsen.

Q. And are you anti-semitic?

A. No. No, I'm not.

Q. In your writing of the book, "Orwellian World of Jehovah's Witnesses", what was your purpose? {3594|3595}

A. Basically to expose my own religion, I suppose, in a sense, to try to come to terms with it from a different perspective. I just felt that a lot of people were being hoodwinked, and the whole idea of George Orwell actually has become very informative to me as a person that lives and breathes, if you like, and I found that my whole life has been molded along the lines that he described in 1984 by living in a rather oppressive sect, and that it shaped, indeed, my whole attitude towards life. So gradually it became imperative to try to tell the truth of what is happening within the sect.

Q. Does that bear any relationship to your actions in regard to "The Hoax of the Twentieth Century"?

A. Well, I think the same motif is there.

Q. In your observations and studies of the Holocaust literature, have you found any attitudes prevalent in your students?

A. The prevailing attitudes that they've expressed is that, well, that their own rights have been infringed upon by not gaining free access to the material that they wanted to use for research.

Q. What material? {3595|3596}

A. Well, specifically of the twentieth century ["Twentieth Century"].

Q. Have there been any pressures applied on you by the University to cease complaining or do anything else with respect to "The Hoax of the Twentieth Century"?

A. There were initial pressures, of course, if you want to call them that. It's a very kopacetic [sic] atmosphere at the College, but obviously, I put the administration in an embarrassing position in ordering these books, so some pressures were brought to bear on me at that point. I would say that there are other academic pressures that are brought to bear on anybody who wants to deal with this as a theme from a, you know, a neutral perspective. Many academics – you know, my acquaintances and colleagues – would be very reluctant to be here in my position right now, even though they do socially hold the same views.

Q. What have you done to research into the interrelationship of history, literature and cultural myth?

A. Well, basically studied in detail of If history, and I guess the Holocaust is a good example of that, {3596|3597} the way facts, if you like, historical facts that may be fragmentary suddenly take on a certain quality of truth over and above the facts, when they are fleshed out in the form of a novel or plays, are given dramatic character, are given personality, if you like, and this is exactly what happens in Green's novel.

MR. GRIFFITHS: Well, objection, Your Honour. Till we get there –

Q. MR. CHRISTIE: Have you studied the book of Dr. Rudolph Vrba called, "I Cannot Forgive"?

A. No, I haven't studied it.

Q. What other literature in this field have you studied?

A. Well, a considerable range of it, from, maybe – well several hundred tracts, and the tracts that are the primary material that are circulated similar to this.

THE COURT: Similar to what?

THE WITNESS: Similar to "Did Six Million Really Die?". Rassinier's work. Basically, the classic texts on this. Rassinier and Butz are the two mainstays, and "The Controversy of Zion" by Alfred Lilienthal (sic).

Q. MR. CHRISTIE: Have you studied {3597|3598} the works of other authors on the subject?

A. Oh, yes. Most of my reading has been in conventional Holocaust literature, rather than revisionist literature.

Q. You have described literally the revisionist literature.

A. Yes. That's right.

Q. Can you tell us what you have read in the realm of what might be called the other side, rather than revisionism?

A. Well, I just kind of went through, I mean, all of the shelves, all of the stacks of the College resources as they became available. I started with the Nuremberg Trials –

THE COURT: I just missed the last part.

THE WITNESS: The Nuremberg trials and records of them starting in 1946 when they were published, and reading more in them rather than through them because of the, you know, I was looking for specific things, and mostly corroborative of other texts. I suppose Levine Dawidowicz – several of her books. There's endless titles. I just finished one. It's on the death camps in Germany. I think {3598|3599} it's Hoeb, I just finished it on the plane, so I can't remember the name, sorry.

Q. You were on the plane all night, I gather.

A. Yes. That's right.

Q. What is your position as a Professor on the need for revisionist literature?

MR. GRIFFITHS: Objection, Your Honour. It is not relevant to this trial.  
 THE COURT: It is an opinion you are asking.  
 MR. CHRISTIE: Well, I think it's close, but I didn't think it was necessarily an opinion as to what the literature was.

Q. And how long have you been teaching at the university level the literature of the Holocaust?

A. Actually I haven't taught it consistently, but for a period of, well, since about 1973 or so.

Q. And what part has it played in the teaching you have done?

A. Well, it serves to generate a lot of discussion of the issues, many of the issues. I think a {3599|3600} lot of people are more interested in a particular subject if first they are introduced in a controversial side and are asked to refute it, the controversy of that, I suppose, over the conventional view, or the accepted view of the myth, the culture myth, and then asked to refute that in terms of the revisionist literature. This has a bit of an intrigue, if you like, on the part of students, and it is a way of getting enthused in the art of writing English literature.

Q. And so this has been part of your teaching technique, then?

A. That's right.

Q. For what reason did you say?

A. Well, just to enthuse my students, to get them to look at things from a different point of view in academic terms, just to see both sides of an issue and to recognize that there is more than one issue, there is more than one point of view, I should say.

Q. What effect has presenting two points of view had on your class?

A. Well, that's the way we, as a specialist, as human beings, tend to operate, by polar opposites, the swing of the pendulum back and forth on polar opposites. So if one of those poles, if you like, is cut off, {3600|3601} then all of a sudden we are left with a warped view of reality, perhaps. That's my view, anyway. In order to get a complete overview, an objective view, as you have to have as a scholar or academic, or even a thinking human being, then you have to be able to be free to see both sides of an issue, all sides of an issue. There is often more than one or more than two, I mean.

Q. Does this in any way relate to your studies or Orwell?

A. Well, Orwell said exactly the same thing. In a major way I have modelled [sic] a good deal of my life, I suppose, around 1984, and the principles that he espouses as being threatening to democracy. And one of those, of course, is thought control, or thought crime. And in a sense, by, you know, thought crime suddenly becomes something that is very real in today's tangible Canada, not just in Oskania.

Q. Yes. Did you run into this?

A. Well, accusations of it, certainly, more because of the book that we wrote on Jehovah's Witnesses than anything else.

Q. Are you still teaching in the same area of the Holocaust literature? {3601|3602}

A. Yes, basically. I have changed the focus somewhat to Anne Frank and the converse. "Anne Frank" is, at this minute, probably playing in Reed Deer. Well, no. Tonight it will be playing in terms of time here.

Q. What do you mean, "Anne Frank" will be playing?

A. "Anne Frank" is a play that has been made out of "Anne Frank's Diary". That gives you an example of the sort of cross-section of what is going on at the College in reaction to the Keegstra case in nearby Eckville and Bentley. The College decided to put on the play, "A Diary of Anne Frank", and it's got full houses until, well, for the next two weeks.

Q. And what do you understand in the Orwellian context is official truth?

A. Well, official truth is not a term that Orwell uses.

MR. GRIFFITHS: Excuse me. That probably answers the question, but again, Your Honour, don't see the answer of that as being of relevance here.

Q. MR. CHRISTIE: How many works did Orwell write?

A. Oh, heavens. About a dozen. {3602|3603}

Q. And to what extent have you studied all of them?

A. I've read them all, and I'd say probably studied them all, to varying degrees. Some of them are terrible, and some of them are very good.

You know, some of Orwell's works I am very interested, again, in the relationship between straight prose, actual prose and fiction, and Orwell tends to be much more of a journalist than a novelist. Hence, much of his work is readable, or is basically interesting, intrinsically interesting in terms of the theme that he is dealing with, that very often is not in English literature. I think in "Animal Farm" and "1984" he reached the pinnacle of —  
 Q. And what relevance, does it have in respect to this case and this book, "Did Six Million Really Die?"

MR. GRIFFITHS: I object, Your Honour. I understand, Mr. Christie wants to qualify him to state his opinion as an expert, ultimately.

MR. CHRISTIE: I can see where it introduces elements of opinion. I apologize.

Q. And to the extent that you have studied Orwell, have you formed an expressed opinion on {3603|3604} previous occasions in an official capacity as a teacher, without getting those opinions? Have you done that — given opinion?

A. Yes. Many times.

Q. Why?

A. Because I —

THE COURT: The way he makes a living.

MR. CHRISTIE: That is what I wanted to say, but I can't say it for him.

THE WITNESS: Okay.

Q. MR. CHRISTIE: And in your capacity as a teacher — I don't want to lead you — but have you been required to teach on the subject of Orwell?

A. Yes, I have. Well, not required, but I have always put Orwell, especially in recent years, on courses.

Q. Is he an important part of your teaching process?

A. Absolutely.

Q. Does his work deal with the subject of history, literature and cultural myth?

A. Yes. Very much so. Again, he is taking a situation that he is living in, taking the facts of {3604|3605} that situation as he sees them, and transposing it into a mythic reality in 1984. It puts 1984 into a futuristic nightmare, if you like, and some of the other novels, though, are in a very realistic matter in terms of the world that he is living in. His essays are similarly enlightening in this way. Orwell happens to be the first one that challenged the view that gas chambers existed in Europe, in May 1984, or 1945.

Q. On the issue of his qualifications to express opinions on the realms I have requested, I would now turn the witness over for cross-examination, if we may.

THE COURT: Yes. Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

#### CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Do I understand — quite possible I don't — that the course you are teaching at Red Deer is entirely concerned with Holocaust literature?

A. No. It's introductory literature, one dimension of which is Holocaust literature.

Q. One book of which.

A. Yes. {3605|3606}

Q. Year to year. It might not be the same book, but —

A. Well, one or two. Well, usually two, because I am trying to offer both views.

Q. And is that what you do in the segments of the introductory course, as well?

A. It varies. If I am dealing with satire, I will deal with juxtaposed pieces of satire. Usually I have two books in a different category.

Q. You may have students reading "Animal Farm" and the Communist Manifesto, and comparing the two?

A. I have never done that, but possible.

Q. It may be something you may do in another section of the course.

A. Possibly.

Q. Can you give us some other examples of your course?

A. Well, the course I am teaching is a general introductory course, as I say. It starts off with Beuwole, Chaucer, Christopher Marlow. From there it goes to John Milton, Jonathan Swift, "Wuthering Heights".

Q. I'm sorry, I understand it is a survey {3606|3607} course.

A. It is not exactly a survey course. Then we get into the contemporary literature. "1984" is there, and one ultra contemporary, which in this case is Green – Green's "Holocaust".

Q. I thought from what you were saying that each segment of the course you tried to have two different books.

A. Well, I do in terms of recommended reading. I would always suggest that they – for example, there is a thesis that Christopher Marlow did not die when he was supposed to have died, and he continued to go on to write some of Shakespeare's works. Now, that's obviously ridiculous from an academic standpoint, I suppose, but when all the evidence is in, it is not quite as ridiculous as it sounds because —

Q. Well, we don't want to know why, but you studied Marlow. Are you also studying a book about, did Marlow also write Shakespeare? Is that what I understand?

A. Well, something along those lines, to simplify it.

Q. All right. And I gather that in those other courses as well you would have read outside the {3607|3608} particular two volumes that you are presenting so that you can stay ahead of your students.

A. Of course.

Q. Okay. And is that any different from what you are doing in the Holocaust section of the course?

A. Not really.

Q. Do you consider yourself to be an expert in the history – not the literature, but the history of what happened to European Jews from 1933 to 1945?

A. I would say I do by virtue of the literature, though.

THE COURT: By virtue of what?

THE WITNESS: By virtue of the literature that I read.

Q. MR. GRIFFITHS: Not by virtue of the history that you've read or the documents that you've read.

MR. CHRISTIE: That's a question which, I suggest, begs the question as to what is history.

THE COURT: It may be, but I think that the cross-examiner should be allowed to continue cross-examining. That is something for argument, if you want to make it later. {3608|3609}

MR. CHRISTIE: Yes, sir.

THE WITNESS: Yes. I would say that I've looked at a lot of documents as well. I have tried the documents, when I've had suspicions and doubts about the similitude of things that were said or written about particular texts, then I've always tried to look them up, sometimes without success, but a lot of the time with success, cross-referencing.

Q. MR. GRIFFITHS: All right. And what would be the source of your research?

A. Well, as one example, the Nuremberg War Trials, eleven volumes that were published in 1946. That comes to mind immediately.

Q. The eleven volumes?

A. Yes, the eleven volumes. Well, it starts out with the indictment against – I think it's thirteen accused at the beginning. I have looked up reference texts basically. Eleven volumes in length.

Q. In your study about the Holocaust literature, leaving out the documents and the historical secondary and primary sources, the literature, the books, the novels, has your role been a literary critic of those in your interest in them? {3609|3610}

A. To a certain extent, but my interest is more in content and the way they are either – well, put it this way, the fictional process that goes beyond the facts that are corroboratable through non-fiction texts.

Q. And how do you decide what is able to be corroborated from non-fictional texts?

A. Well, it is a matter of – for example, if you take Green, where does he get his ideas?

Q. Just give me an example.

A. Okay. If you take Anne Frank, you know, one question that comes immediately to mind is, is it a hoax, or isn't it a hoax, because that often

has been asked or alleged. And so you would take – cross-reference that to other texts, say, that support it or go against it as being a fraud or forgery or whatever.

Q. All right. So you look at different texts that might criticize the text that you are studying in the course. Is that —

A. In particular. But anything read, basically, I read with a fairly critical eye.

Q. Does that make you an expert on anything you read? {3610|3611}

A. By virtue of my training, I probably read much quicker than most people, yes.

Q. Aside from dipping into the eleven volumes when you want to corroborate something —

A. Well, it's not that – that is among other things, other volumes that are in a rather large library at Red Deer College as well as the University of Alberta library, and occasionally at the University of Calgary library.

Q. If there is more. that you have read from primary sources – and I am talking about history, now, not literature ...

A. Well, I have mentioned a few, but I suppose Reitlinger, Hilman (ph) [sic] – just trying to ...

Q. I know. Just take your time. This is not a test.

A. They all seem to glum together. It sounds like my Ph.D. exams. Well, basically about maybe ten different books on Hitler, for example, that weren't really directly connected with the Holocaust, but, say, works of John Toland's "Adolph Hitler", which again takes the Gerstein documents as gospel.

Q. Do you – I'm sorry, I don't mean to {3611|3612} interrupt.

A. I'm sorry, my mind is just not kicking in.

Q. Do you speak or read any other languages other than English?

A. Well, as I got my Ph.D, I had to have reading knowledge of both German and French.

Q. And have any parts of your examination into documents involve going back to any original documents in French and German?

A. Not in terms of the Holocaust. I haven't tried to do that.

Q. Have you ever attended any of the centres, document centres or archives in West Germany, in the United States and Canada?

A. No, I haven't.

MR. GRIFFITHS: Thank you very much, sir. I have no further questions on this issue.

THE COURT: Yes, Mr. Christie. Any re-examination?

MR. CHRISTIE: I would like to ask the witness one question that relates to – I suppose maybe should have asked it earlier. I don't know if it's a {3612|3613} proper re-examination question. Maybe my friend could permit me to phrase it and see what he thinks.

THE COURT: It is not a question of him permitting you to do anything.

MR. CHRISTIE: I realize that, but maybe he won't object.

THE COURT: What's the question? Ask the question.

#### RE-EXAMINATION BY MR. CHRISTIE:

Q. Are you aware of any Jewish historians who, in literature, have recognized the Holocaust as a novelistic endeavour?

MR. GRIFFITHS: Your Honour, I do object.

THE COURT: You can ask it. Go ahead.

Q. MR. CHRISTIE: All right. Are you aware of the book "Zakhor" by Yosef Hayim Yerishalmi [Yerushalmi], of "Jewish History and Jewish Memory" dealing with this subject?

A. Yes, I am.

Q. And am I correct in understanding the text to be an indication that the Holocaust has already engendered more research than any event in Jewish history, {3613|3614} but the image is being shaped not at the historian's anvil but in the novelist's crucible. Much has changed since the sixteenth century; one thing, curiously, remains. Now, as then, it would appear that —

MR. GRIFFITHS: Your Honour, who is the expert? I really do object. It is not proper reply. I don't have an opportunity to cross-examine on this.

MR. CHRISTIE: It is something that I forgot before.  
 THE COURT: Yes, you will have, Mr. Griffiths.  
 Q. MR. CHRISTIE: How does this relate to your expertise in the realm of a Professor of literature?  
 A. Well, in terms of the culture myth that I was talking about, that derives from history and is funnelled through the literary process, drama or novel, it doesn't matter; it corroborates entirely. We share the same opinion.  
 Q. Who shares the same opinion?  
 A. Yesef [sic] Yerushalmi.  
 Q. And who?  
 A. And myself. {3614|3615}  
 MR. CHRISTIE: All right. I'd like to file that as an exhibit on this point, Your Honour.  
 THE COURT: Lettered exhibit.  
 THE CLERK OF THE PEACE: Exhibit "X".  
 — EXHIBIT "X": Photocopy of excerpt from "Zakhor" by Yosef Yerushalmi.  
 THE COURT: You are familiar with that writing, are you, Doctor?  
 THE WITNESS: To the extent that know that he wrote the book. That's about it.  
 THE COURT: Did you read the book?  
 THE WITNESS: Not all of it, no.  
 THE COURT: Did you read any part of it?  
 THE WITNESS: Yes, I did.  
 THE COURT: How much?  
 THE WITNESS: Well, basically what's there.  
 THE COURT: About a paragraph.  
 THE WITNESS: No, no. All —  
 THE COURT: A few pages.  
 MR. CHRISTIE: . It's in context, Your Honour. {3615|3616}  
 THE COURT: Are those all the questions you had?  
 MR. CHRISTIE: Yes. I'm sorry.  
 THE COURT: Yes, Mr. Griffiths.

#### FURTHER CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Do you know who Yosef Yerushalmi is?  
 A. Just a Jewish writer, historian.  
 Q. Do you know what area of history he is concerned with?  
 A. Mostly sixteenth century.  
 Q. Sixteenth century, not the twentieth century.  
 A. But here he is talking about the twentieth century, however.  
 Q. I know that. Outside his area of expertise, isn't it?  
 A. I imagine, if I may express an opinion.  
 THE COURT: We don't want you to imagine anything, but you can express —  
 THE WITNESS: If I may express an opinion, that anyone who is able to express or write a history {3616|3617} on the sixteenth century and trace it through into the contemporary times and he makes the connection he does, yes, I think he would be qualified. He has lived through it, after all.  
 Q. Does he do that in these three pages, two pages that you've read?  
 A. You are asking me about whether somebody who has lived through a good deal of anguish and so on has also been a scholar in the past.  
 Q. How do you know that Yosef Yerushalmi went through a good deal of anguish?  
 A. Moot point.  
 Q. His particular field of endeavour is the study of the interpretation of history, or do you know?  
 A. I really don't know history that well.  
 Q. Thank you.  
 THE COURT: I have two questions, if I may. The first is, what is an Orwellian motif?  
 THE WITNESS: Basically, a symbol or, I suppose, an attribute that would appear in his novels.  
 THE COURT: An attribute is a characteristic. A symbol is something

different, is it not? {3617|3618}  
 THE WITNESS: "Motif" covers both areas.  
 THE COURT: "Motif" is either "attribute" or "symbol".  
 THE WITNESS: Usually a symbol or image that has a powerful effect in terms of —  
 THE COURT: All right. Thank you, Doctor. One other question, if I may. You said something about a Board of Historical Review. Do you remember saying that?  
 THE WITNESS: I don't think I did say it.  
 THE COURT: Do you know what it is?  
 THE WITNESS: Yes.  
 THE COURT: What is it?  
 THE WITNESS: Well, I think, if it's the same one that you are talking about, the idea of — there is a Board that concerns itself with the revisionist literature, but I am not sure that is the same one you are talking about.  
 THE COURT: It is the same one. Do you know anything about it? Are you on it?  
 THE WITNESS: No. {3618|3619}  
 THE COURT: I didn't pick it out of the air. You mentioned it. But however, I am satisfied.  
 Any questions arising out of my questions?  
 Q. MR. CHRISTIE: Have you ever had anything to do with the publication of any revisionist literature?  
 THE WITNESS: No.  
 MR. CHRISTIE: Thank you.  
 THE COURT: Yes, Mr. Christie.  
 MR. CHRISTIE: Well, I wasn't at any time seeking to qualify the witness as a historian, but a person who is a scholar with the research he described, and the interrelationship of history, literature and cultural myth, as a teacher who teaches at the university level on the subject of the Holocaust. That is all I wished to address, being a writer who has focused on the themes of Orwellian motifs in contemporary society. I wish to only have him speak on those subjects. I wanted to introduce the matter of this historical perspective, "Jewish History and Jewish Memory" by Josef Yerushalmi, because it bears upon the relationship of those subjects to the case at bar in that it says:  
 "Now, as then, it would appear that {3619|3620} even where Jews do not ..."  
 THE COURT: Don't bother reading it, Mr. Christie.  
 MR. CHRISTIE: Well, it is —  
 THE COURT: I will decide whether or not you can do it before you read from it.  
 MR. CHRISTIE: Sorry.  
 THE COURT: We will have to decide whether or not this witness is sufficiently knowledgeable about the inherent contents, characteristics of what you are reading from before you are permitted to read it.  
 MR. CHRISTIE: Well, Your Honour, it is an authoritative —  
 THE COURT: Well, I am perfectly capable of reading it. Just pass it up and I will let you know. I don't want you to read that until such time as I have ruled.  
 MR. CHRISTIE: I thought it was part of the evidence.  
 THE COURT: It is not part of the evidence. It is a lettered exhibit for identification.  
 MR. CHRISTIE: Well, it strikes me it's part of my argument, and if I did not have the right to refer {3620|3621} to it —  
 THE COURT: I didn't tell you you did not have the right to refer to it. I told you not to read it. That is an order. Please don't.  
 MR. CHRISTIE: Yes, sir. I'd ask Your Honour to read the portion highlighted about the subject of history and cultural myth, and I would like the right of this witness to express his opinion in that realm, specifically the effect I would be seeking to examine on is the realm of studying both sides of an issue to get closer to the truth. That is what I would be seeking his evidence upon, and his expression of opinion on those subjects.  
 I have not, at any time, offered him as a witness as to some historical fact. I do not propose him to give his opinions on history any more than

I propose an expert in chemistry to give his opinions on history, but we live in a historical world. We also, when we read literature that deals with past events, we are reading history of a sort, and it is inevitable that anyone who reads literature today will unavoidably have opinions that affect history; but I am not asking for this witness' expertise on those subjects whatsoever, but to be entitled to express his opinion as a scholar who has researched in the interrelationship {3621|3622} of history, literature and cultural myth in something quite relevant to the book, "Did Six Million Really Die?", such as the "Anne Frank Diary", also the subject of the literature upon the Holocaust upon which he is aware – not judging its truth, but judging the relationship to literature and cultural myth and questioning both objectively and academically. I think I might say that my purpose is also to relate it to the social effect of books which question the current views of our time. That is part of the case at bar, and that's one of the reasons why I want this. I would suggest the witness' opinion might be relevant. Thank you.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Well, with great respect, Your Honour, I fail to see how anybody can comment on what is a myth unless he is qualified to say wherein the historic truth or the truth lies. Dr. Botting, I have no doubt at all, is a fine teacher and a knowledgeable scholar in the field of English Literature and playwright, but what he is being called upon to do here, I would suggest, Your Honour, as I understand it – and again, I may well be wrong – but as I understand it, is in commenting on relationships {3622|3623} between history and literature and myth in this particular field and to give his opinion as to whether or not the Holocaust is a myth, or what part of the Holocaust are myths, what parts are exaggerated, if any, and in order to do that he would have to have some extensive background as an expert for the purpose of this Court and history. So that otherwise he would not be qualified to say, well, this is a myth, or this is an exaggeration unless he is also qualified to say, because this is what history tells us.

Well, he can tell us that paragraph one of the book is full of dramatic irony and foreboding of things to come, but I don't really think that is what he is called here to testify to, and I understand this course, this particular aspect of his course, he was comparing a nonfictional work, "The Hoax of the Twentieth Century" with the fictional work in the form of a novel. I am not sure what that will tell us about either the truth of Exhibit No. 1, the pamphlet, "Did Six Million Really Die?", or Mr. Zundel's belief in the truth of that pamphlet.

My friend suggests, well, what he is also going to tell us about is how people – what the social effect of this pamphlet is, and I guess that would be the third area, or second area that he was asked to be qualified {3623|3624} as an expert in, as a writer who has focused on the theme of authoritarian and Orwellian motifs on contemporary society. And with great respect, Your Honour, there already has been a ruling in law that, with the section under which Mr. Zundel was charged, it does not infringe upon freedom of expression, and it is a proper section properly enacted by the Parliament of Canada, not outside of their jurisdiction, and I, with respect, would say that that is not a matter that is in issue any more in this trial.

This evidence is not relevant on that issue, because it is not an issue any more. It is not a question of fact. It is a question of law, and it is a legal ruling that Your Honour has already given. So for those reasons, Your Honour, I would suggest that in those areas, Dr. Botting not be qualified as an expert.

THE COURT: Mr. Christie?

MR. CHRISTIE: For one thing, we have come to the point in history where the jury is supposed to decide historic truth, and not even experts are qualified to give absolute views on historic truth.

One thing that is in issue for the jury to decide, upon which the witness' opinion is relevant, and that is not an opinion necessarily of history, but the {3624|3625} question of both sides of an issue, which is in issue in this trial, the social benefit of hearing the revisionist view as opposed in the literary process of analyzing literature through the views of others who maintain the converse. The social benefits of the booklet, "Did Six Million Really Die?" are in issue here, and the social benefits also of

freedom of expression may still be in issue here.

I am not suggesting that the law has in any way been struck down, but the jury still has to witness the relative social values of freedom of expression in relation to the subject matter of the charge, and I am hopeful that the witness may express his opinion upon the process by which scholars research the interrelationship of history, literature and cultural myth, and that is not to decide what is truth necessarily, but to describe what the process of searching for truth is. And I think that the Professor is engaged in that process to give his opinion as to the usefulness or otherwise of the booklets like, "Did Six Million Really Die?" in the process of the search for truth.

THE COURT: Thank you. We will adjourn till four o'clock.

— The jury retires. 3:36 p.m.

— Short adjournment. {3625|3626}

— The jury returns. 4:10 p.m.

#### RULING

THE COURT: Dr. Gary Botting is a Professor of English Literature at Red Deer College in Alberta. Among other duties of his, from what I have heard of the evidence, he teaches an introductory course to students in the English language. Introductory English is one type of course that Dr. Botting teaches.

If I understand his evidence, one facet of his teaching concerns a certain procedural relationship between history, literature and cultural myth. In that connection he has attempted to include, as part of this English course, the topic of the Holocaust. The main part of the course, however, in which he teaches the students concerns itself with the introduction to the students of the masters of English literature as, for example, Chaucer and Swift.

Dr. Botting has sworn that his interest in literature has always been in the literature of protest and dissent. He professes to be neither a Nazi nor antisemitic. He has testified that he strives to present both sides of controversial subjects in the earnest and sincere hope that the students, so stimulated, will in turn learn {3626|3627} better habits in the acquisition of knowledge and truth.

The well-known novelist, George Orwell, is a person whose literature, and in the norm of novels, has loomed large and in a very important way with Dr. Botting. It was the Orwellian theme, he says, that he employed to write a book of his own. That book, as I understand his evidence, exposes his own Jehovah's Witnesses religion to its bare essentials. For that, Dr. Botting has stated, he has sustained certain criticisms.

Counsel for the accused proposes that Dr. Botting be qualified by the Court as an expert witness on more than one subject, but on subjects which include the interrelationships of history, literature and cultural myth.

If so qualified, he would then be asked questions and will be asked for his opinions essentially, as I perceive the intent, on whether the Holocaust happened, or whether or not the Holocaust, in his opinion, perhaps insofar as the alleged use of gas chambers is concerned, occurred in that way.

Defence counsel also seeks to qualify the witness as an expert with respect to the influence of Orwellian themes on contemporary society.

From one of the questions put to Dr. Botting, it would appear that defence counsel, if permitted, {3627|3628} would draw from the witness opinions concerning Orwell and whether or not "Government think" or "official think" is, perhaps, occurring.

However learned Dr. Botting may be in the field of literature, I note that he is not sought to be qualified as having the expertise in the field of history. Undoubtedly, Dr. Botting is a very learned man. Undoubtedly he has acquired extensive knowledge in the field of literature. His acquisition of knowledge in the field of history, quite naturally, would perhaps have been too much for someone so apparently young as he is at the present time.

It is not asked that he be qualified as an expert in the field of history. Therefore, if qualified in the field of literature and if asked to comment upon the interrelationship of literature to myth to history, there would be

one important facet of his repertoire missing, namely, history. The historical component in this particular field is missing from the repertoire of expertise. That being so, he will not be qualified in the one necessary field of expertise.

I note, for the purposes of this ruling, that Dr. Botting has already testified on a number of other {3628|3629} subjects before the jury. He will not be permitted to testify as an expert within the confines of the three fields of expertise that have been proposed by counsel for the accused.

MR. CHRISTIE: Thank you, sir. I have a few more questions.

THE COURT: Yes. Certainly.

——— {3629|3630}

#### FURTHER EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. Not expressing any opinions on the subject of the Holocaust, have you, yourself, come to any conclusions, without expressing those conclusions?

A. Not really, no.

Q. What do you, as an academic, require to come to any conclusions?

A. Sorry, I missed the first part of that question.

Q. What do you, as an academic, require to come to any conclusions?

A. Well, obviously I have to have both sides, or all sides, all sides that are available to me, and I think it is a foregone conclusion in any kind of academic or scholastic inquiry.

Q. What do you, as a Professor, require to teach the academic method to your students?

A. Exactly the same thing. Basically, I have to be able to present both sides.

Q. You mentioned the seizure of the book, "The Hoax of the Twentieth Century". When did that occur?

THE COURT: When what occurred – the book? {3630|3631}

THE WITNESS: No. The procedure, I'm sorry. I said – you mentioned the seizure of the book.

THE COURT: Oh, the seizure. Sorry, I missed that.

THE WITNESS: September 5th.

Q. MR. CHRISTIE: Of what year?

A. 1984.

Q. And were you advised under what Act or by what authority?

A. Was I advised under what Act?

Q. Yeah.

A. Well, I sought that advice after the fact from the Deputy Minister, and understood the Deputy Minister of National Revenue, who, you know, I had a long telephone conversation with him, actually two of them, and we corresponded by letter. And finally I discovered it was by Deputy Minister's order.

Q. Mm-hmmm. Was it around – you have to wait before you answer this. Was any reason ever given?

MR. GRIFFITHS: Well, yes. Objection, . Your Honour.

MR. CHRISTIE: All right. I withdraw the question. {3631|3632}

THE COURT: He can say whether or not there was a reason given, if you want to ask him that. What it was.

MR. CHRISTIE: Yes. Thank you.

Q. What happens to people in Alberta who question the Holocaust?

A. They are anathem[at]ized.

THE COURT: They are what?

THE WITNESS: They are anathem[at]ized.

THE COURT: What does that mean?

THE WITNESS: They become social outcasts.

MR. CHRISTIE: Thank you. Those are my questions.

THE COURT: Yes. Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

———

#### FURTHER CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Do you teach any books in your course that has love as their primary theme?

A. Love as the primary theme? {3632|3633}

Q. Yes.

A. Yes, I suppose so. "Wuthering Heights", I suppose love is the primary theme.

Q. And poetry, love poetry as well? Does that play a role?

A. Love poetry not usually, no.

Q. Christopher Marlow.

A. Well ...

Q. No?

A. Not really, no. I teach his plays more than his poetry.

Q. "Lady Chatterley's Lover" by D.H. Lawrence, does that appear in your survey of the course?

A. I have taught that in the past, but not recently, not in the last five years or so.

Q. Do you feel that in the university setting it would be appropriate to also portray love, to portray graphic lust as a form of explicit, violent pornography?

A. Would it be appropriate in the course? Probably not in the course that I am looking at.

Q. Is there another course?

A. In the course that I am teaching in — {3633|3634}

Q. Is there another course where it would be —

A. Yes. In creative writing, for example.

Q. Creative writing?

A. Yes. Many students express themselves in experimental ways. Not that I encourage them to do so necessarily, but many times they do, and some of the models that they take are, possibly, along those lines. I wouldn't say pornographic; I would say in terms of lust, though, rather than love, if you want to make that distinction.

Q. All right. Well, does explicit and violent pornography have a role as a teaching tool in the university as another side of love, or lust, or whatever?

A. I'd say at a more senior level, perhaps, yes.

Q. Is there anything – so that's not something that you would feel appropriate to censor or to limit public access to.

A. That's correct. That's a personal view, yes.

Q. Why? Is there anything that you would feel appropriate to limit the public's access to? {3634|3635}

A. I would say anything that would enjoin people specifically to perform acts of violence against another people or individuals.

Q. All right. What about a defamation or a libel? Would that be limited at all?

A. I think that should be limited by civil law, not by criminal law.

Q. You don't think there should be constraints about that?

A. Only supplied by the people libelled.

Q. And does your belief in – for anybody to say anything, extend to anybody to deliberately lie in a manner that is hurtful to others?

A. I would say I am trying for the exact opposite. I wouldn't encourage lying, no, not deliberate plagiarism or cheating of that kind, or lying, misrepresentation, no.

Q. So you are speaking up in favour of honest inquiry.

A. That's right.

Q. You are not speaking out in favour of dishonest inquiry.

A. That's right. {3635|3636}

MR. GRIFFITHS: Thank you. I have no further questions. [sic]

THE COURT: Yes. Mr. Christie.

———

#### FURTHER RE-EXAMINATION BY MR. CHRISTIE:

Q. Is there any relationship between explicit violence, pornography, and either the book, "The Hoax of the Twentieth Century", or "Did Six Million Really Die?"?

A. Not overtly, but I guess at a different level. Some people might think that there would be a relationship. I don't.

Q. How do you determine between an honest inquiry and a dishonest inquiry?

A. I would say if somebody sincerely believes something to be the case and presents them, you know, without deceit, that would be the criterion.



Q. How do you test the process of whether an inquiry is honest or dishonest?

A. Only by examination of alternative sources, back and forth.

MR. CHRISTIE: Thank you. {3636|3637}

THE COURT: Thank you, Doctor.

— The witness retires.

MR. CHRISTIE: That is all the evidence I have today, Your Honour.

— Discussion concerning timetable of forthcoming witnesses.

— The jury retires. 4:24 p.m.

— Whereupon the hearing is adjourned to February 18, 1985.

## **FEBRUARY 18, 1985**

— Upon the hearing resuming.

THE COURT: Anything before I call the

MR. CHRISTIE: No, sir.

— The jury enters. 9:40 a.m.

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: Thank you, Your Honour. I would like to call the next witness, Douglas Collins. I would like to seek to qualify the witness as an expert {3637|3638} in journalism.

### **DOUGLAS COLLINS, sworn**

#### **EXAMINATION-IN-CHIEF BY MR. CHRISTIE:**

Q. How old are you, sir?

A. Sixty-four.

Q. And your birthday, sir?

A. The 8th of September, 1920.

Q. And where do you live?

A. I live in West Vancouver, British Columbia.

Q. And what is your present occupation?

A. I am a freelance journalist and a columnist for the North Shore News on the North Shore, Vancouver.

Q. And how long have you been so employed?

A. With the North Shore News?

Q. Yes, sir.

A. A couple of years.

Q. And previous to that what was your occupation?

A. I was a news editor [sic] of CJOR Radio Station in Vancouver, and an open line operator, and before that I was a columnist for the Columbian Newspaper in New Westminster, which is now defunct.

Q. How long were you a news editor at CJOR? {3638|3639}

A. A few years, a couple of years.

Q. And at the Columbian Newspaper?

A. Two years.

Q. And before that, between 1974 and 1977 what did you do?

A. Between 1944 and 1977 —

Q. Sorry, 1974.

A. I was a page six editor and a columnist for The Sun, and I left the Sun during the long strike of '78, '79.

Q. And prior to that were you employed by the CBC between 1971 and 1974?

A. Yes. I was west coast correspondent for a documentary programme from the west coast, and before that I was with the CBC in Ottawa and a member of Parliamentary Press Gallery.

Q. Did you do a network public affairs programme for the CBC between 1978 and 1981?

A. Yes.

Q. And what was your responsibility in regard to that programme?

A. Producer, interviewer, reporter.

Q. And prior to that, between 1960 and 1968, were you an interviewer for the seven o'clock show for the CBC?

A. Yes. In Vancouver.

Q. And what were your responsibilities in regard to that appointment?

A. Well, it was a nightly show, public affairs show going on as indicated, eight o'clock, and we covered the waterfront, broadly speaking covered {3639|3640} everything that went on in British Columbia.

Q. Were you also writing for the Toronto Sun in the labour field?

A. Yes.

Q. And prior to that how long had you been employed in the reporting of news?

A. Oh, well, for many years. I was also a reporter for the Vancouver province from 1955 to 1958, and before that I was on the Calgary Herald from 1952 to 1955.

Q. And in that regard were you a reporter?

A. Yes.

Q. And prior to that, from the end of the War to 1952, were you an intelligence officer in Germany and a freelance journalist at that time with the rank of Major in political intelligence?

A. Not formally with the rank of Major. The classification was Intelligence Officer Grade which was a civilian appointment, and the rank was equivalent to Major.

Q. And you were responsible for the declassification of the Nazi —

A. Yes.

Q. And you were providing news columns throughout the world?

A. No, I didn't. I did freelancing from Germany for various publications, but I wasn't internationally known or anything like that.

Q. So how many years of experience [sic] have you had in terms of journalism and reporting? {3640|3641}

A. Thirty-five years. Thirty-five to forty.

MR. CHRISTIE: I'd like to seek to qualify the witness as an expert in journalism.

MR. GRIFFITHS: I have no questions, Your Honour. No objection.

MR. CHRISTIE: Thank you.

THE COURT: Go ahead.

MR. CHRISTIE: I take it that my friend has no questions and no objections? I'm sorry.

MR. GRIFFITHS: That is what I said.

Q. MR. CHRISTIE: All right, sir. I'd like to deal with your — now, what happened to you in 1939, where were you and what occurred?

A. In 1939 I was a sergeant in the Gloucester Regiment in France and participated in the Battle of France until its conclusion. In 1940 — and we were part of the rear guard action in the defence of Dunkirk and covering the evacuation — and I was taken prisoner by the Germans.

Q. And from that occasion when you were sergeant in the Gloucester Regiment captured at Dunkirk, where were you taken as a prisoner of war?

A. I was eventually taken to Stalag 8B.

Q. And where was that, sir?

A. That was Upper Silesia in Germany.

Q. Not far from Auschwitz, I gather.

A. Well, Auschwitz was a long way by foot, let's put it that way. But by car, no, not very {3641|3642} far.

Q. And I understand you made several attempts to escape from that camp?

A. Yes. Not directly from the main Stalag. I made my escape from sub[-]Stalag, working parties, which were prison camps; but Stalag 8B was the main concentration area holding thirty thousand prisoners, approximately.

Q. And how many attempts to escape did you make from subcamps or satellite camps of the stalag.

A. Four.

Q. And were you successful?

A. Yes.

Q. I assume on the last one.

A. On the last one, yes.

Q. And you escaped, then, from Germany, and in what month and what year?

A. In July 1941 we crossed the Carpathian Mountains through Czechoslovakia into Hungary.

Q. Who is "we"?

A. I had a companion called Ted Lancaster, a fellow sergeant.

Q. And what was your treatment like in the German Stalag 8B?

A. The treatment physically was not bad. I was beaten up a few times,

but that was because I had been caught doing things, and I suppose it was a matter of individual guards not liking me. The food, it was very poor, and as a matter of fact, I got yellow jaundice which led to swollen glands outside of {3642|3643} the face, here, leaving me to look something like a goldfish, and I am not very handsome now, but I was worse then. I got some treatment for it from the German doctor, but of course, it was really a matter of malnutrition and nothing to be done about that. I must point out, however, that that was the food in the main Stalag. It was very poor. In the working camps it was somewhat better, and in some cases a lot better. In fact, the rumour in Stalag 8B used to be that you could get out to a working party and you could get soup in which your spoon stood up, and everybody was very anxious to have his spoon standing up, but I never succeeded.

Q. And you worked in Stalag camps doing what, sir, in 8B?

A. One was a coal mine. Another was a sawmill. Another was, I suppose, what would you call it, agricultural work. And so on.

Q. Mm-hmmm. After escaping the successful time from Germany where did you go, when you got out of Stalag 8B?

A. Well, the fourth time, you mean.

Q. Yeah.

A. The fourth time I arrived in Hungary.

Q. And what happened to you there?

A. We were interned in Hungary. It had been our hope that the British Embassy would still be in Budapest, and unfortunately it had left about ten days before we arrived, with the result that we interned in Hungary, and the Americans who looked after {3643|3644} British interests there represented us.

Q. And why were you interned in Hungary? Was Hungary at War with Britain?

A. No, it wasn't, and Britain hadn't declared War on Hungary either at that time. The invasion, the German invasion of Russia had taken place, and of course, Hungary was an ally of Germany, but there were no hostilities even in a formal way between Britain and Hungary, so we petitioned the American Embassy to get us back to Britain so that, you know, we could get into the War again, I suppose, and they were not successful in doing that.

Q. How long were you interned in Hungary?

A. About eighteen months.

Q. How were you treated there?

A. Quite well, yes.

Q. And did you attempt to escape from there?

A. Yes.

Q. How many times?

A. Three times.

Q. Were you successful?

A. Yes, on the third attempt.

Q. And where did you go from there?

A. We escaped from a castle called Shiklos, Shiklosva, in Hungarian, and we moved across part of Yugoslovai [sic] into Rumania. and we were aiming for Turkey. And so what we wanted to do was to cross Yugoslavia, Rumania and Bulgaria and getting across to the European side of Turkey. {3644|3645}

Q. And how far did you get?

A. We got into Rumania, but were caught on our way trying to get to Bucharest, and were incarcerated in Secret Police Headquarters, in Bucharest.

Q. Would that be a Gestapo headquarters, sir?

A. No. Probably the equivalent, but the Gestapo, of course, had bad connotation and I don't know what – we received no particularly bad treatment in the Secret Police Headquarters, but we were confined there.

Q. And how long were you incarcerated then in Rumania?

A. About a year, slightly less than a year, I think.

Q. And did you escape from there, or —

A. From the Secret Police Headquarters, from Rumania?

Q. From Rumania.

A. No. I was actually in a punishment camp for an unsuccessful at-

tempt to escape when the war for Rumania, anyway, finished because King Karol of Rumania took Rumania out of the War.

Oh, incidentally, I was imprisoned in Rumania for most of the time with the Ploesti, with the survivors of the Ploesti raid, but still I was incarcerated with survivors of the low-level raid on Polesti, [Ploesti] and we made two attempts to get out of there.

Q. So when Rumania changed sides in {3645|3646} the War you were released; is that right?

A. Yes. We were flown back to Britain.

Q. And then what did you do?

A. I rejoined the Army and got back to the campaign in northwest Europe in its closing stages.

Q. Did you visit the camp of Bergen Belsen in 1945?

A. Yes. It was the end of April 1945. I was with the Documents Research Team because I knew German and could read German, and that was the Supreme Headquarters Allied Expeditionary Force. It was a grand title, but I was not a very grand person. I was a sergeant with the documents research team.

Q. Right. And did you see the camp of Bergen Belsen?

A. Yes.

Q. Did you see what condition it was in?

A. Yes.

Q. What was the view of the Germans at the time?

THE COURT: What was the ...

MR. CHRISTIE: The view of the Germans at the time.

THE WITNESS: The view of the Germans?

Q. MR. CHRISTIE: What was the opinion of the Germans at the time as to why it had {3646|3647} happened? I withdraw the question. Never mind.

Q. Have you, in your journalistic endeavours, compared the rights of Anglo-American prisoners in American camps as opposed to Japanese camps?

A. I haven't, but there are comparable figures to indicate that the death rate in the Anglo-American —

MR. GRIFFITHS: Excuse me just a moment, Mr. Collins.

If Mr. Collins hasn't done the research, it is not a field in which he is qualified as an expert, and he cannot form an opinion.

THE COURT: Mr. Christie?

MR. CHRISTIE: I am not going to bother pursuing it.

Q. Were you a civilian intelligence officer after the War?

A. Yes.

Q. And where did you work?

A. Various places in Germany. Gottingen, Brunswick, Hildesheim, Hanover, also Lubeck in northern Germany."

Q. Did you have to see the conditions of the civilian population in Germany in your role there?

A. Yes.

Q. Could you describe their condition?

A. Well, they were very bad, certainly for three years. I mean, first of all Germany had been very heavily bombed, leading to a great deal of hardship for the civilian population, and the economic conditions in Germany until the currency reform of 1948 were appalling.

Q. Did you, in your capacity last described, have a function as an interrogator of troops at border crossings?

A. Yes. That would have been in 1946. I was requested to go to the border crossing not too far from Ghetty, and probably about twenty miles, where German troops were returning, German prisoners of War were returning from the USSR, and the purpose of sending me down there was that, of course, I spoke German, and the idea was to send to internment camps in the British zone of Germany anyone who held any rank above that of Scharfu[ü]hrer in the S.S.

Q. What condition were the troops in coming back from the Soviet Union?

A. Well, they reminded me a bit of the survivors in Bergen Belsen. They were walking skeletons. In fact, so much so that I didn't have the heart to send any of them to internment camps, and I used to tell them

to go home.

Q. Now, in respect to journalism, you received a national newspaper award in 1953 for the exposition of a particular problem. Is that right?

A. Yes. Quentin Reynolds, the noted American author and war correspondent, had written a book called, "The Man who Wouldn't Talk", and it purported to show the adventures of one George Dupre {3648|3649} who was Calgarian, who had put out the story that he was a secret service agent, an intelligence agent in France during the War, that he had been landed in France to spy on the German situation there and to work with the Maquis against the German occupation, and I was assigned to find out whether this story was true, because we had received a tip that it might not be true.

Q. So it was alleged this was false news, then?

A. That's right.

Q. And what did you find out?

A. I found indeed that it was false news, and that Reynolds had written a story based solely on the man's statement, and in the end I confronted Dupre with all the evidence I have collected and he confessed to being a phony.

Q. And as a result what is your attitude as a journalist to the subject of false news generally? What do you believe a journalist should do about it?

A. Well, I think that false news is a very vague title. I guess in some way or another we have all been guilty of pedalling false news either because our sources have been wrong, particularly politicians, for example, or we have made mistakes and so on and so forth. I think that the very concept of false news is not really in the interest of democracy.

I mean, if we are going to talk about false news, what about Pierre Trudeau who said that we were going to have participatory democracy? There was {3649|3650} never less participatory democracy in Canada than when he was Prime Minister. Mulroney said if we voted for him, hundreds of new jobs would be created overnight. What about the weatherman? He is always putting out false news. What about Santa Claus?

Q. There is an allegation that that might be false news.

A. Well, yes. I think it is. Don't you?

Q. From your experience as a journalist have you read and studied the book, "Did Six Million Really Die?"

A. Yes.

Q. If you were to attempt to present a story on the Holocaust, what role would that book and, for example, the book – are you familiar with the book, "The Hoax of the Twentieth Century?"

A. Yes, I have read that.

Q. Why did you read it?

A. I read it because it was banned. I am always attracted to stuff that is banned, and when I heard that the customs and excise had banned, "The Hoax of the Twentieth Century", I made it a point of getting a hold of a copy, and I wrote a column about it. And my lead was, "Tell me I am not allowed to read a book, and it cannot be imported, and I will get on a horse and go and fetch it myself."

Q. And from your experience as a journalist and having read the book, would you say that it has value in the discussion of the Holocaust?

A. Yes, I would. It is what you call {3650|3651} the other side of the story. You know, one of the tenets of journalism is that you always get the other side of the story. There is an orthodox version, or official version, or someone's version, and then you go to the next man, find out what he's got to say. That's basic to, well, I don't think it would be too grandiose about it, but it would be basic to democracy, and it is basic to journalism certainly.

I mean, if there were no other side to the story, what sort of world would we have? In Hitler's day there was no other side of the story. If you had another side of the story you went to jail.

Q. Like so many ended up in Bergen Belsen?

A. That's right. They weren't there necessarily as political prisoners. They were there as prisoners – Russians, Poles – they were there.

Q. As a result of your experiences did you have different feelings after

the War?

A. Yes. I would say it took me fifteen years to get over the War, and particularly during the War I hated Germany and the Germans, and I hated Hitler and I still don't have that much time for him.

Q. You have expressed as a journalist upon that subject as well?

A. Yes, sir.

Q. What value do you place on the right to express your views as a journalist?

A. Well, if you can't express your views as a journalist, then you can't be a journalist. {3651|3652} That is all there is to it. I mean, if you are a reporter assigned to cover a story and you go, let us say, to the legislature or the Parliament Buildings and you report a story from there, then you are simply reporting what someone said or so on, but as a journalist I think there is a slight difference between being a plain reporter and being a journalist. If you are a journalist then you are putting out what you might call the journal of the day, and it's up to you to find out as much as you can about the story that you are covering.

I mean, if we had accepted the official version, you might say, a book had been published about George Dupre in Calgary and it was being published in New York, it was condensed in Reader's Digest and so on and so forth, there would have been no other side of the story because you didn't have to examine anything. You just read what was in the book.

Q. And what would have happened to the truth?

A. The truth would have gone in the ditch.

Q. Having read, "Did Six Million Really Die?" do you consider it presents a point of view that should be available for examination?

A. Absolutely. I think that it presents a very persuasive point of view. I am not saying that the point of view is necessarily correct, but I can say that as a piece of journalism, as a piece of reporting, as the representation of opinion backed {3652|3653} by what one assumes to be facts, we would have to check that, but I would say that it presents a very persuasive story indeed, and I was struck by this.

When I read the thing I thought that perhaps it might be what I'd heard on the television and so on. A hate work. And there isn't an abusive line in the whole story. I mean, I have been more abusive in my column than this guy was in writing, "Did Six Million Really Die?"

Q. Have you, as a journalist, had to deal with the subject of censorship and been aware of what censorship there is in the country?

A. Of course, every journalist is aware of censorship. Censorship is always with us one way or another. If you go back to even modern times in Canada to the Padlock Laws in Quebec and so on and so forth, and the attempt to stifle the distribution of pamphlets by Jehovah's Witnesses, people were jailed, the people had to go before the Supreme Court of Canada before it was settled and it was settled the only way it was settled, which is that politicians are not entitled by law or right to suppress views, and of course, I have written a great deal about censorship anyway, because as I say, it's a subject that is fundamental to every journalist who gives a damn about the world in which he lives.

And you know, censorship, I need hardly say, is hardly confined to Canada. It is endemic, of course, in all the dictatorships, and I don't know whether you are aware of it or not, but even Alice in Wonderland is banned in Red China. I wrote a {3653|3654} column about that. Would you like to read it?

Q. Just tell us why, as a journalist, you think that Alice in Wonderland is banned in China.

A. Well, it is not a matter of thinking. It is a matter of knowing. It is banned in Red China because the regime doesn't want dangerous stuff like Humpty Dumpty get in there.

I said in my column here – well, I will read this out because it will make more sense in context. This column was written, as a matter of fact, for the paper. It appeared yesterday, and I say:

*"At the risk of sending you to sleep, we return today to the subject of censorship. But stay tuned. You may even get a laugh. On Friday, we cast a scaly eye at the p n-hunters. But there are many other censors, and they're all closely related. Canada is a front-runner in the great*

censorship stakes. But the best story concerns Red China, the darling of the pinko set, where Alice in Wonderland and Through the Looking Glass are banned. Dangerous stuff, that. You never know what the masses will do if they're allowed to read that bit where Humpty Dumpty says 'When I use a word, it means just what I choose it to mean.' {3654|3655} I will believe that China is loosening up when we see a headline in the Morning Wimp stating: 'Alice Back in China!' Censorship fashions change, but in Canada the ridiculous is always with us.

In 1941, before the Nazi invasion of the U.S.S.R., the American communist magazine New Masses was banned from the land because it opposed the United States' becoming involved in the war. The Saturday Evening Post, which preached the same thing, was not banned. In Toronto, half-witted librarians took Charles Lindbergh's books off the shelves because he had said that the U.S. could not win the war for Britain no matter how much aid was given. One of the books was We, which told the story of the early transatlantic flights. In Vancouver, in 1943, school board candidate John Stanton wanted a schoolbook thrown out because it 'utterly distorted history'. The book was critical of Russia. Hilariously, Stanton stated: 'The author claims that secret police and the army rule Russia and keep {3655|3656} the people in check. And a number of other passages contained a slander that Stalin is a dictator. It seems all nonsense in view of the way the people of Russia have fought in this war.'

Kindly old Uncle Louis. St. Laurent sometimes didn't have much time for freedom of speech either. In 1943, Agnes McPhail of the CCF said that all Canadian judges were political heelers. Uncle Louis announced in the House that he would ask the censors to look out for such statements and suppress them. So much for the promise that the Defence of Canada Act would be used only to prevent the broadcast of information useful to the enemy.

In 1945, the Vancouver Sun was fined \$300 for having the audacity to say that West Coast defences were weak. The censors had plenty of work to do after the war, too, and are as active as ever today (vide the Customs ban on The Hoax of the Twentieth Century). In 1950, Leon Trosky's Excerpts from My Diary was banned, but Joe Stalin's golden words were not. At that time, too, Blair Fraser of Maclean's Magazine reported there were 505 books {3656|3657} of all sorts on Ottawa's 'forbidden' list.

Yesterday, it was mainly the left wing that was under attack. Today it's the right-wing and 'racists'. Schoolbooks that mention 'Heap Big Indian' are out. For years, Little Black Sambo wasn't on the library shelves. But the watchdogs must have forgotten about him, because he's now crept back. Professor Robin Ridington please note. Last August, the RCMP, acting on a complaint from 'human rights' fanatic and the Canadian Jewish Congress, swooped on visiting U.S. speaker Col. Jack Mohr, grabbing \$5,000 worth of tapes and books deemed by those purity experts to be obnoxious. The mainstream media snored.

I guess this country likes censorship.

Hello Alice. Is that you?"

Q. And that was your column on censorship?

A. Yes.

Q. What influence has the Holocaust had on journalism?

A. Well, the direct influence it's had is that it is, I suppose, dangerous, in quotes, to question the Holocaust. I mean, the important thing {3657|3658} about this trial, it seems to me, quite apart from —

MR. GRIFFITHS: Objection, Your Honour. I am not interested, and I don't think the jury is, as to what Mr. Collins thinks the important thing is about this trial.

THE COURT: I agree.

MR. CHRISTIE: Is he not free to express his opinion as a journalist?

THE COURT: He is here to testify in a criminal proceeding. He is not here to use the trial as a soapbox for his views.

MR. CHRISTIE: This is not an ordinary criminal proceeding, Your Honour. Freedom of speech is at stake.

THE COURT: Members of the jury, you will excuse us, please.

— The jury retires. 10:10 a.m.

THE COURT: Mr. Christie, you will do what I order. He will not give his views. You will not give yours in the presence of the jury. You will conduct yourself as a counsel in a criminal trial.

Now, just do it. Bring back the jury.

— The jury returns. 10:13 a.m.

THE COURT: Proceed.

MR. CHRISTIE: Yes.

Q. The last question was, what influence has the Holocaust had on journalism. {3658|3659}

A. The influence the Holocaust has had on journalism, as far as I can perceive it, is that it has become dangerous to question the orthodox view of the Holocaust. In other words, if you don't agree, or if you even question the allegation that six million Jews died in Nazi concentration camps or in Nazi Germany, you are immediately suspect. You are accused of anti-semitism, and of hate literature. You go down the lexicon of all the charges that are obvious to everyone, I think.

And my point is that there is always another side to the story, and that the other side of the story should always be available to the public.

So what this sort of thing leads to, at the very least, is a form of self-censorship. And I think that would be obvious to you if you made a study of the main newspapers in Canada, because there's very little in them that give the other side of the story.

Now, as I say, I am not an expert on the Holocaust and I don't know what the truth is, but I know that there are many versions of how many died in Nazi Germany. As far as I am concerned, if ten died unjustly, or one, that's an important thing. One life is important.

Now, in my experience, for instance, right after the War, the popular figure was — and I say right after the War, I say two or three years after the War — the popular figure for the number who died, the number of Jews, that is, who died in Nazi Germany was five million. When I was in New York in 1953 talking {3659|3660} to Westbrook Pegler (phonetic), who was a very well known, now deceased, a very well-known American columnist, he told me — and we weren't talking about this kind of thing —

Q. I can't have hearsay.

A. I can't say what he told me.

Q. No.

A. Well, anyway, the fact is that you can read all kinds of figures. You can read four million, you can read one million, you can read three million. The CBC has taken to using six and a half million, and I believe there was even an allegation of nine million. So I believe it is a matter of paying your money and taking your choice.

Q. What, if any, journalistic value does the book, "Did Six Million Really Die?" have?

A. Well, I think it has as much journalistic value as any dissident view. I am wondering, you see, whether it will be necessary, in the future — I don't know whether I can state that view, perhaps the judge will tell me. I wonder whether it will be necessary in the future, if this case goes against Mr. Zundel over there and one is writing about the War and this aspect of the War, whether it will be necessary to check with the Canadian Jewish Congress or B'Nai B'Rith or the Jewish Defence League, which would be better known as the Jewish Attack League, whether it is necessary to check with them before one gets a story into print, or whether it would be necessary to go to, let's say, the Canadian Japanese Association because you are writing about the evacuation of the Japanese from {3660|3661} the West Coast during the War and say, "Is it all right for me to print this or will I land in Court for spreading false news in your opinion?"

Q. Is there any other story or subject upon which you, as a journalist, experience as much apprehension in printing or writing as the Holocaust?

A. I think not.

MR. CHRISTIE: Thank you. Those are my questions.

THE COURT: Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

## CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Mr. Collins, what was wrong with what Quenton Reynolds did about printing this story about George Dupre?

A. He didn't get the other side of the story, sir. What he did was go in a very dumb fashion to Dupre, spend ten days in Calgary. He was a very noted journalist, as I pointed out. No doubt you heard of him, too. He was a star word in the journalism world. Sometimes it happens that people are so big in journalism – and I don't mean to be facetious here, that they don't dream that people will say they had a false story. So instead of doing what any cub reporter would have done, namely check on Dupre's antecedents – for {3661|3662} example, when I did the story, of course, I was given a tip that part of what he had said wasn't true. That is what started the whole ball rolling. But nevertheless, any cub reporter would have done what I did, which was to go around to all the former RCAF people in Alberta, where Dupre's story was well known —

Q. I don't need to know all the steps, but you checked the story.

A. That's right. And the story was available to Reynolds as it was to me, so he failed to get the other side of the story in much the same way as some people are failing to get the other side of the Holocaust story, whether that be right or wrong.

Q. I see. So a publisher or a writer has some obligation to check and see whether what he is writing is true.

A. Yes.

Q. You are not in a position to tell us whether or not these articles are true.

A. I am not in a position to tell you whether they are true, because if I were in order to be in a position to tell you whether they were true I would have to conduct a personal investigation, which might take a long time. All I can tell you about the article, as I have indicated already, is that the man makes – the writer makes a persuasive case and produces a number of what he regards as facts, anyway, and offers them for public consumption.

Q. Would you agree with me that if the persuasive case that he is making is false, that that could be pretty powerful piece of propaganda because {3662|3663} it is a persuasive piece?

A. If it is false, but can you prove it's false?

Q. I am asking the questions.

A. Well, I don't know that it's false and I am saying —

Q. I am not asking you to say whether or not it is false. My question to you is, if it is.

A. Oh, if it is false, then of course he would be just as much at fault as Quentin Reynolds.

Q. And wouldn't it be a powerful piece of propaganda if it were false?

A. I would think so.

Q. All right. Wouldn't you agree with me that the impact of this article, Exhibit 1, would be to malign Jewish people everywhere?

A. No, I would not, absolutely not. I believe I mentioned in my earlier testimony that I didn't come across one line in the article which was abusive of Jews.

Q. I see. And so you don't feel that it would be abusive of Jews to indicate to them that the family that they say died hadn't died, to say that they were involved in a colossal hoax, enormous fraud to gouge money from West Germany; that wouldn't be abusive.

A. No. That is a point of view.

Q. And do you recall, from looking at this article, what the author said that his reason was for re-examining this issue? {3663|3664}

A. No. I'd have to read it again.

Q. Well, there is an introduction to it.

A. Yes. Do you want me to read it?

Q. I don't need you to read it out loud, but just take a minute and refresh your memory by looking at it, and [ ] then, it's not twenty questions here, there's no mystery, I am going to ask you whether his reason for writing that was to make it easier to discuss, I think as he puts it, problems of race.

A. I don't see that phrase, but I see here something about it. He quotes Pandit Nehru as saying that:

*"India as a nation. and Indians as individuals were subjected to insult, humiliation and contemptuous treatment. The English were an imperial race, we were told, with the God-given right to govern us and keep us in subjection"*

He concerned himself with race to some extent, anyway.

Q. All right. In the following paragraph, the sentence under "The Race Problem Suppressed", "One could scarcely miss", read from there.

A. *"The white races of Europe and America have become used during centuries to regarding themselves as a Herrenvolk."*

I suppose that is Nehru speaking.

*"The twentieth century, the century of {3664|3665} Auschwitz, has also achieved the first stage in the recognition of multi-racial partnership."*

Yes, but I don't know what you are talking about.

Q. That is because you didn't read where I asked you to: "One could scarcely miss the object ..."

A. *"... of this diatribe, with its insidious [sic] hint about 'multi-racial partnership'. Thus the accusation of the Six Million is not only used to undermine the principle of nationhood and national pride, but it threatens the survival of the Race itself."*

That is a point of view.

Q. Is that a point of view you share?

A. No. But there have been points of view similar to that. For instance, Rene Levesque, I was present when Rene Levesque absolutely spat into a television camera when addressing an audience about the White Rhodesians of Westmount, which was a direct racial slur, and Rene Levesque, a man for whom I have some affection in many ways, wasn't at all reluctant to abuse, in racial terms, the population of English Canada. And the same is true of many of the Separatist Party.

Q. Would you have occasion also to read "The West, War and Islam", the second pamphlet?

A. No, I haven't read it.

MR. GRIFFITHS: Your Honour, I know {3665|3666} it is quite early, but I have some questions that I'd like to ask Mr. Collins on "The West, War and Islam".

It is about four pages. It might take him some time to read it, May we take about ten minutes, please?

THE COURT: Mr. Christie?

MR. CHRISTIE: I don't understand this. Why should the cross-examination be interrupted to ask the witness about something he has never read before?

MR. GRIFFITHS: He is an expert entitled to give expert opinion.

MR. CHRISTIE: On journalism, yes, he is. Usually when one starts a cross-examination, one carries on with it. I don't usually ask for time to prepare for cross-examination.

THE COURT: You object to it.

MR. CHRISTIE: I think we should go ahead.

THE COURT: Then we will sit here and have the witness read it.

Q. MR. GRIFFITHS: Would you read it, please, Mr. Collins?

MR. CHRISTIE: I don't mind if my friend points out portions if there is something he wants to ask in this, to get to the point. He is cross-examining.

MR. GRIFFITHS: Thank you, Mr. Christie.

MR. CHRISTIE: He can lead the witness.

THE WITNESS: Okay. {3666|3667}

Q. MR. GRIFFITHS: Thank you, sir. Now, if I could take you back to page one of "The West, War and Islam", there are some comments there about people involved in the media and disseminating, people who disseminate information to the public.

A. Mm-hmmm. You mean his reference to the Zionist influence in the media?

Q. Yeah, I'll come to that. He says, if I can quote – I think it's the third paragraph page one:

*"Certainly, the West has at its disposal tremendous facilities for the education of the public, but until now, these facilities of information, education and entertainment have been used purposely to misinform, to miseducate and to instil hatred against the Islamic peoples."*

Have you ever done any of those things?

A. Have I ever done any of those things?

Q. Yes, sir.

A. I have not.

Q. *"Just as certainly, this situation has not come about by accident, for the media by which disinformation is being disseminated are controlled by a small group of unscrupulous men who know exactly what they are doing and who will stop at nothing in order to attain their criminal and {3667|3668} murderous end."*

As a man who has worked in journalism for thirty-five years in the main areas in Canada, what do you say about that?

A. I haven't experienced any of that.

Q. *"This same group of media manipulators and its predecessors broadcast and published anti-Nazi propaganda in both world wars and included the Japanese as victims in the Second World War. These people are capable brainwashing experts."*

When you were sending dispatches, are you a capable brainwashing expert?

A. I might be, but I don't think that I saw myself in that function ever.

Q. All right.

*"On their account, millions of Westerners who had never met a German or Japanese were inflamed with murderous hatred, sufficiently so that they killed millions of persons who might otherwise have been their friends. If it can be done against Germans and Japanese, it can be done against the Islamic peoples — and it is being done. We Germans have learned through this sad experience that a nation's salvation lies in its reputation and a nation's reputation depends upon information — not misinformation and misrepresentation. {3668|3669}*

*The same principle is true for the Islamic nations. Let us now look upon the face of the enemy."*

A. Do you want a comment on that?

Q. Do you care to?

A. Well, I can't say that I agree with Mr. Zundel on this, but it's a point of view, and perhaps he is referring to things like the attack on Idiyasin (phonetic) [Deir Yassin] in Israel or outside the borders of Israel at that time which was conducted by Menachin [Menachem] Begin who later became the Prime Minister of Israel, as we know, and who was a terrorist and perhaps he is referring to that sort of thing. And you see, we get into an area here where the political objectives of Zionism and the military objectives of Zionism and Israel may be in dispute. And I think that it's legitimate to dispute the Zionist case.

I am not" suggesting that Mr. Zundel is right. Once again, it's a different point of view, and are we to have a world and one, only one point of view, an orthodox point of view is permitted?

You see, you could have accused — not you personally, sir, but your side, let me put it that way, or the politicians of that day, could have accused Martin Luther of the same sort of hate propaganda and so on and so forth, because he regarded the Pope as the devil and said so, and had it not been for the fact that certain German princes were interested in economic independence from Rome, Martin Luther would probably have ended up at the stake.

You see, what we are talking about here {3669|3670} is heresy. And Mr. Zundel is regarded as a heretic.

Q. Excuse me, Mr. Collins. His Honour has ruled that we are not interested in your opinion.

A. Well, you are asking me for my reaction.

Q. Your reaction to this article. This is the indictment Mr. Zundel was charged under. The reference there is that he, knowingly, published false news, not that he published something false in good faith, but knowingly published something false.

A. I see.

Q. Does that make a difference to your comment?

A. Not very much.

Q. Martin Luther thought he was telling the truth.

A. If you want an answer, I can give you one. Can you read Mr. Zundel's mind? Can you look into that man's brain and say that he knew something or did not know it? All you can do is look at the printed word and make a judgment on that, and that is a value judgment.

Q. Have you looked at page 4 of Exhibit 2?

A. I think so. Yes. Okay.

Q. *"Because most western news[ ]media are owned or managed by Zionists, Islamic nations can only look forward to more slander and hate propaganda such as the atrocious program, 'Death of a {3670|3671} Princess.'"*

Is the CBC owned or managed by Zionists?

A. I don't think it is, no. It certainly isn't. It wasn't when I was in it, anyway.

Q. The Vancouver Sun?

A. No. What he is referring to —

Q. Murdoch?

A. No. He certainly wasn't a Zionist, I wouldn't say.

Q. He owns the Chicago Tribune and the London Times?

A. Yes.

Q. And he is a magnate?

A. Yes. The Thompson Fleet. He was a magnate. The new one.

Q. And he is not a Zionist?

A. No, I don't think so. I have never heard that. But if you want a comment on this point that Mr. Zundel is making, what he is referring to is the undoubted fact that there is very definite Jewish influence in the United States media, and I am not suggesting that there is any plot or anything like that. I am merely stating a fact. The New York Times, The Washington Post, the Newman chain and so on and so forth, the influence at the top — Hailey (phonetic), I believe, was Jewish, isn't he, CBS, or has just retired?

I mean, there isn't any question that for the better or for worse, there is a considerable influence in the American — Jewish influence in the American media. Now, it doesn't worry me, but it {3671|3672} apparently worries Mr. Zundel, and I suppose he is entitled to be worried about that.

Q. This doesn't say American media: It says most western —

MR. CHRISTIE: I object because my friend is misleading. If you look at the bottom of page 4 there one, two, three, four, and it is not fair to say that Lord Thompson —

MR. GRIFFITHS: I am not saying that.

THE COURT: Gentlemen. Gentlemen. Sit down. You will have a chance to re-examine.

MR. CHRISTIE: I can object.

THE COURT: Sit down. How dare you interrupt cross-examination like that? Not a word. Any more questions, Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour.

THE WITNESS: This article doesn't refer to American news media. It says most western news media. If you want to place an interpretation, you can put it this way, that the American media are to a very great extent, perhaps the majority body, if I may put it that way, of Western news services and news, and certainly that, to that extent, it would be justified; but as I say, this is Ernst Zundel's point of view and I don't suppose you can change it, and I don't think it's particularly criminal, or criminal at all.

Q. My question is really whether it's incorrect. As a journalist, you are in a position to know that.

A. I would say if you want to get to the bottom line, it's not correct. {3672|3673}

Q. Thank you. That's the line wanted.

I have no further questions.

THE COURT: Mr. Christie.

#### RE-EXAMINATION BY MR. CHRISTIE:

Q. In regard to the suggestion that it's not correct that you were given, or asked to give the bottom line for, if you look at page four —

A. I don't have page four here.

Q. That is what I thought. I think that's quite unfair not to.

MR. GRIFFITHS: He had it and I took it at the end of my cross-examination, Your Honour. I resent that.

THE COURT: Go ahead, Mr. Christie.

MR. CHRISTIE: He didn't have it when I asked him about it, and I don't know when my friend took it back.

THE COURT: Well, he has it now, and that's fine.

Q. MR. CHRISTIE: Looking at page 4 where remarks are made about the western media, who are the media referred to in the photographs as being the western media?

A. The New York Times Boss Sulzberger, CBS Boss Paley – Paley was; Mervin Kalb; Silverman, and Schlosser. I don't know who Silverman and Schlosser are. {3673|3674}

Q. Are any of those referring to Canadian media?

A. No.

Q. So in the context of those photographs with page four attached, is it still —

A. It is the American media that is being referred to there.

Q. Is it still incorrect to say that they are being controlled by Zionists?

A. No. No. May I make one point, Mr. Christie, which I think bears on questions that the prosecuting attorney raised.

You know, we all get, for whatever reason, certain mind sets. And one of my criticisms of our media has been, for example, that when Arabs are portrayed in cartoons, they usually, or very frequently, are portrayed as rather revolting people with big noses and burnouses, and I think that MacPherson: of the Toronto Star is particularly good at this, and my friend, Les Peterson of the Vancouver Sun, has produced some brilliant cartoons along those lines.

The point is, though, and I don't want to censor anybody including my friend the cartoonist, the point is, though, that if a Canadian cartoonist represented a Jew as being a guy with a big nose and looking sinister and so on and so forth, there would be all hell break loose; but we don't have the same reaction to the other kind of thing, and what I'm after, and that is why I am appearing at this trial, is fair play. {3674|3675}

Q. In regard to the part of "The West, War and Islam" on the third paragraph down, it says —

THE COURT: Exhibit 41.

MR. CHRISTIE: Does 41 have the fourth page?

THE COURT: No. There is just an exhibit I want to look at. And 42, please. Go ahead, Mr. Christie. It was only for my education. I just didn't want to interrupt what my clerk was doing, but I wanted to get the proper exhibits for "The West, War and Islam".

Q. MR. CHRISTIE: I now produce and show to you Exhibit 2, and if you read Exhibit 2, the paragraph that my friend directed you to, in conjunction with page 4, which identifies the American media, would you say it was false to say the west had at its disposal tremendous opportunity for the education of the public? Is that false?

A. No. Patently not.

Q. No. "But until now these facilities of information, education and entertainment have been used purposely to misinform, to miseducate, and to instil hatred against the Islamic peoples."

Is that consistent with the point you just made in your representation?

A. Yes, it is, but I still would not say that there has been an organized campaign to achieve those ends. I mean, I am not aware of one, let me put it that way. All I am aware of is that when one treads into this very delicate area, one is placing one's head {3675|3676} on the line.

Q. It says:

"Just as certainly, this situation has not come about by accident."

Are you aware of any common relationship between the five persons on page 4 of this brochure as to their religious affiliations?

A. Well, I certainly know that Mr. Sulzberger and Mr. Paley, and Mr. Kalb are Jewish, and I would assume that number four, Mr. Silverman, is Jewish, and I would take it that Schlosser is also Jewish since he appears here.

Q. Do you know what roles they play in the media of the western world?

A. Important roles. Sulzberger is the president of the New York Times, or president of the board, and Mr. Paley was the head of CBS. Marvin Kalb, well-known leading television commentator. I forget for which network. Maybe it's CBS.

Q. Do you think that they would be at any time pro-Islamic in their

view?

MR. GRIFFITHS: Objection.

THE WITNESS: Pro-Islamic? I wouldn't think so.

MR. GRIFFITHS: Objection, Your Honour. It's a leading question.

THE COURT: He can ask.

THE WITNESS: I don't know. I haven't the faintest idea what their view with regard to Islam would be. One thing I do recall, and I don't know whether this is related to the question or not – {3676|3677} perhaps His Honour would comment on that – but when I was in Ottawa doing, among other things, a weekly programme called, "Capital Report" on radio, I was the press critic for the programme for about three years, I had occasion to comment on the lack of, let us say, critical analysis on the part of Canadian newspapers toward what was going on in the Middle East, and particularly with regard to the State of Israel, and what I was talking about and what gave me the occasion to talk about it was the fact that the foreign editor of the London Times who was normally resident in London had taken a trip to Israel and had done a rather devastating [sic] article on the bulldozing of Arab settlements in Israel and the expulsion of the Arabs from their home.

Well, we haven't read anything about this in the Canadian newspapers, or for that matter, as far as I knew, the American newspapers, and I commented that it was a very strange thing that an important story of this kind had been overlooked.

Well, subsequently the story did appear, or similar stories did appear in our press. The Globe and Mail, for example, carried a story on it, but I thought it was significant that this story had been around for some time and it took a London Times man to report on it, and obviously, anyone who had been correspondent in Tel Aviv or Jerusalem or the Middle East generally would have known what was going on.

Q. Were you visited or lobbied about that?

A. Yeah. {3677|3678}

Q. By whom?

A. Well, I believe, and I am only going now from current press reports, I believe it was Mr. Sol Littman. I am not absolutely sure. I don't want to swear to that, but I was certainly lobbied by a representative of the Canadian Jewish Congress who came to see me in Toronto and wanted [sic] to put Israel's point of view and so on and so forth, which I was quite happy to receive. We had lunch together. And subsequently I was visited by a representative, a public relations man from the Israeli Embassy in Ottawa who wanted to give me further introductions to people representing Israelis and so on and so forth.

Now, I thought there was nothing wrong with being lobbied, but I, myself, saw that when one is critical of anything that Israel does, one is certain to receive a visit from someone. The same thing happened in Vancouver where, when I was the editor of page six, I did a whole page and a short article myself on the Middle East, particularly the more political aspects as they devolved on North America, and our attitudes to the Middle East, and I want to say that I am not a propagandist for the Arab cause. Once again, as a journalist, if I see that something, perhaps, in my view anyway, isn't being covered properly, my instinct is to jump in and do something about it, and on this occasion I ran, among other things, into two pictures, one of Menachin [sic] Begin and the other of Yasser Arafat, and under Begin I put the caption, "Good terrorist", and under Arafat put the caption, "Bad Terrorist" because it was quite {3678|3679} clear from press reports in general that Mr. Begin was okay and Mr. Arafat wasn't okay.

Well, I have no particular love for Mr. Arafat. I have no particular love for him or – anything like that, but I know that he was being portrayed in the media as a very sinister man, and it is clear, too, that he is a terrorist.

However, I made a point that there was a difference in approach on the part of the media in general to the two kinds of terrorism, and of course, Mr. Begin was the guy, I believe, who was behind the blowing up of the Camp [King] David Hotel, and it seemed to me again that his reaction to what was going on in Lebanon was excessive, and many deaths were caused.

Q. Were you lobbied on that occasion?



A. Yes. I had a public relations man who was visiting Canada, and he was visiting as many newspapers as he could visit. And so I am not suggesting that he came simply to see me, but he did come to see me and we had a long talk and he explained what was going on from the Israeli point of view. And so, as I say, one is always certain to receive a visit. There is nothing wrong in that, but it happens.

Q. It says in the next sentence that you were asked about:

"If it can be done against Germans and Japanese it can be done against the Islamic peoples."

Now, as a journalist for many years do {3679|3680} you say there was propaganda in the War against Germany and Japan?

A. There certainly was.

Q. And would you go so far to say it went so far as brainwashing?

A. No. Brainwashing is something different. Brainwashing is when one person is opened to one point of view and is schooled in that point of view, and I was most vehemently anti-German, or anti-Nazi, anyway, and I think my record indicates that played some role in that, but I can't say that I was ever brainwashed. I suppose I was the product of my own culture, it is true, and I wanted to represent the standards and values of my own culture, but I can't say that I was brainwashed.

Q. Do you have the same views four years after?

A. Four years after what?

Q. Forty years after.

A. About the War?

Q. About Germany.

A. About Germany? I think that Germany was wrong. I don't think anyone will be able to prove that Belgium started the War by invading Germany, but nevertheless, it had a broader view of the whole thing, and I think our side was right; but what distresses me to some extent, in fact, to a very great extent, is the continual propaganda war that is being waged against Germany now and Germans particularly; not particularly against Germany, but I think it is very sad that forty years after the event when we have people who are now {3680|3681} grandparents and who could never have been involved in anything that Hitler did, have to bear this very heavy cross of the six million or whatever it was. And it's never dropped for a week, and if I were a German, I think I would be in a very depressed state of mind, because there have been other crimes in history, and there has been no instance, to my knowledge, of a war of words being waged to the extent that this one is being waged.

I mean, Mr. Zundel over there, if I am correct, was six when the War finished. So he could hardly have been a member of the Nazi party, could he? And yet from the newsclips that I see on the television constantly, I would say that he is labelled as a Nazi, and this is done by the media.

And I don't think that they care one way or another whether he is, but I also see no investigative journalism on the part of the Toronto media or the national media into Mr. Zundel's background or into his views.

Q. It says:

"We Germans have learned through this sad experience that a nation's salvation lies in its reputation ..."

Is that false?

A. No, I couldn't take issue with that.

Q. "... and a nation's reputation depends upon information ..."

Is that false?

A. Yes. No, that's not false.

Q. "... not misinformation and {3681|3682} misrepresentation."

Would that be a false statement?

A. No.

Q. And, "The same principle is true for the Islamic nations."

Is that false?

A. No.

Q. And looking at the piece as a whole how would you characterize it, "The West, War and Islam"?

A. I would characterize it as a heretical point of view [sic]. It is not a point of view that is shared by the majority of people, but obviously, Mr. Zundel, unless we are slipping into some sort of mind control or dicta-

torship or whatever, is perfectly entitled to pursue [sic] his views.

I have never heard of anyone being charged before with spreading false news.

Q. Would it make any difference to your apprehension or concern about the piece if you were told that it was only sent to Arab Embassy officials and not distributed publicly?

A. I don't think it makes any difference, really. If you write something and only one person sees it, I don't think it makes a difference in principle. You know, I assume that if Mr. Zundel could get his story on the front page of the New York Times, he would do it.

MR. CHRISTIE: Thank you.

THE COURT: Thank you.

— The witness retires.

(VOLUME XVII FOLLOWS) {3682|3683}

## VOLUME XVII

MR. CHRISTIE: I am ready for my next witness, sir. Udo Walendy.

UDO WALENDY, sworn

EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

MR. CHRISTIE: I'd like to offer Your Honour a curriculum vitae. I'd like to seek to qualify the witness as an expert in the history of the Second World War.

Q. Mr. Walendy, were you born on the 21st of January, 1927?

A. Yes, I am born on the 21st of January, 1927, yes.

Q. All right. And were you born in Berlin and you were married and the father of one daughter?

A. Yes.

Q. And you spent your childhood in North Germany, Berlin and in East Prussia, is that right?

A. Yes.

Q. And in 1943 at the age of sixteen your entire school class was inducted in an anti-[air]craft school and taken to Hamburg for training?

A. Yes.

Q. And in 1944 you served four months at the Paramilitary Reich Labour Service?

A. That's right.

Q. And in 1944 you were in the War Services of the Wehrmacht for training, taken to {3683|3684} Denmark where you were taken prisoner by the British?

A. Yes.

Q. What did you do when you returned from the War?

A. I finished my school, matriculation of the highest school.

MR. CHRISTIE: I will lead the witness, Your Honour, to some extent, unless my friend objects. I have given him a copy and the witness has a little difficulty in English – some, not a great deal, but some words may be a problem.

Q. Did you have one year of training as a journalist in a special school created by the authorities to produce journalists?

A. Yes. In A[a]chen. In 1948 and 1949.

Q. And you were issued a certificate as a journalist?

A. Yes.

Q. And from 1950 to 1956 you studied at the Institute for Advanced political Studies: History, Political Economy, Constitutional Law, International Law, Media Management, Social Sciences, with a specialization in East European Studies?

A. Yes. That's right. In West Germany.

Q. And did you study Russian as a result?

A. Yes. It was a part of my studying, because I specialized on the eastern, or partly specialized on the eastern European problem and communism. {3684|3685}

Q. And did you graduate as a Diplome [Diplom-]Politologe; is that right?

A. Yes.



Q. When was that?

A. 1956.

Q. And you worked for one year at the British Army Headquarters, the Army of the Rhine [Rhine]?

A. Yes.

Q. And from 1957 to 65 you worked as a part[-]time political lecturer for the Ministry of German Re-Unification; is that right?

A. Yes. That's right.

Q. You were involved, then, as a lecturer for the workshop and democratic institution, I understand?

A. Yes.

Q. And from 1959 to 1960 you were an administrator of an institute of higher learning?

A. Yes. In Hellthort, (ph) [Herford] yes.

Q. And you then became managing director of a manufacturers' association?

A. In Bielefeld, yes.

Q. And you were a lecturer at the Institute for Advanced Economy at — where was that?

A. Yes. Also in Bielefeld. It was my other profession. I had several opportunities to be active in this form.

Q. And you have written several books; is that right, sir?

A. Yes. Surely. I began writing already during the studying, and I published the first book in 1963, in December, and it was a book of the {3685|3686} guilt question of the Second World War.

Q. Is this a book that I now produce and show to you, "Fruit for Germany — the Guilt Question of the Second World War"?

A. Yes. And this is an enlarged edition which was published first in '65, and the translation is published in '81.

Q. Is there a list of the research authorities and the references that you used in your research in the back of that book?

A. Yes. Surely. Yes, it is. You can have a look at it. It is published. That way everybody can avail of this book and I can sell it.

Q. And did you later publish a two volume work on the history of Europe between 1939 and 1945 known as "Europe in Flames"?

A. Yes.

Q. A copy of which I now produce and show to you?

A. Yes. Surely. Yes, that's my work, too.

Q. And there were, I believe, four pages of reference material referred to in each page of the volume; is that right?

A. Yes. That's right.

Q. And did you also write a book regarding Auschwitz and called "The I.G. Farben Process"?

A. Yes. I published it. And that is in the main form only, a documentation of the trial against the concern by the American Military Tribunal in 1947, and I made a compilation of the main facts which {3686|3687} were going on in this trial, and therefore it's only a real documentation without personal comments, with the exception of the foreword.

Q. Yes. I now produce and show to you a book entitled "Auschwitz in I.G. Farben Process. Holocaust Question?" Did you write that book?

A. Yes. I said I published it. It is a documentation. I made a compilation of the most important things which happened there in that trial and I personally wrote only the foreword.

Q. Yes. Did you also write a work analyzing religion, philosophy and natural sciences in reference to and in relation to the Second World War known as, "Die Weltanschauung des Wissens", a two-volume work?

A. Yes, but it has no connection with the Second World War. It is a natural science work which deals with the philosophy, with some natural science problems, with religion and also some new aspects of natural science.

Q. In regard to the research for the work, the two-volume work, "Europe in Flames", how many years of research are involved in that?

A. Yeah. It's very difficult to say, but I [ ] started my writing with this theme because I have engaged in the answer of the main questions of the philosophy. And in writing this I found I have to answer many other questions, too. So the first book of the question of the Second World

War was the first result which I published. But in the whole time, I worked also with other themes, and let's say beside my {3687|3688} profession and besides writing, I need for publication of the first book, fifteen years of work, during studying and during working for living and so on.

Q. And have you also published a small work on forged war crimes documents?

A. Yes. Surely.

Q. Is this the book?

A. Yes. It was a book. It was this book and booklet, and it was partly involved also in my other book of Jew in names, but this is a much better edition because I had involved much more researching than I published the first edition of this.

Q. Have you also published and distributed a series of booklets on the Second World War?

A. Yes. Surely. We have them in there.

Q. I now produce and show to you a booklet entitled, "Starben Wirklich Sech[s] Millionen?["]

A. Yes. This is a German edition of the case. I have not printed it and I have not written it, but this was published in England in the year of 1975, and I got it from England and it was surprising for me, too, that this was published in England, and I was astonished that some English people or English body had published, made this. And therefore, I engaged myself to get the whole selling rights for the German language.

Q. And did you do so?

A. I did so, yes.

Q. And you have distributed that in {3688|3689} Germany.

A. Distributed it in Germany, not printed it.

Q. Yes. I now produce and show to you a booklet called, "The Methods of Re-education". What did you have to do with that book?

A. I published these books because I am, since 1965, an independent publisher in Germany, and I published first my books and found out that the financing of books and selling of books gives some problem. And I found that to publish things in that form would be much more attractive. And so I followed this example and complete this periodical of historic effects and I produced number two, and till now, till number twenty-one. And in that book that I made the research of how millions of people, of men, can be re-educated by false informations, and I analyzed the methods how it is done.

Q. Did you also write a booklet on the Nuremberg process?

A. Yes. Surely.

Q. And is that —

A. It is the Nuremberg process analyzed of the Military Tribunal in Nuremberg from 1945 till 1946, and afterwards Military Tribunal, they are going on, if this has something to do with real Reich or if it is a military process on for political ideas and principles which some foreign minds are linked with.

Q. I now produce and show to you another book called, "Der Verrat an Osteuropa".

A. "The Treaty of East Europe". In {3689|3690} that content it has analyzed the methods of how East European countries were treated by the western powers partly before the beginning of the War, and especially during the War and afterwards.

Q. And I now produce and show to you another book. If you could tell us the English title and what it is about.

A. Yes. The English title is very difficult to translate. The content is to analyze a lot of problems which are in connection with the Holocaust, and the Court cases of them were dealt with Western Germany, and they were analyzed also a lot of documents which are presented as allegedly German documents, and which in reality were not German documents, but were fabricated after the War.

Q. I now produce and show to you another booklet. Tell us the title and the subject of that inquiry.

A. The title is "Realities in the German Reich". It was written from an important and qualified German industrialist who had written also a very big book about the theme of the main economic measures during the Third Reich from the beginning, and especially in the second vol-

ume No. 8 is the same, during the War, as a war production and industrial measures during the War, and that is industrial measures in the Third Reich before the War.

Q. I see. You did the research for that?

A. No, no. I took over. I am not a writer. I published it only. He wrote it by himself. {3690|3691} I only published it.

Q. All right. I now produce and show to you another booklet. I would like you to tell us the title of this.

A. This is a modern index. You know it perhaps in English, too. That's a name of a special word for banning special literature, and we have in Germany the right to write and speak and lecture as we like, but we have a special right for special things which are not allowed to be made public to the use. And it was created, this law was created for pornography, but they have a Mr. Vena (phonetic) from the SPD had contact with some communist states who had for to use this law to ban also special not liked political and historical literature.

Q. Have you written a book on the Holocaust, a booklet specifically on the Holocaust?

A. Yes. That booklet deals with the fact that after it was known that the aircraft photos from the U.S. Air[ ]force were published, the Holocaust historians endeavoured to tell the public that the Germans murdered the millions of people underground, and therefore they couldn't be seen from the air, and here I dealt also with the case which was, tried to start against the book of Professor Butz, "The Hoax of the Twentieth Century", and also the number one in Germany, they like to forbid this too, but I gave them in that number a scientific answer for that, and as a result of that answer the case was dropped, either against Butz also against the number one.

Q. Thank you. Have you also written {3691|3692} a book of that title, and please tell me, translate the title, please, and tell me —

A. "German Israelitic facts" that are a lot of historical events which were described here and relates to the German Israelitic fate or —

Q. Relationship.

A. — or relationship, yes.

Q. Have you also written this booklet?

A. Yeah. This is a booklet which deals with the fate of the West Prussian people which were, after the Versailles Treaty, put to Poland and described how this fate was going on and how it dealt with this population.

Q. I now produce and show to you another booklet. I'd like you to tell me the title in English and the subject matter.

A. That is, "The Reich in which we Live" in Germany, because it is very important to us to know the legal situation in which we are living and which gives us a possibility to say this, or this not, and so here are a lot of examples of how the publishers were dealt by the ...

Q. Government.

A. ... by the authorities and by the Courts.

Q. Mm-hmmm.

A. And not only deals with the writers or historians, but also with the political parties.

Q. Thank you. That comes right up {3692|3693} to the present time, does it? Does that deal with history up till the present?

A. Up to the present. That is the main analyze of the Federal Republic in German population.

Q. What is the title of this in English?

A. We have in Germany also the behaviour that, to give only to the public common interpretation of historical views, and to make very difficulties to people who has a different meaning of this. And here are the problems and special effects published about this.

Q. Have you published also this booklet?

A. This booklet, yes, I have published this. This is Moscow decided the War against Germany in 1940, that means one year before the real War began.

Q. Does that deal with the historical circumstances of that time?

A. Yes. And because I am speaking Russian and translate it and can read, the things was not simple to find the most important passages of the Russian publications about these questions, but I compile most

important things which proves that the Russians decided the War against Germany during the War against France in the year of 1940.

Q. And could you tell me if you published this booklet and the title, and an indication of what it involves?

A. That I published too and wrote, too, {3693|3694} and that deals with not available knowledge of the Powers during the War. It is proved now by the science.

Q. No, don't give your opinion because there will be an objection. Just tell us what is in the book.

A. To tell us about the knowledge of the Powers in the East and West about the knowledge they had of the Holocaust and the answers that they had nothing.

Q. Did you publish a book on the Einsatzgruppen?

A. Yes. I published two volumes, two numbers of the Einsatzgruppen because it is a complex theme, and it is number one and this is number two.

Q. And where did you make your research in those regards?

A. Yeah. There are very much publications on the market, and when there are some problems which were not fulfilled by wishes of real research, I contacted the Bundes schiff (phonetic) [Bundesarchiv] in Freiburg and in Nuremberg and some other . institutions, Institute for Temporary History in Munich to get information, perhaps, about special documents which were published in the publications. I looked for it. I liked to see it in the original, and therefore I have to contact them.

Q. Yes. Did you track down the originals?

A. Yes. I had some help from them, {3694|3695} but I had also some difficulty, especially with the Institute for Temporary History in Munich, because they don't answer me any more. I have to make my correspondence by third persons.

Q. Did you also do a book on Adolf Eichmann?

A. Yes. I published this, too. I wrote and published this, too, and it deals with a special publication from the Institute for Temporary History in Munich. It's a thick book, about a special theme that the Germans had made for so-called scientific [sic] researches skeleton collections, and I proved these things and analyzed it and found out that it is not true, but that it is publicly indicated after the War only in respect to atrocity propaganda.

Q. I now produce and show to you another booklet. Did you publish that?

A. Yes.

Q. Did you write it?

A. I wrote it and I published it, and that deals with problems of the German unity, in fact, practically beginning from 1871 on till now.

Q. I show you another booklet. Did you write that?

A. Yes. That's the guilt question of I wrote it and published it.

Q. Thank you. I now produce and show to you what is, in fact, entitled, "Volume 21". What is that?

A. Yeah. That is a special one, because No. 15 I published, made some difficulties in {3695|3696} Western Germany, and they tried to forbid it. They made no personal trial against me, but they used the situations that we have now in Western Germany, specially court decision which enables to forbid special literature, in spite of the fact that such a banning is not possible, and they tried to take this court decision to ban this copy, this number, and how the Court case was going on is the content of this number, and this case is not till the end now decided, because constitutional court in Germany is confronted now with my answer about these things, and I have to write what I will do in that case.

Q. Mm-hmmm.

A. But I must say that they were not able to find only a single sentence which is false that is proved.

Q. Are any of those items at the present time banned in Germany?

A. No. I can sell everything from these things till now without any disturbances.

Q. All right. Now, I am going to ask you —

THE COURT: I think we will adjourn now for twenty minutes.

— The jury retires. 11:26 a.m.

— The witness stands down.

THE COURT: The last witness, when reading "The West, War and Islam", saw fit to mark up the front page of, I believe, Exhibit No. 2. The {3696|3697} simple solution, if you gentlemen can agree, another page can replace it. If you don't agree, I will make an order.

— Short adjournment.

— Upon resuming.

— The jury enters. 12:00 p.m.

— The witness returns to the stand.

THE COURT: Go ahead, Mr. Christie.

Q. MR. CHRISTIE: Mr. Walendy, have you been a lecturer?

A. Yes. Several times.

Q. Where have you lectured?

A. In Bielefeld and in Obenkelchen. (ph) That's East Westphalia. And also in Lintren. (ph)

Q. And have you lectured in other parts of Europe as well?

A. No. When I worked for the Ministerium in Bonn, in the Special Lecturer Service, I held lectures in all parts of West Germany, and so did, but it was most time of these lectures were held in Westphalia, and the themes were history and constitutional law and international law.

Q. Have you lectured in Canada?

A. No. {3697|3698}

Q. In the United States?

A. No. One lecture by one visit, but not as a profession.

Q. Not as a profession. Have you done research in major libraries in the eastern section of Berlin?

A. Yes. Berlin was a centrum of very good libraries, and also I needed them and visited them and made researching in the East sector, and in the East sector is especially an official Russian bookshop where all the most important Russian books can be seen and can be bought, and therefore I have been often there during my time of my studying to look what they have published there and could buy the things which I needed. So that after studying ended, I could go through all these books when I had time for it, because during the studying I had not the time to read all these things, and so I endeavoured to have the conception of what the Russian has published, and after that time, when I was not able to go to the Russian sector, I have enough acquaintances that they will be informed I should be sent this and that book.

Q. Did you study in the Allied Documents Centers?

A. In the Allied, yes. I have been in National Archives in Washington. I tried to get, to go to London, but in London it's very difficult for a foreigner to start researching this very complicated, so when I had the question for those problems there, I find a friend who will make the researching for me there, but it was not so important to mention it. {3698|3699}

Q. Now, in order to qualify you as an expert in the realm of history I would like to go through the book, "Europe in Flames", "The Truth for Germany", the bottom one, and ask you explicitly —

A. And here, this?

Q. Yes, okay. Dealing with Volume I of the book, "Europe in Flames", how many pages is that volume, those two volumes?

A. 456.

Q. In one?

A. And the other is five hundred.

Q. On page 437 of your first volume, to page 440, are those the works that you studied in the preparation of this volume?

A. Yes.

Q. And it lists there the name of the author, the publisher and the year. Is that right?

A. Yes. That's right. But if you look through this bibliography, you must know, if you write a book, you must have written much more books than are named here because only here is mentioned —

Q. Do you mean read much more books?

A. Read, yes, because here are mentioned only those books which gave important details which were documented [sic] in that.

Q. Mm-hmmm. So there's more research involved in Volume I than is

reflected in the three pages of bibliography.

A. Surely. Yes.

Q. All right. Looking at Volume 2 of your book, "Europe in Flames", '39 to '45, on page 486 to {3699|3700} 491 or 492, six pages of bibliography, did you study and refer to all those books in your research?

A. Yes. Yes, surely. You must remember that I studied all these things so that I began writing already during the time when I studied. So I had, in Berlin specially, contact with good bibliographer, with bibliothèques [libraries], bibliographies, and so I had an amount to read to all these problems, and so if you read these books, it's not only a problem, especially, you look for for [sic] research, but you are confronted with a lot of problems and specialties. So that when I read these books, some points will be part in that volume and I could have the knowledge to complete, for instance, that volume. So it's not so that every book, what is named there, is only specialized for that volume, but the problems are much more complex. So that they are partly, part of that Volume 2. Let's say, for instance, if you analyze the writings between Roosevelt, Churchill and Stalin during the War, it relates something to the bombing situation. It relates something to the second front, and it's relating something to dividing Germany. So you have several problems selected from one book, yes, and so you have to combine all these things. But the bibliography which is in it is mostly concentrated on that volume in which this is published.

Q. I see. In regard to the book, "Truth for Germany", 530 pages, the bibliography there extends over 523 to 530 — seven pages.

A. 531.

Q. Yes. Excuse me. 531. Were all {3700|3701} these sources drawn upon in your research?

A. Yes. Surely. And in the original language, which it's named here.

Q. Some in English, apparently, some in German

A. Yes, some in Russian.

Q. In regard to your research in the area of forged photographs and documents, how many years of research have you expended in that process?

A. Oh, that was a work which I got beside all the other things, because in the published books I only read scientific [sic] books, and in these books were published also photographs, and that was a by-product.

Q. Of your research.

A. Yes. Yes. It's now, shall I tell it in English, I found that these things were not correct, and I researched them and I made the second — this is the second edition which is much more detailed and proved [sic] than the first edition with this part in this book.

Q. Yes. What immediate thought did you develop to analyze photographs to determine their authenticity?

A. I had published the first version only by personally researching. And the second version I have for every picture made an enlargement for comparing these things, and have for every picture specific testimony from three specialists, from one photographer, from one microfilm specialist, and from one retoucher. I don't know the English expression for that term, {3701|3702} retoucheur. That is a man who changes pictures.

Q. Retouches pictures.

A. Retouches pictures, yes. And then I can say that German authorities had made an investigation on these things and sent copy to Tel Aviv, to Israel, for answering, and they answered it's all right what I have published.

Q. When I asked you earlier about whether you had lectured in America and in Canada, what I meant was, have you spoken as a writer and publisher in, for example, Austria, Holland, Belgium and in California, Chicago and Milwaukee.

A. Well, where I have spoken?

Q. Yeah.

A. About all these things.

Q. Yes. That's what I meant by lecture. I meant spoken about them publicly.

A. Yes, Yes, surely.

Q. You mean as a profession, but I was asking you as a speaker.

A. Yeah, yeah. Here, in U.S.A. and Canada. I said that I had not spoken as a profession, as a known man who that is published these things and invited as an assembly.

Q. But have you spoken in that manner, invited at an assembly, in Belgium, Holland, Austria, Chicago, California and Milwaukee?

A. Yes. Several times in these countries. Several times.

Q. Have you developed a method of analyzing photographs in relation to standard works on {3702|3703} anatomy using a human skeleton?

A. I didn't understand.

Q. Have you developed a method of analyzing photographs using the human skeleton, the proportions of the human skeleton?

A. Yeah. I had made a special analysis by myself for identifying if a photograph will be authentic or if it will be not authentic. And therefore I produce from the books skeletons in every size for comparing the photographs. [sic]

Q. Why?

A. For scientific [sic] proving.

Q. Of what?

A. For instance, I will show you an example. If you see these pictures in a small form, in a tiny form, you will surely not find any differences, but if you will enlarge them, then you will see them. You have the special look, for instance, for underwearing [sic] of the persons here. Say you had another underwearing on this picture, but take —

Q. I just ask you if you used skeletons to compose the proportions of the human body in various photographs with the proportions of human bodies.

A. Only with such forms, such photographs.

Q. In the course of your research in regard to forged photographs, have you examined the various Holocaust literature photographs?

A. Yes, surely. It's the main books which I needed for this, or which I find, in which I find {3703|3704} these photographs.

MR. CHRISTIE: Could I see Exhibit 1, please?

Q. Have you read the portion of "Did Six Million Really Die?" page 26 shown in Exhibit I?

A. Yes. I have seen and they have taken it from this edition, or perhaps on the first edition. It's maybe possible. But they have taken it from me.

Q. I see. Have you read it to determine if they accurately took it from you?

A. No. No. I know definitely that this combination of the pictures were never before my edition published. And I know that the persons who printed it in England had these things from me.

Q. Mm-hmmm. Was it with your permission?

A. If you publish some things, you have — it's not needed to give a permission to publish it the same thing again. When you have not special rights. I have not special rights for these pictures.

MR. CHRISTIE: I seek to have the witness qualified and speak in the area of the documentary research that he has done, and in the area of history that he has done research in and express his opinions as they are expressed in the books that he has published, Your Honour.

THE COURT: Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

—— {3704|3705}

#### CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Mr. Walendy, we have a different system of universities here in Canada. On your curriculum vitae Mr. Christie refers [sic] to a Diplom Politologe

A. Yes.

Q. And you received that after going to the German Institute for Advanced Political Studies for some six years.

A. Yes.

Q. All right. Do you know, sir, if that is the equivalent of a Bachelor [sic] of Arts degree in Canada?

A. No, I have not confirmed this. I don't know. How do you mention that here? How do we manage that here?

Q. Okay.

A. But independent college which is now, after I had gone there, and

official institute of university of West Berlin.

Q. All right. At the time that you were going there it wasn't connected to the university [sic].

A. No. It was a special institution, because in the former Germany there was a special ... (German phrase) also, and it didn't change the construction after the first years of the war.

Q. It says, and Mr. Christie took you through this, that your [you] studied history, political economy, constitutional law, international law, media management, social studies. Does that mean that you took a course in those subjects? {3705|3706}

A. No. You have, as a student, a possibility to go to this special section, or to this special section, but you were compelled to have a special number of sections in which you will be proved afterwards. You can have speciality. My speciality in all these things is European situation, and besides this, you have to attend and to have to work in the other sections, too. For instance, economy and social politics, and compelled to have knowledge about all the main problems of the other sections, too.

Q. All right. So you would take one or two courses in the other sections, those ones I just read, but your specialization is Eastern European studies.

A. Yeah. In the form, the student status was, I had to elect a special subject, and therefore I learned Russian and was proved in Russian, too, and you know, that is —

Q. All right. When you worked for the West German Ministry of German Re-Unification, what was your job?

A. To hold lectures on assemblies. I got an order there on that school, or there on that assemblies, you have to speak about unification of Germany or about communism or about German history, and for that I got paid, and that was the job. I could be dismissed if these lectures couldn't find any good reactions. So it was constructed, but I made this for several years.

Q. All right. And would the German Government, then, arrange for the hall where you were going to speak and what subjects you were going to speak on? {3706|3707}

A. Yes. They arranged all these things, or the initiators of such assemblies will call for lecturer about this or that theme, and this Ministry will declare, yes, for that theme this man is good, or for this theme this man is good. So it was arranged.

Q. All right. At that time you were called upon to lecture about your analysis of photographs. That is something you developed later.

A. Yes. This I developed later. Surely. This is published, for instance here. As a first edition it is published '67, and the second edition — maybe this is the English, is published '73.

Q. Okay. And the first edition of your volume for war crimes is included in "Europe in Flames". Is that what I understand?

A. Yeah. Yeah.

Q. Do I understand that you publish all these books yourself?

A. Yes.

Q. Has anybody else ever published your books?

A. No. They didn't like it. I tried with the first one. In the first one the guilt question of the Second World War, I had finished my studies and I tried to get it published by another publisher, but they didn't dare because they were, sorry, if something will be false we will have trouble, and we wouldn't invest so much money for that and have the trouble afterward. And they couldn't use about {3707|3708} content as I could use it, and afterwards they said, "Yes. How is it possible that you have no troubles here?" You can be sure that it was all right what I published, and there is no accusations. There's no published controversy against this book till now. And I published the first one it's more than twenty years ago.

Q. Okay. So the answer is that you published all the books yourself.

A. Yes.

Q. And there is now controversy about this book?

A. No. No.

Q. You said till now. I thought you meant that is now. No? Okay.

A. So you mean the controversy — they put it on the index for use dan-

gerous literature. They mean this controversy, yes, but this controversy is now not decided to the end by the highest German administration court, and they only have to decide, is it necessary to have, in answering this question of the guilt question of the Second World War, is it necessary to have knowledge, or will it be enough to say Hitler is the only guilt person and nobody knows it, and the question, the highest administrative court has to decide, and they decided till now not.

Q. And are your other books included here also on the index?

A. No. Nothing. No. Nothing. But I will give you a special document from the General Attorney in Bielefeld. {3708|3709}

Q. I am going to stop you because you can't refer to that. He isn't here. My question is whether others are on the index, and you say no, they are not.

A. No. There is nothing banned, nothing on the index. But here, from this copies, is one on the index. It is number five, but this is a special because it happened not real discussion. It was confiscated with Berlin pension there, and in Berlin we have special right yet by the Allies, and the Court there put it, confiscated from that pension there and therefore they put it on the list of use dangerous literature, and I went to court for it and the court has not decided this thing.

THE COURT: What is the name of that one, sir?

THE WITNESS: "NS-Bewältigung". I can't translate that. It is the commonplace word for handling the German contemporary history.

MR. CHRISTIE: Would it be possible to ask – I don't know whether the witness said "youth dangerous" or "use dangerous". I didn't understand that word.

THE WITNESS: That is the specialty which I had declared before that, that that last was made against pornography. You can't publish pornographic things because they are dangerous for the youths. And they transformed this to put also with the help of this law paragraph, not political historical literature which they disliked, perhaps. And that is in the main form, a party decided decision from special parties. {3709|3710}

Q. I am just looking through your bibliography, and it seems that most of your sources are what we call a secondary source rather than the original documents. Do you agree with that?

A. No, I don't agree with that, because I told you that I have made intensive researching for the real documents, too, but in much cases you have not the possibility to find the original documents.

For instance, the whole or the most of the whole, the most documents of the Nuremberg Trial in Nuremberg in 1946 or '47 are not available in Germany. You can have only, perhaps, copies of them. And they are not available for us or for anybody, partly in the United States. And therefore, you must relate, for instance, on the official publications of the Nuremberg documents, or you must relate on the official publications of the Institute for Temporary History in Munich. And therefore I am compelled to cite them.

Q. All right. You mentioned the National Archives in Washington. Can you tell us how much time you spent in the National Archives in Washington?

A. Some days only.

Q. Some days. And what are the other major repositories of documents?

A. I didn't understand.

Q. I'm sorry. What are the other archives where one can find original documents?

A. Yeah. In Western Germany, you have much possibility to find them, and in .... (German phrase) {3710|3711} too, and I tried to go to the Military Archives in Freiburg and they have not these documents which I needed for my research. So I was not personally there. And then, you can get the help of the Institute for Temporary History in Munich.

Q. And have you been to any of the French Archives or the English Archives?

A. No. I don't speak French.

Q. Or the Israeli Archives?

A. No, I wasn't there. No. I can only read those books of which I know the language. It is difficult for me to read French books, but if you ana-

lyze historical problem of this kind, you will see that important Jews and important documents which were published in French will also be published in English, and surely, perhaps, in German, but insofar if you have time for these things, and such a book is not published in some days, you can wait if the English version is going on, coming on to the market, and then you can say, yes, this is a secondary source, but therefore it is a public discussion to find out, is it the right translation or is this the right document, or is it a falsification. So the public discussion about these things will bring you nearer to the truth.

Q. All right. And do you have any chemistry background?

A. No, no. I am only informed about chemistry things on the background of the documents of the I.G. Farben trial, and here are much problems discussed about chemical problems and the knowledge of my chemical knowledge is founded on this document. {3711|3712}

Q. Are you a photographer, or do you have any training in photo interpretation?

A. I don't understand.

Q. Do you have any training in photograph interpretation?

A. Before I published this second edition I told you that I had contacted three experts which gave me the knowledge that, and the proofs that these things are correct, and what I have to do to find these things when they are changed and so on. So that my specialties and photographs are founded by this background. I have not studied photographs, but I have published these things, and the experts in the world had the opportunity to say that I am not right, but they said I was right.

Q. And the anatomy charts that you have there, that was your idea, was it, to compare the anatomy charts? I'm sorry. You have some pictures over there of skeletons.

A. That was my idea.

Q. That was your idea. Okay. And do you know what your hat size is?

A. What my hat size?

Q. Yeah.

A. I don't need the masses of my hat sizes to analyze these pictures.

Q. I wonder whether we all wear the same hat size, whether we all have the same anatomy.

A. Yes, surely, but the differences can't be so. I will show you an example.

Q. No. No. You will have an {3712|3713} opportunity, perhaps, to show me an example in a while, but my question is whether your analysis is based on the idea that we all have the same anatomy.

A. No. There are differences, surely, but not such differences as on these pictures.

Q. I see. Do you have any background in anatomy? Have you ever studied anatomy?

A. No. I studied not anatomy, no, but I can only say that all experts who are anatomists didn't bring, till now, only one argument against this publication.

Q. Okay. Now, I may have missed this. Did I understand you to say something about documents being forged after the end of the War?

A. Yeah.

Q. All right. Do you have any background in analysis of forged documents, any training in that field?

A. Yes. I can only say that I was very much interested in all these things to find the truth, and I found that these pictures are forged and painted, and partly put together from partly from real documents to make another picture of them. And if you will take time for these things for analyzing these things for many years, by private initiative, in my opinion it's not necessary to have studied, if you have personal friend who give you the expert advice how to go on with this research.

Q. All right; So it's just photographs you are talking about when you have formed some opinions as to forgeries. It doesn't relate to documents {3713|3714} as well; is that right – just photographs?

A. No, no. The documents were published in the scientific [sic] books as real historical documents.

Q. All right. I am talking about documents like reports or memoranda, German type documents, in the photographed documents.

A. I analyzed documents, too. Yes, surely.

Q. And do I understand that you have a method, then, as well, whereby you determine whether typed documents or memorandum are forged?

A. Yes.

Q. All right. And do you have any background in handwriting analysis, or anything at all that would assist you in that analysis?

A. I didn't understand. What is the question?

Q. All right. Do you have any background or have you taken any courses in handwriting analysis or analysis of typewriters or —

A. No.

Q. Or have you done anything other than your own personal opinions?

A. That is not a personal opinion, but I will show you an example.

Q. No, I am not asking for an example. What I am asking for is your qualifications to speak in that field.

A. Yeah.

Q. Why are you more qualified than {3714|3715} anybody else?

A. If you will be confronted with special documents, you can analyze if the content of such a document can be historical true, because you have the knowledge to compare this content of this document with other documents and would show you if the development of special events can be in such a way happen or not. I have been trained also to analyze documents from the form as it's published or as it's therefore for investigation. So you can analyze the document on two main things — from the content, where it was found, how it is produced, and how is the form of it. And if you have the knowledge of other historical connections, it's clear that you have the knowledge to judge if such a document is honest or is not honest. And if I publish, for instance, a document that it's not honest and in the public reaction of the publicity there's no reaction against me, then I must say that I am right. If I am not right, everybody has a chance to prove that I am not right.

Q. What training do you have, then? You said you were trained to analyze documents. What training do you have to analyze documents?

A. I have studied six years political sciences, and the analyze of documents is a part of that.

Q. How many courses?

A. That I can't answer now with a special number.

Q. Okay. Is there a body of knowledge or a science that is devoted to the study of {3715|3716} documents?

A. If there is a science ...

Q. ... devoted to the study of documents.

A. During the studying in Berlin, you mean?

Q. No. My question is going to be what that study of documents, what that science is called, if you know

A. Yes. Political science. That is all the material of social science to history to constitutional law to international law. That is the whole compound is political sciences. But as a student you are compelled to get the knowledge of all these connections and you have to study documents with very critical view. That's a task for every student in every semester.

Q. Have you ever heard of diplomatics?

A. Yes. Surely.

Q. What's that?

A. That is a publication of the American Foreign policy.

Q. All right. Thank you. I am going to suggest to you that in English the knowledge of the science of languages is called Diplomats.

A. Yes, diplomatics. It is a special bibliography word for that naming it foreign relation policy documents of the United States.

MR. GRIFFITHS: Thank you, Mr. Walendy. I have no further questions.

THE COURT: Yes, Mr. Christie. {3716|3717}

MR. CHRISTIE: I have no questions of the witness.

THE COURT: Mr. Walendy, I am showing to you a document or a booklet which I believe is in the English version as our Exhibit No. 1, "Did Six Million Really Die?" Do you write English?

THE WITNESS: I don't write English, no.

THE COURT: And so, therefore —

THE WITNESS: But I —

THE COURT: Can you read English?

THE WITNESS: Yes, I read English and I can write English, but I didn't

publish English versions by myself.

THE COURT: You will see that there is a piece of paper right there in English.

THE WITNESS: Yes.

THE COURT: Did you type that?

THE WITNESS: No.

THE COURT: Who did?

THE WITNESS: I don't know.

THE COURT: But you read English.

THE WITNESS: I read English, yes.

THE COURT: What does that say, that typed piece of paper?

THE WITNESS: I shall say it in English?

THE COURT: Yes, please.

THE WITNESS: "I have the sole right to distribute the German edition of this booklet".

THE COURT: Yes. All right. But {3717|3718} you didn't write that.

THE WITNESS: I didn't write that, no.

THE COURT: I show you another piece called, "The Nuremberg Trial". Did you type that?

THE WITNESS: No, I didn't.

THE COURT: Who did?

THE WITNESS: It was done in the house of Mr. Zundel.

THE COURT: Yes. I see. Here is another one, typed piece of paper in the book. What is the heading? What does it read?

THE WITNESS: "The reason about the Eastern European countries".

THE COURT: You didn't type that?

THE WITNESS: I didn't type that, but I must say, perhaps — I didn't, no. I made the first formulations for it, if it is of interest for you to know that. I made the first, my first writing for this paper is made by myself, but it was proved and typewritten from another person.

THE COURT: Who?

THE WITNESS: I don't know. It must —

THE COURT: Were you there when it was typed out?

THE WITNESS: No, but I have read it afterwards.

THE COURT: You read it.

THE WITNESS: Yes.

THE COURT: I see. What is the {3718|3719} purpose of these pieces of paper in these books?

THE WITNESS: To give a helping, I believe, that things were produced for of a gift to the court that the court can have a view of what is the content of these booklets.

THE COURT: I see. All right. Thank you. Any questions arising out of my questions, gentlemen?

MR. CHRISTIE: Yes.

#### FURTHER EXAMINATION BY MR. CHRISTIE:

Q. Was there any attempt to deceive anyone by preparing summaries of what were in those booklets?

A. No, no, no.

MR. CHRISTIE: Those are my questions arising out of that.

THE COURT: Yes, Mr. Griffiths?

MR. CHRISTIE: I have a submission.

THE COURT: I will hear your submissions after I ask Mr. Griffiths if he has any questions.

MR. GRIFFITHS: May I have the Court's indulgence?

Thank you, sir. I have no questions, Your Honour.

THE COURT: Yes, Mr. Christie.

——— {3719|3720}

MR. CHRISTIE: I have a brief submission. I have the submission that we have heard the opinion evidence of Dr. Hilberg regarding train schedules and information derived from such things, and he had no experience in railroads or the handling of railroads or train schedules. Nonetheless, his opinion was allowed.

We have a witness who gives his evidence [sic] on the basis of years of research and experience. Christ had no degree in Christianity; Karl Marx had no degree in communism, but they certainly represented

people who had obvious opinions based upon experience which had validity in terms of history. And consequently it is my submission that this man as much as anybody else is qualified through his experience and research to give opinions, because he knows as well as most of us the results of that research.

He has done research, trained in the field of political science, much as Dr. Hilberg was. Nobody in this world is able to say who is a better expert than another unless we measure countries in having measures of expertise which they probably didn't.

It is my opinion that he published, {3720|3721} and that he was self-published. If he was self-published and has done adequate research, I suggest that is no criticism of any validity. In fact, there is money behind the publication of Dr. Hilberg that does not come from Dr. Hilberg but does not lend any more credibility about these than anybody else.

He, Dr. Hilberg, was appointed by the President's Commission of the Holocaust. I don't think that, with respect, makes any difference either, but the witness on the stand's evidence is that he has studied, he has published, he has researched, he has researched documents, he has researched the documents that are before you.

I regret that – at the time when he was about to give evidence he prepared summaries of the items that he had. I anticipated he might not be able to explain in English, and as a result had him write out in advance what the book says and had it typed so he could look at it and refresh his memory. They were not notes made at the time, but I don't think they were an attempt made to deceive anybody. They were not evidence and they weren't referred to. But the books published have a wide bearing on the subject. {3721|3722} They were referred to by Mr. Zundel in his work, not written by him but published by him, and I suggest that not only is his expertise relevant, but it is also useful for the jury to determine whether or not the opinions expressed in "Did Six Million Really Die?" have a reasonable basis in fact.

It would be, I suggest, for the jury whether his opinions are credible, but it cannot be denied that he hasn't researched in the area, and the books which are before you speak for themselves. They certainly indicate a wide range of information research and knowledge far wider than any of us who have not been in Lublin or the States Archives in Nuremberg. The witness has been. And I suggest for those reasons we should be entitled to hear his opinion, especially since the accused has relied upon it.

THE COURT: Thank you, Mr. Christie. Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour. I don't suppose either Christ or Marx would have been accepted, Your Honour, as an expert by the Court.

THE COURT: I am relieved I am not {3722|3723} obliged to make that decision.

MR. CHRISTIE: I said I don't suppose Christ or Marx would be accepted as experts I would suggest they would be from knowledge acquired through experience. In Christianity [Christianity] and Marxism who else would be an expert.

MR. GRIFFITHS: But Mr. Walendy, Your Honour, is a man whose expertise we must decide. I would suggest that if I could leave aside for just a moment the question of his expertise on general history of World War II and go to those areas where, as I understand, he also claims expertise as a corollary to that general history, namely, in the field of photographic analysis and interpretation and in the field of the authenticity of documents, that Dr. Walendy, or Mr. Walendy has no further expertise in those areas than any other average person.

He uses his own methodology. He lacks the expertise so he went and talked to a couple of people, and from that developed his system, at least as far as photographs are concerned. He has no special training or preparation other than his general course in political science some years ago in the analysis of {3723|3724} whether or not a document is authentic, and I would suggest that those are areas that he is not qualified to speak of.

As to his expertise, Your Honour, in the field of the history of the Second World War, it would appear that from his body of work that he's brought into court, that the majority of the items, and it is for Your Hon-

our to find, are secondary sources, not primary sources, but that he certainly has read far more than the average person has read.

The study of the secondary sources, Your Honour, at least at the U.S. Archives, has been at least, it would appear, cursory. He has only been there a couple of times.

I would suggest there is one further problem with Mr. Walendy's expertise, and it's the issue that I raised as well when Dr. Faurisson was presented for qualification, which is that an expertise is an expert's opinion, to have value must be moderate and unbiased, based on his expertise. And Mr. Walendy, directly or indirectly, as a publisher of the German edition and the sole holder of the rights of the German edition of the pamphlet, "Did Six Million Really Die?", {3724|3725} is somebody who has an interest in this proceeding. And as such, with respect, I would suggest that notwithstanding that he has read more in the area than the average person, – his expertise should not be accepted.

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: By such analysis, if we call the person who wrote a book and he claimed to be an expert in defence of the book, he couldn't testify, according to his opinion. I suggest that doesn't make sense.

I don't know, and I don't think my friend can find authority for the proposition that an expert must be unbiased or moderate, whatever criteria of moderation my friend may suggest. I suggest experts are often biased, and it is for the jury to decide what's right, and nobody can say to a jury before he testifies, in my opinion you must be unbiased because that is to pre-judge what his opinion was.

He hasn't expressed his opinion. If he is biased, why should he be stopped from expressing his opinion? The jury can decide whether he is correctly or incorrectly biased. It isn't for Your Honour, my friend or myself to find that opinion or for Your Honour {3725|3726} to put restrictions on opinion evidence because the academic qualifications don't exist. It would certainly limit the evidence if we were to apply the same principle, as I said, to Dr. Hilberg's evidence in regard to railroad trains. Thank you.

THE COURT: Yes. What I propose to do is ask the jury to adjourn now. I will have over the lunch hour to study this documentation as best I can and make my ruling at two fifteen.

These documents are not, at the moment, exhibits. If I must, I will make them exhibits. They may well become exhibits. But what I'd like to know is, do I have the permission of counsel for the accused who is calling this witness to take all of this into my chambers so I can look at it, rather than do it here and bore everybody?

MR. CHRISTIE: Yes, sir. I didn't realize I hadn't filed them. I think that that would be certainly agreeable to me as well as to my client.

THE COURT: Is that agreeable to you, sir?

THE WITNESS: Yes, surely. I have {3726|3727} two copies of these here. This is one copy and I have a second one of all these things.

THE COURT: Members of the jury, have a good lunch. Two thirty.

— The jury retires. 12:55 p.m.

— The witness stands down.

— Luncheon adjournment.

— Upon resuming.

— The jury enters. 2:32 p.m. {3727|3728}

#### REASONS FOR RULING

THE COURT: Udo Walendy is in the process of testifying as a witness on behalf of the defence.

In the presence of the jury, counsel for the accused seeks to qualify Mr. Walendy as an expert witness in the field of recent history – that is to say, as a historical expert. He wants to further qualify this witness as an expert in the field of the analysis of documents and photographs.

Mr. Walendy is a West German national. He lives in that country. He trained for a year as a journalist, as I see from his *curriculum vitae*. He then studied history in school as part of what I infer is a wider course which I understand was termed, "Eastern and European Studies".

He has written a number of books. He has published some books. He

has published yet other books and pamphlets. He brought with him to the witness stand three hard-cover books that he authored. They are titled, "Truth for Germany", "Europe in Flames", and a third book the German name of which is beyond my German pronunciation. The latter two are written in the German language.

In addition, he was shown by counsel for the accused thirty-eight printed booklets or statements on {3728|3729} a host of subjects, all of which appear to me to relate to events which occurred in World War II from a German perspective. All are soft-cover; all are in the German language. One of the thirty-eight appears to be the original version of what is Exhibit 1 in this trial, "Did Six Million Really Die?"

Mr. Walendy says, as I understood his evidence, and I am subject to correction, that he owns the publishing rights to that particular booklet, the German equivalent of Exhibit 1.

Mr. Walendy explained his academic qualifications which appear on his curriculum vitae, or his resumé. His academic background appears to be the equivalent of a Bachelor of Arts degree in Political Science. At least, it would appear that political science was his subject as an undergraduate.

He claims expertise in the analysis of documents and photographs. The basis of the claimed expertise is through his acquired knowledge over a six-year period of the study of political science.

He admits to having taken no training in anatomy, handwriting, type-writer forgery, photography, {3729|3730} and allied subjects of that nature.

Counsel for the Crown submits that Mr. Walendy's evidence as an expert be rejected for the following reasons:

1. He is not unbiased. That is to say, he has a biased approach to the subjects upon which he proposes, if permitted to do so, to give expert evidence.

2. His skill and knowledge is insufficient in that he is insufficiently trained in both of the proposed fields to the point where his expertise in each is no different than that acquired by any knowledgeable student in those particular disciplines.

3. He has a stake or an interest in the outcome of this proceeding.

I am in agreement with the submission that, merely because a proposed expert is biased, or has strong opinions going in one direction within the field of expertise, of itself does not necessarily disqualify a witness from becoming qualified by a court of law as an expert witness. The jury, being the triers of fact in this case, will apply what weight it decides to apply to the evidence of any witness. {3730|3731}

The issue, essentially, goes to the weight of the evidence. It is not related to the admissibility of the evidence itself.

I make no comment with respect to Mr. Christie's submission as to whether or not, if Jesus Christ or Karl Marx were proffered [sic] as expert witnesses, their lack of formal academic training would preclude them from becoming expert witnesses.

On another ruling on this subject on this trial I have observed that much knowledge on any particular subject does not necessarily qualify the person holding that knowledge to give expert opinions in a court of criminal jurisdiction.

On the other hand, the lack of formal training, of itself, does not disqualify, necessarily, a person in a similar position from becoming an expert witness within the confines of a particular field of expertise.

I find that Mr. Walendy, on what I have heard, does not disclose a sufficient basis of expertise in the skill or the discipline of document or photography examination and interpretation. He was examined with regard to the methods indigenous to the {3731|3732} field of examination and interpretation of documents and photographs.

He will not, therefore, be asked any questions concerning his opinion on those two subjects.

Mr. Walendy has not been proven to be sufficiently skilled as a historian [sic]. Knowledge of political science, of itself, hardly qualifies as a basis for the giving of historical opinions. The two disciplines are not identical.

On the other hand, Mr. Walendy is a knowledgeable writer. He is knowledgeable in certain aspects of German history. He has acquired

certain opinions and views within that field that may be of assistance to the jury. He has published those views in a book known as, "Truth for Germany". He has written that book. He has a knowledge of certain World War II events which, depending on the view this jury takes of them, may be of assistance to the jury.

Mr. Walendy is a knowledgeable writer with opinions on the Holocaust. Those opinions are german [sic] to the issues this jury must try. He will, therefore, be permitted to give his opinions within the confines of the contents of the only document that is here in the English {3732|3733} language, namely, "Truth for Germany".

He may not be questioned on any one of the other pieces of material, all in the German language, that he has produced, and upon which I am absolutely certain it is proposed, if I admit it, that he is to be questioned. That is so because they are written in the German language and he could not be fairly cross-examined on any of them.

That is the ruling.

MR. CHRISTIE: Thank you, Your Honour. {3733|3734}

— The witness returns to the stand.

#### CONTINUED EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. What, if any, official use was made of the book, "Truth for Germany" by the West German Government?

A. Shortly after the first edition every German Embassy will get this book in his library in his official library in '64.

Q. Why?

THE COURT: In what, sir? In '64, did you say?

THE WITNESS: In '64, yes. The book was published in '63 and in '64 every German Embassy got this book in its official library.

Q. Was it ordered by the Foreign Office of the West German Government?

A. Yes.

Q. And what conclusions do you draw regarding the Holocaust from the book, "Truth for Germany"?

A. The book, "Truth for Germany" is only research guilt question of the Second World War, whereas the Holocaust —

THE COURT: I'm sorry, I missed what you just said at the very end.

THE WITNESS: The Holocaust is not seen as the question of how the Second World War began, and therefore, that is not part of this book.

Q. As a result of your research have you formed opinions respecting the Holocaust? {3734|3735}

A. Of this book I said it is not in the content of the book. The Holocaust is not mentioned, but you ask in respect to the other books —

THE COURT: No. He asked you whether or not you formed any opinions about the Holocaust. That's what he asked.

THE WITNESS: My knowledge about what is the result of my researching. Yes?

Q. MR. CHRISTIE: Yes.

A. The first one is that the Allied powers in East and West had no knowledge of the Holocaust till the end of the War. The second is that the tales which were produced in the literature, in the main literature to this question can't be happen in that way as they are described because they are technical reasons and much more other details which do not allow that the proceeding had going on in such a way as it is described since '45. That means, for instance, that — Oh, I think in other ways. There is a whole story of literature about these things developed after the Second World War in respect to the many trials which were going on in East and West, in the Eastern and Western zones of Germany, and in Poland and Russia, and in these trials were a lot of witnesses or eye witnesses who told this and that, and these tales to were combined afterwards from the Holocaust writer, from the writers, from the so-called historians which the published books about it seems. So the whole tale is compiled with a lot of these tales which were not speaking up, were not co-ordinated in the whole literature. So that we {3735|3736} find in that form of literature so much fault, so much technical and other impossibilities and so much errors and so much contradictions that you can see that it would not give a clearance what could



have happened in reality. And the situation is that in all the last thirty years nobody seems willing to bring clearness in this contradiction, but only, they only were interested, so it seems to me, only to bring up the history that six million were murdered, six million Jews were murdered. And all these publications were not in such a way that the scientist can be sufficient with that.

And we have, in the meantime, so much documents on the market that you can't prove what has been happen, what cannot have been happened, and there are probably documents of the I.G. Farben Trial by the American trial in '47 published about this trial with only the seizures of the accusers and by the end of the trial — and it was not published all what was going on during this trial and what had defenders and accused to say.

In the trial of the I.G. Farben trial were accused mostly German engineers of I.G. Farben who had built up in Auschwitz big industrial complex, and they were confronted with the Holocaust accusers, and they could answer that they had no knowledge till the end of the War, and that is not possible that these things could have happened because, in Auschwitz region, there were one hundred thousand people of very different nations from the Pole to the Russians to the Ukra[ini]ans to the French, and from the Germans and the prisoners {3736|3737} of war, and the concentration camp prisoners, and they had very much contacts, each with outside world, and it was not known till the end of the War what the accused sees the State.

Q. Have you read the booklet, "Did Six Million Really Die?" in English?

A. If I have it?

Q. Have you read it?

A. Yes. Surely I have read it, yes.

Q. What do you say about the truth of that thesis?

A. I have not found any faults in statements there, and I will say that it's perhaps not the best scientific [sic], historical scientific version which can be produced on the scene. This may be, but I have not find any faults [false] statements in it.

Q. What do you say about its thesis?

A. Yeah. The thesis are right, because in, especially in respect to our knowledge of today, because this pamphlet was published '75, we have now '85, and in this last years we have a lot of new documents which approve this publication in that statement. I mention only the book of the Professor Arthur Butz, the book of "The Hoax of the Twentieth Century", who started his research of the theme from another point than all the other books before him, because he built up his story not from the stories of other eye witnesses, but he went into the New York Times Archive and looked for the things which the New York Times printed and published during the War. And then he looked for the American Air Force photographer [sic] {3737|3738} and was wondering that till that time nobody of the other side has presented these photographs till thirty-five years after the War. They were not presented in Nuremberg. They were not called for any of the other historical writers about this scenes, and Professor Butz was the first man who provoked the publication of these air photos, and these air photos were made from the American Air Force just of that moment when the Holocaust historians will tell that there were the high point of the mass murders in Auschwitz that was in 1944. They made official photographs in nearly all ten days of the whole year of '44.

Q. Nearly every ten days?

A. Yeah. Nearly every ten days of the year of 1944. And on these photographs you have the place where it should have been done, and you have the time where it should have been done, and you compare, if these photographs will confirm this thesis, or if it will be directly contradiction of that. And I will only tell you one point of that, that —

MR. GRIFFITHS: Excuse me. I don't believe this witness has been qualified to give us an opinion of photo interpretation, Your Honour, on the photographs.

THE COURT: No, he hasn't.

MR. GRIFFITHS: I just wanted to prevent that.

THE WITNESS: You speak too — I didn't hear you.

MR. GRIFFITHS: I'm sorry. I was objecting to your giving a point of

interpretation of the {3738|3739} aerial photographs.

THE COURT: What's your next question, Mr. Christie?

Q. MR. CHRISTIE: Do you have other reasons from your research for agreeing with the thesis in the book, "Did Six Million Really Die?"?

A. No. I can only say that the thesis of this booklet is right, but the scientific [sic] researching can be much better presented, can much be better presented by the new documents we have now.

The history is going on, and whether we can see that we have know some documents and knowledge is which we are not known as that moment. I tell you another instance. In the meantime there were published the memoir books of Nahum Goldman. He was the President of the Jewish Congress for more than thirty years. There was published the memoirs of James Weitzman. He was the president of the World Zionist Organization and has another post in the World Jewish Organization. They are published another books here in America, for instance by Mr. Weitzman or Mr. Gilbert or Mr. Lacqueur. He has research the situation about the situation what did the Allied nations know about the disappearance of six million people in Jewish Europe, and what would have they done after they had heard about it. And if you compare all these books it must be said that they had no knowledge of it. There were no actions to get knowledge of the disappearance of people there, and if you compare that with the question when fifteen thousand Polish officers were murdered by the Russians and were found partly in Katyn during the {3739|3740} year of —

Q. In where?

A. In Katyn.

Q. What is that?

A. The Forest of Katyn. That is a famous name. There were found more than four thousand five hundred Polish officers shot down by the Russians, and this was an example for the other fifteen as a whole which were shot as Polish prisoners of war by the Russians. And after it was known that the German Government had published this thing, a worldwide initiative was started if this news will be right, then where are these people. And it had diplomatic consequences and much other reactions, but this was only about fifteen thousand persons. And now compare the six million question that must be a proportion much bigger, and there were no international investigations, neither by the Red Cross, neither by the Catholic Church, neither by the Secret Services of the other lands, and you have to remember that either the British also the American and also the Russian had knowledge of the secret codes of the German Army and were in connection also with the opponents against Hitler within the German Army and they had no knowledge, no confirmation of all these things got. And if you compare all these things, then you must say that could not happened what it was told. And if you compare, perhaps, that the whole civilian bombing war during the Second World War led to the loss of one, circa one million German civilians during the whole war and see the destroyance [sic] of the German cities, then you compare what it means to exterminate one million people. {3740|3741} It can't be in a silence, and especially not in the industrial region where hundred thousand people are working. And in the Court of Americans that till the end of the War there was not a single case of sabotage in Auschwitz. There was not a single strike in Auschwitz till the end of the War, and it can't be possible, if those tales would be right.

In Birkenau and in Auschwitz where the modernists, most modern German hospitals, and these were not necessary when the intention would have been to kill all these persons.

Q. Have you studied the fuel necessary to cremate six million bodies?

MR. GRIFFITHS: Objection, Your Honour.

MR. CHRISTIE: I just asked him if he studied it. What is objectionable about that?

THE COURT: It is on the curriculum vitae. There is no point in getting all frustrated. You know why he objected.

MR. CHRISTIE: Well, if he had gone further I wouldn't have —

THE COURT: Ask another question.

MR. CHRISTIE: I have a right to ask that question.

THE COURT: You have a technical right, yes. Ask him that.

Q. MR. CHRISTIE: Have you studied the question of how much fuel is necessary to cremate five million bodies?

A. Yes. I have published it, but {3741|3742} I don't have the numbers in my mind.

Q. You are not entitled to say it, but —

A. The witnesses —

THE COURT: Just a moment. Go ahead with your next question.

Q. MR. CHRISTIE: Did you communicate this knowledge to Mr. Zundel?

A. Yes. I know Mr. Zundel since the end of the sixties, yes. At the end of, I believe, '68, '69.

Q. Are you a publisher in your own right of other people's books as well?

A. Yes. I publish other books, also by myself, but I don't have them here. Yes, I publish several other authors, too.

Q. So you are a publisher as well.

A. Yes, I am a publisher. Surely. Not only of my own things, but for other things. That's right.

Q. What kind of a man is Ernst Zundel?

A. Yeah. He has — we were in contact since the last years of the sixties, and he has bought a lot of my publications, and we were in contact with him. I was in contact with him and I knew what he was doing, and I tried that he would build up a book selling service, the German published books, the books which were published in Germany could be sold here in Canada, but this business was not going on so as I liked to be because he said he had not the possibilities {3742|3743} for that in that form, and he was mainly occupied with graphic.

THE COURT: With ...

THE WITNESS: With graphics.

THE COURT: Graphics.

THE WITNESS: Graphics, yes. And he published, yes, pamphlets and things which he distributed here in Canada and other works, and sometime I got them, too, and I had not a bad impression of him, but I am personally historian and scientist, and my feeling for the necessary publications and formulate publications will differ from his things which he published. And so I got my way in Germany in my form, and he is going his way in his form. And what shall I say more?

Q. In your opinion what is his reputation for honesty and sincerity?

A. Yeah, always good, but he has published some things about the UFOs and in Germany about this theme as serious people, but would not be so friendly about that theme. And that too he publishes something about UFO.

Q. UFO?

A. Yes. It is a technical — yeah.

Q. So he is not serious enough, in your view, is that right?

A. Yeah. It depends on the people. There are people who are confident with, let's say, literature, or romance. There are people to whom such scientific literature would be too strangers for them to read and they wouldn't take a book because they say, "Oh, {3743|3744} so much I have to read and I don't have time and I prefer such a booklet or such a copy which I can over read in a few minutes. And for those people Zundel has a good reputation in Germany, but for the others who likes or prefers more serious scientific literature, they know that he exists, and that not everybody must do what he likes, but we can't interfere with it, and we would prefer that he, perhaps, would also engage himself in such more scientific [sic] things to publish, but we are content when he will inform the people with this quality which brings him success in his country where he lives. The mentality of the people may be a little different.

Q. You said that you knew about documents and research now which supports the thesis of "Did Six Million Really Die?" that we didn't know before. What other documents and research do we now have that supports the thesis of "Did Six Million Really Die?" that we did not have before?

A. Yeah, especially the I.G. Farben documents. All these documents which were part of the I.G. Farben trial documents in 1948, and especially all the technical things which happened in Auschwitz in the situa-

tion of the concentration camp labourers [labourers] there and the situation of the engineers who worked there. And naturally, also, the documents about Zyklon-B. That was the main question in that trial. What was Zyklon-B? How was it used, and how was it known, and what did the Germans with Zyklon-B in Auschwitz?

Q. As a result of your research have you come to any conclusions as to the number of Jews who {3744|3745} died in concentration camps through gassing during the Second World War?

A. Till now we have now, forty years after the end of the War, there is not a single earnestly proof that Jews were gassed in gas chambers in Germany. There is no scientific [sic] proof till now. There are only tales. There are only statements of eye witnesses who state that, but they state also that that what they have seen must have been in gas chambers with a volume of one thousand till three thousand persons which were gassed within five minutes which were taken out twenty minutes after the —

MR. GRIFFITHS: Objection.

THE COURT: Yes. Just a moment, please.

THE WITNESS: — and which were burned —

THE COURT: Mr. Walendy, please.

MR. CHRISTIE: I don't understand why that should be limited.

THE COURT: Because he is repeating technical hearsay that I ruled that he couldn't say.

MR. CHRISTIE: Well, I haven't heard you to say that he couldn't give his opinions as to how he concluded that, in respect to the Holocaust. I thought he was entitled —

THE COURT: The objection wasn't to that. It was only his last two sentences that the objection was taken.

MR. CHRISTIE: Any reasonable basis for his opinion can't be given, am I to understand that, {3745|3746} involving technical answers?

THE COURT: It is hearsay. He can give his opinion as a writer on the Holocaust, but not on technical opinions. I thought I made that perfectly clear. I told you that he could not be examined on anything that is contained within those thirty-eight books. I looked at them and it's there, and he can't. So ask your next question, please.

You left off where he said that there is no proof that any Jew was gassed in gas chambers in Germany. That is perfectly admissible.

Q. MR. CHRISTIE: Mr. Walendy, is there some other explanation for the six million Jews alleged to have died other than the gas chambers that makes sense to you?

A. Yeah, this six million will be put together from several places where Jews were. It was called, it was stated that you would have been shot or would have been murdered. That is the one thing in the main camps in Poland, that means in first line in Auschwitz, and in Sobibor, Belzec and Treblinka, perhaps in Chelmno, and on the other side in Russia, in Russia by the so-called Einsatzgruppen, the special units which had the task to hold the land behind the front to secure the land behind the front. And it is called, stated in the books about this scene that these Einsatzgruppen, these special troops should have murdered two hundred and half the Jews, and these —

Q. Two hundred and a half?

A. Two million and a half. Two million and a half Jews. And this number you must put {3746|3747} from the six where the others were should have been murdered.

Q. From your research what is your opinion about that matter?

A. I have published two booklets here, the number 16 and 17 of the historical effects about justice, and it's really very difficult researching about the theme because no historian has the possibility now to go to Russia and look for the findings, but you have to combine all the publications and all the results of the Military Tribunals about this theme and can prove and compare the documents which were presented about it, and you can compare all these things with a new publications of the Russians themselves.

Q. What is your opinion?

A. As a result of my research is that there is — that's not an opinion but that's proven — that also confirmed by the Institute of Historical Contemporary History in Munich, that there is not found, till now, any order

of Hitler or Himmler or Heydrich or Goebbels to murder the Jews, neither in gas chambers, or through the Einsatzgruppen. There is not found any order till now; But they say, yes, they had not done it in a written form, but they have ordered it with mouth, and so that is the reason why you didn't find it. But if you follow that version, you must have a way on which, and the date from which that order should have go through the units and will be given a special units of the S.S. But the result is that these special units of the S.S., they are not understanding the direct order from Himmler or Hitler, but they were organized within {3747|3748} the normal German Army, and every Army Kommando, the commanding of any Army had the order about a special task, tasks and works of such units, and it's proven, too, that the military commanding centres had no knowledge of such murderers, where I have to say that, in reality, surely were used shot there, but not by real central order from the Fuhrer, but that relates in the cases which I researched for from the special situations in the Baltic States, for instance, or in the Balkans and the partisan situation.

The Jews were part in the War. They declared in the name of the world jewry [sic] the War against Hitler beginning already in 1933, but they declared in that year, that's only economical war, but they confirmed after the War that that it was not only an economical war but a war, reality, but one may differ if the world jewry [sic] was a reality or not a reality. But Voltman (phonetic) said, yes, it was a reality, but it may be how it be, but the Jews in the West worked very intensive together with the Jews in the Communist Soviet Union, and especially in the Baltic States. He knows that the Soviet troops advanced into the Baltic States in 1940 during the German advance into France. The Russians marched into the Baltic States and they expelled there and exported there the whole Baltic intelligence circles, and I read today in the Canadian, in the Toronto newspaper that there was a protesting assembly against these mass deportations and murders against the Latvian, Lithuanian intelligence. Should be a trial against the Russians. And in that situation in 1940 till the beginning of the Russian German war, especially {3748|3749} know it from the history about historical books about this, especially the Jews had the main initiative to destroy the intelligence of the Baltic States and therefore, in that situation, was intensive hatred situation created which had reactions after the Germans invaded these lands, and in that situations were shot a lot of Jews, partly by the Lithuanians themselves, also partly by the German troops. But that was not an order from Himmler or Hitler, but it was created by the situation that was on the lower units there. And such situations happened also in the Ukraine during the War, but there is no, in no case, proven the immense amount by these numbers which were published about two million and a half. And two million and a half is such an amount that they must have been mass graves there. There must have been findings there, and it must be proven now that the Russians must have published in their publications in the last year that they found it in the year of '43, or combine every military unit with the so-called researching unit to research for the German crimes. But they published also that they had find massive grave near Wostocki (phonetic) which the witness had seen, but they published in the same place that in the mass graves was Katyn with the results of the German shooting of the Polish officers, and you can see in this case that they are not honestly and they are publishing things which are not correct, or directly contrary to the truth. But they published also that they tried to find the findings of the Germans, but they were disappointed about these things, because the Germans, so they published because the Germans were able {3749|3750} to destroy all the findings, yeah, but when you look for the years '43 and '44 about the possibilities which the Germans have to burn million peoples as they are saying that the dead bodies were first put in graves, and then again put out of the graves and then burned, and that nothing was – there were no findings about that, that the Russians had not invented the international investigation of these findings, then you must see that they have the findings, and scientists have to prove all these connections and the result will be, especially when you compare the books about this and I think books of the Institute for Contemporary History in Munich from Dr.

Hausnick (phonetic) [Krausnick] and Villers (phonetic) [Wilhelm], and I researched this book very honestly, then you will see that they take sources which state that the Germans had this and that done, which were not honestly documented [sic], but they were overtaken by Russian statements.

Q. They took over Russian statements.

A. Yeah, without any documentations, and so history is written about this theme, and if you will earnestly research these things, you have been honestly to prove these documentations, and you will find that these things, in that volume, could have been done in spite of the fact that, perhaps, Mr. Ohrndorf [Ohlendorf], in Military Trial after the War, had said that he gave the order for shooting eighty thousand Jews. But this man was not a free man. He had not the possibility to utter, to give independent statements. He was a prisoner and he knew the consequences of the situation. And this statement were given a document number and found and {3750|3751} was overtaken into the history book, but we have to research these things and these connections with independent scientific [sic] methods and real documentation, and so you find that shortly after the War, there happened many things and many statements which can't be overtaken by an earnest historical writing.

Q. Are all the publications that you have published that you have written yourself true to the best of your knowledge?

A. Yes, they are true from – I have given my earnest – I have endeavoured to formulate and research the best I can, and when there are false sentences, false conclusions, then the publicity is confronted with they can take me and they prove me I am false, but till now nobody did. Q. And are those distributed all to Mr. Zundel and around the world?

A. Well, surely. Surely.

MR. CHRISTIE: I'd like to file those as exhibits, Your Honour, the whole works.

THE COURT: They are in German.

MR. CHRISTIE: That's right.

THE COURT: They are not going in as exhibits.

MR. CHRISTIE: Can my client not read German and say later that he relied on the German language —

THE COURT: Well, if as and when that comes to pass.

MR. CHRISTIE: Could they be put in as exhibits for identification until then? {3751|3752}

THE COURT: Not until then.

MR. CHRISTIE: Well, how can I – then there will be continuity.

THE COURT: Are you prepared to translate them into English? Well, you can put them in as exhibits for identification. Is that all you want?

MR. CHRISTIE: Yes. I can put them in a box.

Q. Do you have a box for those?

A. No, I don't have a box for it.

MR. CHRISTIE: I have a box. Those are my questions on examination-in-chief.

CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. The last book that you held up, the Einsatzgruppen book, do I understand somebody complained about that book and that is before the Courts and —

A. No. There are two parts of that. They are no trouble to say this.

Q. Okay. But has anybody complained about those?

A. No.

Q. I see. What if somebody did complain about them?

A. Pardon?

Q. What if somebody did complain {3752|3753} about them?

A. About this, not ...

Q. About any of them.

A. Well, here, number 15, number 15 there was started trial not against me personally but it would have been handled as a punishable dealing that I published things which are not correct, but they are not make personal trial against me, but the new situation we have now, that the highest court made the decision that in spite of the fact that a publication is more than six months old, they can taken these things which are

punishable and destroy them. And the General Attorney made a statement for that. He only wrote a lot of my publications on his statement, and without any – without any proving or argumentation he formulated afterwards this shows that I have insulted the Jews, and for that there is the paragraph so and so of the criminal book in Germany, and therefore it is to forbid.

Q. My question, really —

A. The General Attorney was not able to tell one single sentence that that sentence is false or that such sentence should be insult to anybody or to the Jews.

For instance, I will show you. I published in that book —

Q. No, sir —

A. I published in that book facsimile of the German, Berlin German, it was book from 1941, with all the Jewish telephone addresses, and the General Attorney wrote in his script on what he made that {3753|3754} because I published this, I insulted the Jews. I can't understand, but that's the situation. And this case was going on in Bielefeld and I went to the next higher court and I complained about these things, and at the time I published all these details of that trial, and this number now is presented to the Constitutional Court now, and till now it's not decided what should be done.

Q. Thank you. My question, really, sir, is as I understand it you say your pamphlets must be true because nobody has complained. And I am wondering whether you take the reverse of that, that if somebody does complain, they are not true.

A. They didn't complain that's not true what I published. I told you. They are not able to tell one sentence that should be false. They accused this copy without any explanation without any scientific [sic] with —

Q. My question is, if nobody complains, how is that evidence that what you print, how is that scientific evidence that what you print is true? Isn't that just evidence that nobody complained?

A. In my publications I research the statements of the publications of the other named persons which were published as qualified specialists about this thing. And if you read such books and such arguments you can, as a scientist, see if these arguments are right. Did these so-called experts all the connections, did they acknowledge that the Soviets and also the Western Powers, after the War, falsified the documents, why could they, in confirmation of their {3754|3755} thesis, overtake documents which are so ridiculous that the scientist only shook his head about it? And you can put all these things together, publish it, and when that should not be correct they can answer, they can attack me. They can make trials and let's prove by the general, by the highest courts, and they are silent. Why did they do? It is not what can I do more? I can only present scientific [sic] publications, and when they are not attacked, then you can say, yes, they are so and so silly, that nobody necessarily will take them to knowledge.

Q. Is that what they say in Germany, you're so silly?

A. No, no. But I say you could perhaps do that, yes. And so that we don't be, we don't waste time about it. And therefore we are silent, yes, you can say it, but that is no basis for a scientific [sic] discussion.

MR. GRIFFITHS: Thank you. Is this a convenient time, Your Honour?

THE COURT: Yes. Fifteen minutes.

— The jury retires. 3:30 p.m.

— The witness stands down.

— Short adjournment.

— Upon resuming.

— The jury enters. 3:50 p.m.

— The witness returns to the stand. {3755|3756}

— EXHIBIT "Y" (For Identification) Reference material – Udo Walendy.

THE COURT: Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

Q. Mr. Walendy, are you on the editorial board of the Historical Review Board?

A. Yes.

Q. And do you share that position with Dr. Faurisson?

A. I share his views.

Q. He is on the editorial board as well?

A. I believe so, yes, but I have no influence what is published there, and I was invited to be there, but I have not written there till now in that genre, you mean.

Q. You haven't written there till now. And were you a speaker at the conference?

A. Yes. I had been, yes.

Q. And when you mentioned that you lectured in North America, is that the lecture that you are referring to?

A. You are difficult to understand.

Q. I'm sorry. When you testified earlier about your lectures in North America, is one of your lectures, that talk you gave for the Institute of Historical Review?

A. Yes. Not directly the same as {3756|3757} here, but about the free education of the German nation and about falsified photographs [sic].

Q. Okay. And have you lectured on university campuses? Have you been invited by universities to come and give a lecture?

A. In Los Angeles, yes.

Q. What university?

A. No. Only by the Historical Review Institute. Not university. It took place in the building of a university, but I was not invited from a university.

Q. All right. And the lecture you gave at Milwaukee, what was that?

A. That was assembly. I was invited, I don't know the people and I don't know the organization. I was only invited by them.

Q. Do you know the other people on the editorial board of the Journal of Historical Review?

A. Yes, the publishers.

Q. Dr. Butz?

A. Yes. Surely.

Q. And Ditleb Felderer?

A. Yes. Surely.

Q. Dr. Weber?

A. Yes.

Q. Dr. Lindsey?

A. I don't remember.

Q. Okay. You mentioned one of the reasons that you didn't think Auschwitz could be a death camp or extermination camp is because there were a {3757|3758} hundred thousand people in the area. Were those hundred thousand people inmates of the camps?

A. No. No. No. The inmates of the camps, there is a number that is not clearly known because Jews were coming and prisoners were sent on other camps, so there was order not to come to acquaintance [sic] with the neighbours and the others. So that is very difficult to answer this question because surely there was a long-lasting typhus epidemic [sic] there and died a lot of people, and I can't answer this question exactly.

Q. So that does not include prisoners; the one hundred thousand people does not include prisoners.

A. No. The most of these people were free workers which had treaties with industry, and were coming from France, for instance, were free workers of Poland, were free workers of the Italians and some Balkan States, and German, and some were displaced persons from Russia or free persons of the Ukrainians, yes. There was a very mixed people, and the situation was that so-called gas chambers should be in the west of Birkenau, and this was just direction where the main winds were coming, and it's not possible —

Q. No. My question was about how many people were in the area.

A. And so one hundred thousand were working in the area and most of them were free people who worked there and partly lived there.

Q. And does that include S.S. and prison workers, military people or personnel, German {3758|3759} military personnel?

A. That surely was military personnel in Germany for the camps.

Q. Does that include in it your hundred thousand people?

A. No, but they were so — they were not so much that they will look for in that number.

Q. And was this an area that Himmler tried to obtain Reich ownership

of the area around Auschwitz?

A. Himmler – if Himmler was in Auschwitz?

Q. No. My question was whether Himmler tried to get the ownership of the lands in the area around Auschwitz for the Reich.

A. Yes.

Q. Out of private hands.

A. Yes. It was sold by the Reich, by the German Reich, the whole land was overtaken by the Reich in the form of *Dreihuntschaft* (phonetic), trusteeship, in the form of trusteeship.

Q. So that land was held in trusteeship by the Reich?

A. Yes.

Q. Did they do that around other concentration camps?

A. Yes. The other concentration camps – I mean by that question the complex of the industry in Auschwitz, not only the concentration camp in Auschwitz, and in Auschwitz it was so as I said, the trusteeship, but it was not in every case so. {3759|3760}

Q. Was it in every other case but Auschwitz?

A. No, I can't really answer that question because I couldn't find real ownership relations of the land where the concentration camps were situated.

Q. So the people working in that area would be there courtesy of the S.S. who owned that district on behalf of the Reich, or in trusteeship for the Reich?

A. Yes. The S.S. had the command about, or the control of the concentration camps, and so it has to happen there, yes.

Q. Okay. Now, you said also that another reason why you thought that there must be some difficulty with this extermination of Jews, annihilation of Jews, is that there must have been some knowledge in the West, and there wasn't any knowledge in the West of what was happening during the War.

A. What you mean with West? What is West?

Q. Well, you cited some books by Gilbert [sic], by —

A. In the Western countries.

Q. Yes. Have I got that right?

A. Yes. I researched these books and went through these books and published, and in this book I dealt with Mr. Gilbert, Mr. Gilbert's book. His book is published in English and in German, too, and he analyzed the situation what did the Jews or the Zionists or the American Government know about this {3760|3761} Holocaust, because they founded a commission in New York in 1981 to find out these questions. And Gilbert handled with these problems and published things which confirm that neither the Zionists nor the Roosevelt [sic] administration nor the British had any knowledge and undertook any actions in respect to the Holocaust theme till the end of the War. Nobody, for instance, asked for a gas retaliation war against the Germans because the Germans gas these Jews. For example, they had no information, or no confirmation from secret services of the English, and the Poles, and so on, about these things, and therefore there was no investigation by themselves about these things.

Q. Doesn't Martin Gilbert, in his book – I assume this is the one you are referring to, "Auschwitz and the Allies"?

A. Yeah.

Q. Doesn't he spend an entire chapter talking about the Vrba-Wetzler report and how it found its way West and was published during the War?

A. Yes. I must tell you that in the Allied Press during the war, surely there were published things about the Holocaust. They were published in the New York Times, for instance, that the Germans had – that was in the year of '42 – that the Germans [sic] had already murdered and gassed two million peoples. They didn't say where and who did it and so on, but they published it; but they didn't believe it by themselves. They took no consequences of that knowledge. And Mr. Vrba surely he was a man who informed on the way through Switzerland, and Mr. Edna (phonetic) and Mr. Leichten (ph) {3761|3762} who was [sic] sitting there as representatives of the World Jewish Congress, they transferred the information to the British and so on, and at the end of the War, with the help of Mr. Morgenthau and so on, they had found a spe-

cial refugee board where all these things were, for reason for propaganda and political activation, were published. And so in that case Mr. Vrba had special tasks to fulfil that political task.

Q. But that isn't what Martin Gilbert says. That is your analysis. Mr. Martin does not say the Refugee Board that it is a political board. That is your analysis.

A. I have not in mind every word what Gilbert has written, but refugee board, there is a connection with Mr. Vrba is imminent, known for every historian about this question. So I must refer to this. If Gilbert tells it or not, it is not so important, but Mr. Vrba has, in that connection, very important political task for the Roosevelt Administration, but it does not mean that what he published there and told there should be right.

Q. Well, you said they had no knowledge, and I am suggesting to you that was a report that was published during the War which indicates some knowledge.

A. Mr. Vrba published during the War only the situation that in Auschwitz were concentration camps, that in Auschwitz were concentrated industry complexes, and then he, as a witness, told what he have seen there and what is going on there. But just these statements of Vrba you can prove now by the historical {3762|3763} compulsions (sic) of the other connections which you have and witnesses any other possibilities if these statements are right or if they are not right.

Well, you must see the situation in 1944. I will refer to a document of the British Minister of Information, for instance. In the February of '44 he sended [sic] to all ministers of the publicity in the British Empire in order with a content that we now cannot any more taken the – we cannot any more be silent about atrocities which the Russians during their advancing in Eastern Europe —

MR. CHRISTIE: I have the document if the witness would like to refer to it. He can read it in English, if my friend is willing to show it to him. He seems to be in pain.

MR. GRIFFITHS: I am always happy to save some pain.

THE WITNESS: Yes. That's an order of the British Minister for information. He said, it said: "I read with profound regret your address to the House incorporating your statement as to the possible solution of the Russo-Polish frontier dispute. Stricken Europe is looking to the United Nations for the liberation of her territories ..."

THE COURT: Yes. That couldn't be 1944, could it?

THE WITNESS: "In 1939 Britain pledged assistance to Poland in the event of aggression. By our declaration of the 3rd of September we did associate ourselves with her cause, although we could afford no material support. This declaration of {3763|3764} War was made when her western frontiers were overrun by Germany."

THE COURT: Just a moment. Is this —

MR. CHRISTIE: The document referred to by the witness, I gave to my friend. It is high lighted in yellow and it is dated February 29, 1944. If my friend wished to allow the witness to read it, then he doesn't have to try to converse in the English language without reading it. That is all I offered it for. I will re-examine on it anyway, so if you want to go through this ...

Q. MR. GRIFFITHS: Do I understand that the British Ministry of Information, February 1944, that talks about Russian atrocity? I see.

A. "Sir, I am directed by the Ministry to send you the following circular letter: It is often the duty of the good citizens and of the pious Christians to turn a blind eye on the peculiarities [sic] of those associated with us. But the time comes when such peculiarities, while still denied in public, must be taken into account when action by us is called for. We know the methods of rule employed by the Bolshevik dictator in Russia itself from, for example, the writing and speeches of the Prime Minister himself during the last twenty years. We know how the Red Army behaved in Poland in 1920 and in Finland, Estonia, Latvia, Galicia, and Bessarabia {3764|3765} only recently. We must, therefore, take into account how the Red Army will certainly behave when it overruns Central Europe. Unless precautions are taken, the obviously inevitable horrors which will result will throw an undue strain on public opinion in this country. We cannot reform the Bolsheviks but we can do our best to save them – and ourselves – from the consequences of their

acts. The disclosures of the past quarter of a century will render mere denials unconvincing. The only alternative to denial is to distract public attention from the whole subject. Experience has shown that the best distraction is atrocity propaganda directed against the enemy. Unfortunately, the public is no longer so susceptible as in the days of the 'Corpse Factory,' the 'Mutilated Belgian Babies,' and the 'Crucified Canadians.' Your cooperation is therefore earnestly sought to distract public attention from the doings of the Red Army by your wholehearted support of various charges against the Germans and Japanese which have been and will be put into circulation by the Ministry." {3765|3766} That is only one example where it's shown that the official politics connected with official atrocity propaganda to distract the public opinion, but the British were not the only people and not the only government who followed this policy, but the American Roosevelt Administration was going on in the same way.

Q. Is that what Martin Gilbert says?

A. Pardon?

Q. Is that what Martin Gilbert says?

A. No, no.

Q. Is that what Windome (ph) has said?

A. No.

Q. Well, those are the authors that you signed in in support of your position. They don't support your position, do they?

A. Those things they will be silent about, and therefore distracts the public opinion of these connections. But I have, as a scientist, to say that Mr. Vrba was in the War Refugee Board of the U.S.A., was working in the same sense with his statements there in the times of the end of the War.

Q. Was Vrba working for the War Refugee Board, is that what you are telling me?

A. He was. When he not worked for it, he was —

Q. They published his report.

A. Pardon?

Q. They published his report.

A. Yes. Surely.

Q. But he wasn't working for them. {3766|3767}

A. You can't argument about this as you like, but the situation is that his statements were useful.

Q. I see. And was there a conference in December of 1942 out of which there was a statement given in London, England, about the role of Germans to account for the annihilation of the German [Jewish] people?

A. Yes, but —

Q. Wouldn't you say that showed some knowledge by the Allies and some action by the Allies of what was going on?

A. They had no knowledge, but they made propaganda without knowledge.

Q. I see. So any action that they take, you say is propaganda.

A. During the War it's definitely proven that they had no knowledge, because they did act in a total otherwise as if person would act if they had the knowledge. They published this propaganda, but they did not act that this propaganda what they published would be real.

Q. Do you make any distinction between knowledge and action?

A. Yes. When I know that such things happened there, I act in a special form that can be proved that I have really knowledge of that.

Q. I see. Are you aware that — have you had any exposure to Churchill's private correspondence?

A. Yes.

Q. Are you aware of correspondence Churchill had with Sir Anthony Eden about Auschwitz? {3767|3768}

A. Yes. He had correspondence with Roosevelt, too, and Eden, but —

Q. He called it the most horrible time of mankind during the War.

A. Churchill was not the man who was honestly making politics.

Q. This is his private correspondence.

A. Oh, maybe. Maybe. But you see that Mr. Bracken (ph), the British Information Minister, made private correspondence, too, in that way. That is not the proof that this is honest and that he has real knowledge

about the thing. Mr. Churchill has, at the end of, the War, not praised God that the British has won the War because Germans are such bad people because they burned and gassed Jews and so on, but he prayed for God that the British have overtaken the German power. If Churchill would have had knowledge about these things, it wouldn't be necessary to ask the Russians what they have found in Auschwitz. The British Government had sent a diplomatic note to the Russians in the end of February. Auschwitz was occupied by the Russians on the 27th of January, '45, and they didn't publish anything about that what they have found. They were silent about these things. And the British asked them, please tell us, we must inform the publicity, inform the publicity in the autumn '44 that Auschwitz happened so many bad things, and now we like to know what you have find there. The Russians were quiet. They didn't answer in March. They didn't answer in April. The British sent a second note to Moscow and then Moscow answered in a short form, "We have found that in Auschwitz were murdered four {3768|3769} million people, but no English ones." So that is to say, "Your English people doesn't matter about that." But if Churchill would have knowledge about things what have happened there, it was not necessary to take such intervenings [intervention] of the diplomatic basis to Moscow.

Q. Well, he had enough knowledge to ask, didn't he; enough knowledge to know what they found in Auschwitz. He knew they found something there.

A. When Churchill would have had any knowledge about these things, he would have ordered to give the publicity concrete details to start a gas war against Germans as retaliation, because the Germans gassed [the Jews. For example, because Churchill was just the man who likes to enforce the bacterial warfare against Germans, also in that moment, '45, and he had no scruples to do that, and he would have ordered the British Air Force to bomb the murder stations in Auschwitz, but he didn't. He has no knowledge, real knowledge about these things.

Q. Because Churchill didn't order the gassing of Germans in retaliation he had no knowledge.

MR. CHRISTIE: That is not what the witness said.

THE WITNESS: Yes. He —

MR. CHRISTIE: I have a right to object, Your Honour.

THE COURT: Please sit down.

MR. CHRISTIE: I have a right to object, Your Honour, upon —

THE COURT: You have no right to {3769|3770} interrupt cross-examination like that. Do they not teach you that in British Columbia?

THE COURT: What is your objection?

MR. CHRISTIE: My objection is that my friend was misleading the witness. He also said that the matter of bombings was one of the reasons he suggested, and my friend suggested only one in the questions.

THE COURT: Thank you. Proceed.

Q. MR. GRIFFITHS: Do I understand you to say that because Churchill never ordered the gassing of Germans, that you take from that that he had no knowledge of what was going on?

A. He had no knowledge, yes. Really.

Q. Thank you. Now, how many do you say were killed by the Einsatzgruppen?

A. Perhaps I can give a sentence yet in addition to that.

Q. Please.

A. There is no diplomatic correspondence between Churchill, Roosevelt and Stalin. There is no theme of any Allied Conference about the gassing of Jews through the Germans, and that is the best proof that they had no knowledge about these things.

Q. How many do you say were killed by the Einsatzgruppen? How many Jews?

A. It is not clearly known, because the situation for research is not free for us. We have no possibility to go to, as you Canadians, to go to the {3770|3771} Baltic State to investigate as an independent researcher.

Q. All right. You investigated the Kohrer [Korherr] report, the statistical findings?

A. All these things are papers which were presented to us which you

cannot prove if, say, they were made freely, if they were not falsificated [sic]. They are only papers. And when anybody says to me in the Kohrerr [sic] Report is named or is stated that there are so and so many Jews, several hundred, for instance, that was a special expression.

Q. Yes. And there was special treatment, wasn't there?

A. Yes. And I can't give you evidence is that right, is that not right. We have so-called real German documents during the Wartime numbers in these points, the numbers killed persons which, in reality, if you like to have the condemnation of that, there isn't no confirmation.

Q. And by confirmation you are referring to the mass graves.

A. Findings and perhaps other circumstances which proves these things, but that is very difficult, because Soviet Union dictatorship, and you have no free researching possibilities there, and it's not possible to rely only on papers about the thousands and thousands of dead people.

For instance, I will give you an example.

Q. No. You can give that to Mr. Christie, sir. I will take your answer as given.

A. That is – {3771|3772}

THE COURT: Just a moment.

MR. GRIFFITHS: I will take your answer as you have given it. I don't need an example.

MR. CHRISTIE: I would like to suggest, if I may rise politely, that [w]hen witnesses give answers, they sometimes wish to give complete answers, and my friend shouldn't really say, "I don't want the rest of your answer."

THE COURT: Go ahead.

MR. GRIFFITHS: Thank you, sir.

MR. CHRISTIE: I'm sorry, I didn't understand that to be a ruling of Your Honour.

THE COURT: That is no ruling. I am indicating that the Crown can proceed. I've heard what you have to say and so has the jury.

MR. GRIFFITHS: Thank you.

Q. Now, as I understand, you've read the English version of "Did Six Million Really Die?" which is Exhibit No. 1 in this proceeding.

A. Yes.

Q. And your command of the English language is sufficient that you will be able to read that and understand it fully.

A. Yes.

Q. All right. And is what you publish in Germany as close as you can get to an exact translation of that Exhibit 1?

A. No. I didn't print it. I didn't write the German and I didn't make the translation of the German edition, but it was all done in England by persons I don't know. I overtook them only, and that {3772|3773} is —

Q. But the German translation was done in England.

A. In England, yes.

Q. Well, have you read the book that you published? Have you read the German copy of Exhibit 1?

A. Yes. Surely.

Q. You published that in Germany?

A. No. It's English published that in German.

Q. I'm sorry. I thought this was a publication from your publishing house.

A. No. No.

Q. Do you sell this?

A. Yes, I sold this.

Q. You sell it, but you don't publish it?

A. No, I don't sell it now because my edition in Germany is ended, and the risk for me to get some new edition from England through the border, I got advised not to do it. It would be too, too ...

Q. Risky?

A. Not risky, but it would be better not to take this title, "Starben Wirklich Sechs Millionen?", because so many people will be disturbed about that title. So I said, "I don't like that title", and my edition in Germany is sold, but it was published in English.

Q. Published in England. And you imported so many copies and you had the right to {3773|3774} distribute that in England.

A. Yes.

Q. And have you compared the English copy with the German copy?

A. Yes. It may be that there are some improvements in the meantime.

Q. That is what I am wondering, whether there are any changes.

A. Yes, but in the last time I did not compare that. In the first time I compare it, and it was, in my point of view, not the best translation, not the best translation, but I had no influence about that, and maybe that he and the English versions, English editions which were published afterwards were some improvements or some changes, and so I am not up-to-date if every sentence will be the same.

Q. Okay. But when Mr. Christie asked you whether you are prepared to vouch for the truth of the pamphlet, which pamphlet were you vouching for, the German one or the English one?

A. It is the German one.

Q. All right. Are you in a position today to vouch for the truth of the English one?

A. Yeah. Do you mean that there are some differences between them?

Q. I don't know. — I don't read German. That is why I am being very careful in this area.

A. Have you a special sentence which you are asking for and I can tell you. I can give you now not real convincing answer that you will be content {3774|3775} about that, but give me at least a special sentence and I will tell you, and we can compare it.

Q. All right. Chapter 9, which is on pages 26 and 27 of Exhibit 1, is titled, "The Jews and the Concentration Camps: A Factual Appraisal by the Red Cross". We've read that chapter over line by line in this trial. Now, are you vouching for the truth of that chapter?

A. That's Chapter 9?

Q. Yes, sir. Chapter 9.

A. There is one, yes. There is a survey.

THE COURT: I'm sorry, there is what, sir?

THE WITNESS: That "There is one survey of the Jewish question in Europe during World War II, and the conditions of Germany's concentration camps which is almost unique in its honesty and objectivity, the three-volume Report of the International Committee of the Red Cross on its Activities during the Second World War, Geneva, 1948. This comprehensive account from an entirely neutral source incorporated and expanded the findings of two previous works", and so on.

Q. And so on. Excuse me, Mr. Walendy, I don't mean for you to have to read all that over out loud. My question really is whether you are in a position now to comment on the truth of the matters contained in paragraph 9 — I'm sorry, in Chapter 9, dealing with the Red Cross.

A. Yeah. That's a real translation of that. {3775|3776}

Q. All right. And is it your evidence that those matters contained in Chapter 9, if I can call it that, are all true?

A. Yes, they are true. I had special Red Cross publication in my hand.

Q. All right. And you went through it all and you found that that was all true.

A. Yes.

Q. Okay. And how many Jews do you say died from all causes during the War? I am not asking for an explanation. I am asking for a figure.

A. Please, I can't —

Q. I'm sorry, sir, I will repeat it. How many Jews do you say died from all causes during the War?

A. This number is not, cannot be really answered with any provings [sic] because —

Q. Is it less than a million?

A. No. No, I can't say any number.

Q. All right.

A. But they were registered round three hundred thousand Jews died during the War on different causes, maybe on disease, maybe on elder people, and maybe in the partisan war, yes. And maybe murdered, perhaps. I was not in these conditions to be an eye witness [sic] about that.

Q. Three hundred thousand registered Jews died ...

A. Yes. Not registered perhaps, but it is also perhaps not exactly figure, but if you sum up all the registered things, you will get these numbers,

{3776|3777} because just with the theme of youth you have special difficulty that Jews were partly taken as Russians or Poles or Czechoslovakian or Germans and not as youths. And so there are the possibilities to mix up these numbers.

Q. Who registered the three hundred thousand?

A. That was a publication of the International Red Cross which summed up all the losses of the European people during the War.

Q. Oh, what publication is that of the International Red Cross? I'd love to see that.

A. It was published in German newspaper Cann Statte [Cannstätter Zeitung], which was published in the very big circulation, and —

Q. When was that?

A. Pardon?

Q. When was that? When was it published?

A. In 1950.

Q. In 1950. All right. And this is the publication the Red Cross you are talking about, or reported in the newspaper?

A. This paper published these numbers as the official numbers of the International Red Cross which they had circulated in not publicly publication, but publication only with a small distribution circle, so called not secret at all, but half secret. It was not an official publication for everybody, but it was a circulation within the Red Cross Organizations. They published these things. {3777|3778}

Q. So you don't trust something like the Kohrerr [sic] Report where you have a document in front of you, but you do trust a newspaper report of a document you've never seen. Is that what I understand?

A. I can only say — you asked me for the figures, and I said I can't give you the real figures. I only have this publications [sic] as the only, as the single one that was published at all about these numbers which is half way reliable. This number you can't, I believe, also in ten years afterwards, not specialize, because the main things about this questions [sic] happened in Russian area and you have no possibilities to examine these things there.

MR. GRIFFITHS: All right. Thank you very much, Mr. Walendy. I have no further questions.

THE COURT: Mr. Christie.

MR. CHRISTIE: Subject to filing the books, I don't have any questions, Your Honour.

THE COURT: Thank you. You can step down, Mr. Walendy. Thank you.

— The witness retires.

MR. CHRISTIE: I have a witness here, Pierre Zundel. He has been waiting in the witness room.

THE COURT: How long will it be, Mr. Christie? {3778|3779}

MR. CHRISTIE: I wouldn't think it would be much more than fifteen twenty minutes. I see it is four thirty-five. I didn't realize it was that late, but I don't think he will be very long. If you wish, maybe tomorrow.

THE COURT: I think tomorrow. Nine thirty.

— The jury retires. 4:35 p.m.

THE COURT: Gentlemen, just before we rise, I can foresee that perhaps there may be some reliance placed on those thirty-eight documents in the German language, and I need your assistance.

In the event that the defence intends to rely upon those documents and present them to any witness who may be called as the basis for a belief, I will want some legal authority, some case law authority as to why they should be admitted and so employed while they are in the German language.

I am just planning that now so that it won't come as any surprise, and any argument on it {3779|3780} will be made, of course, in the absence of the jury.

Nine thirty tomorrow morning.

— Whereupon the hearing is adjourned to February 19, 1985.

## FEBRUARY 19, 1985

— Upon the hearing resuming.

THE COURT: The jury, please.

MR. CHRISTIE: I am prepared to call my next witness.

— The jury enters. 9:45 a.m.

MR. CHRISTIE: I'd like to call Pierre Zundel.

### PIERRE ZUNDEL, sworn

#### EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. Mr. Zundel, you are the son of the accused; is that right?

A. That's right. {3780|3781}

Q. And what's your date and place of birth?

A. Toronto, April 17th, 1960.

Q. And what's your academic background?

A. Well, I have a high school diploma from Neil McNeil High School here in Toronto, and I have a Bachelor of Science in Forestry in the University of Toronto as well. I am currently finishing a Master's in Forestry as well in that same university.

Q. How are you presently employed?

A. I am both a lecturer at the university and a consultant in the forestry and renewable energy field.

Q. And what language do you speak?

A. I speak fluently French and English and I have some German, although I am not fluent.

Q. And when did you graduate from the University of Toronto in Forestry?

A. I graduated with my first degree in June of 1982.

Q. And prior to the employment as a lecturer at the University, how were you employed?

A. I was a management professional trainee at the Ontario Hydro for a period of time. I was self-employed as well as a researcher under contract to other organizations. I've worked in the forest industry and for the Provincial Government in Forestry as well as in a factory during my high school days.

Q. What were your activities at university? Did you participate in the activities of the student body? {3781|3782}

A. Well, I am afraid it hurt my marks at some point, too. I was one of the governors of the University, and that required me to spend a fair bit of time, for example, on one committee advising the President of the University on his budget process, which was \$280 million at the time, and as well as on the Planning and Resources Committee of that same governing council, and in my last year I was President of the Foresters Student Council called the Foresters Club, and that took up a period of my time as well.

Q. How did you get to be on the governing council of the University of Toronto?

A. It is a kind of a —

Q. An election process?

A. Yes, it is an election process, although in the year that I was there I was acclaimed.

Q. That's fine. What has been your father's attitude expressed to you about freedom and tolerance?

A. Well, I guess it's been more in actions than in talk. We don't often talk about a thing called tolerance, but over the years, as I've met my father's guests that he's had to his place and as we've travelled in Europe and places like that, I've met people of all kinds. I met once a Somalian Islamic scholar through my father who was a negro gentleman and who studied for a living the Islamic religion, and I've met Chinese people, Jewish people, all kinds of people through him, and he's never been anything other than polite with them, and why shouldn't he be? So through seeing him I guess I've learned tolerance in a sense. {3782|3783}

Q. What type of study and research have you participated in when you travelled with your father throughout the world?

A. Well, I can't say I was actively involved in the research, although I met all kinds of people, some of whom are related through World War II history. Thies Christopherson was one of the people who put us up at



his farm in Germany, things like that, that kind of research.

Q. Your father has been involved in politics, is that right?

A. Yes, he has. My earliest recollection of it is when he ran for the Liberal leadership in 1968. I wasn't very old at the time, but I remember that was a big deal, and he's been, I suppose, in politics ever since.

Q. What parts of the world did he travel in with you in the course of your growing up?

A. Well, we travelled all over Europe I guess on two occasions, and to the United States with the main sorts of places, Scandinavia ...

Q. And how long has your father been publishing?

A. I am not sure, but I would say it must be somewhere close to twenty years that I recall, anyway.

Q. When you were in high school were you obliged to study the Holocaust?

A. Yes. In one particular course which was called a philosophy course in the Catholic Separate School that I was attending at the time, Neil {3783}3784} McNeil High School, we had a course which was based almost entirely on books about the Holocaust, the majority of which were written by Jewish authors, some of which were not historical books, but rather historical fiction. We had several movies that dealt with the same subject. "A Night in Fog" is one. Another one is "Harold and Maude". And the books were, for example, "The Pawnbroker", and another was, "Night", "The Plight of the Jews" by Andre Schwartz (ph), books of that kind.

Q. Were you aware at that time of what stereotyping is?

A. I suppose. If I wasn't aware before, I certainly was aware after I had read the books, because the books portrayed German people in the worse imaginable light, particularly the last book, "The Plight of the Jews", in which not a single character in the book shows a trace of humanity at all.

Q. How did this affect you?

A. Well, at the time I was angry that all of the books that we had to deal with in a course that was only marginally related to the Holocaust at all should portray the Germans in so bad a light.

Q. And what did you do about that?

A. Well, I guess I didn't do very much until I was asked to do a book report on Simon Wiesenthal's book, "The Murderers Among Us", and when I did a book report on that book I think what would appear to most people as ridiculous, the story didn't seem to hold together very well, so I tried to find out more about the events that Mr. Wiesenthal was talking about in his book, and that was my first experience in this {3784}3785} field myself, and I dredged up things from the Red Cross which showed that Mr. Wiesenthal was either not present or didn't recount the stories properly.

When I brought this out in the class presentation of my book report, the teacher stood up and told me this is not what he wanted and he would have somebody else do the book report again. When I told my father about that, he thought that he should —

THE COURT: Just a moment. Go ahead.

MR. CHRISTIE: So far there's been no objection.

THE COURT: There has been from me. What the accused thought is not evidence.

MR. CHRISTIE: Well, is not the accused's intent part of this trial, Your Honour?

THE COURT: Mr. Christie, I just apply the rules of evidence as I see them. If you don't agree with them, I'm sorry, but please proceed. There is no point in you and I wrangling. I will send the jury out if you want me to.

Now, please ask your next question. Let's get on with this.

Q. MR. CHRISTIE: Mr. Zundel, what did your father do as a result of the situation?

THE COURT: That's better.

THE WITNESS: He, I believe, wrote letters to the principal and to the teacher of the course offering his time to come in and give the class a different view from that which was expressed in the majority of the books which we had in the course. {3785}3786}

Q. MR. CHRISTIE: Did any such activity take place?

A. No, it didn't.

Q. How did you feel about this presentation? What effect did it have on you?

A. Well, it seemed odd to me that because I went further than normally you would in a book report and researching a bit about the author and about the events that were in the book, that rather than being praised, which is what you normally do, certainly what I do when one of my students goes further than he has to, that I was told that this is not at all what the teacher wanted.

It seemed to me at the time that if even in a philosophy course which wasn't a history course, if you try to make a point based on false facts, then the point that you're making is quite weak, so this is one of the reasons why I was researching this stuff.

Q. In your experience with your father over the years, what's his attitude toward violence?

A. He is, at the most, one of the most non-violent people I know. He dislikes violence of any kind in sports or otherwise. He is a pacifist. He tolerates no one who makes violent suggestions, things like that. In fact, he never even struck us as kids.

Q. What's his attitude towards debate?

A. He has always encouraged us, as kids, to debate, if we thought there was a point to be debated and to look for information and to, in a sort of orderly way, ask questions. And I think that attitude has rubbed off on me and one of the main points that I {3786}3787} make to my own students in the university is that you need to always question what you read, take nothing at face value or forever you will be spreading other people's opinions. Take the facts and make up your own mind. And I think that was my father's attitude towards debate, and the first time I saw my father on television is when he debated with art critics here in Toronto in a Crossfire programme, modern art, and whether agencies should fund modern art or all kinds of art.

Q. Your father had an interest in art?

A. Yes. His formal training was in commercial art and fine art, so he has, over the years, he has always liked art.

Q. And how has he made his living over the years?

A. The majority of his living was made from his commercial art studio.

Q. Now, what is your attitude towards racial and social tolerance?

A. Well, I can only say it's good, I suppose.

MR. GRIFFITHS: Excuse me, Mr. Zundel.

Your Honour, with respect —

MR. CHRISTIE: I will withdraw the question.

MR. GRIFFITHS: Thank you.

Q. MR. CHRISTIE: How is the representation of your father in the media compared to your knowledge of him?

A. Well, it's varied according to {3787}3788} reporters and papers, but there have been times when the reports bore virtually no resemblance to the man at all.

I remember one article by Mark Bonokowski of the Sun who had wrought iron swastikas in the house and enshrined pictures of Nazi officials during the Second World War. I have been to my father's house on a regular basis and I never saw any of those things. So when I was in my grade thirteen class and saw this article and some of my friends as students have been to my father's place, we couldn't believe it. But there have always been extremes, and that is what is portrayed.

Q. Well, you speak of your father's house. You live in Toronto.

A. Yes, I do.

Q. How has this media presentation affected your family?

A. Well, we've had numerous calls from people in the middle of the night, three o'clock in the morning, threatening us or calling us names. We've had people who we know look at us strangely saying, "Is that really what your father is like?" or, "Do you really believe that?" or, "Are you the son of the infamous Ernst Zundel?" And that kind of stuff. It's caused a lot of tension, I think, for my mother more than anybody else [sic] because when we were still young she would get threats to our health, and I think there is nothing that would send a mother around the bend than threats to her kids' security. So it always made to some tension and some worry, and maybe that affected the {3788}3789} family.

But in another way we knew what my father was really like, so we could, I think, be a little bit immune to what the news were saying. We knew the reality of it, although we solved the lies. What hurts is when people you know make remarks about it, people who are your friends.

Q. What effect have your father's views had on your attitude towards racial and religious tolerance?

A. Well, I think a lot of racial and religious tolerance is based on ignorance and never having met people. It is much easier to be intolerant of something you don't know, and in meeting all these different kinds of people at my father's place, he had a photographer working for him, a Chinese fellow called Sylvester, who was very friendly to me when I visited my father's studio, so I learned from Sylvester what the Chinese people were like, and I learned from a Somalian scholar what the Somalians were like, and my father never tolerated that kind of red-necked bigotry that is based on ignorance. He has always wanted to judge people on what they were. If he liked somebody, whether he was Jewish or anything else, it didn't matter, he liked somebody, and I have seen lots of Jewish people in my father's place and it was the same with me. It rubbed off. One of my mentors in the university is a Jewish professor there, and my supervisor in my graduate studies is a fellow from India, so I don't think I have been adversely affected in regard to tolerance. If anything has affected me in regard to tolerance, it has been the treatment my father received at the hands {3789|3790} of the Jewish defence league and other organizations like that who won't tolerate open debate. That would inspire intolerance with me, not what my father did.

MR. CHRISTIE: Those are my questions.

#### CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Mr. Zundel, you are out in the world now, obviously. When was the last time that you were living under the same roof as your dad?

A. Living under the same roof, you mean in a sort of permanent arrangement. I guess about ten years ago, eight or ten years ago.

MR. GRIFFITHS: Thank you. I have no further questions.

MR. CHRISTIE: I have one in re-examination.

Q. How often do you visit your father's house and see him?

A. Weekly, at least.

Q. Thank you.

THE COURT: Thank you, Mr. Zundel.

— The witness retires.

MR. CHRISTIE: I call the accused.

—— {3790|3791}

#### ERNST ZÜNDEL, sworn

#### EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. What is your birthdate, sir?

A. April 24th, 1939.

Q. And where were you born?

A. In the Black Forest region in Germany, in a small town.

Q. And could you briefly describe some of your childhood experiences in Germany?

A. My first recollection is living in a very old house, 370 years old. Later on I was told that it belonged to my family for all those years. My father was very seldom at home and he did come home only on periodic visits because he was a soldier. And I had a normal childhood like millions of other kids in the War on all sides of the battles, and when the War ended, towards the end of the War, we suffered the bombing raids and the sirens going off and the frequent wake-up calls from our mother, herding us children – we were five of us at the time – into a basement air raid shelter, a bunker. And the house would shake and rattle, but these hundreds of bombers were streaming towards cities like Dresden or Berlin and so on, and I think that the most vivid recollection that I have is the cold, stark terror of the air raid sirens and the droning of these bombers, then the anti-aircraft fire, the searchlights in the sky, Allied planes limping back over the Black Forest area burning, some crashing. It was, for a little kid, a pretty frightening experience.

{3791|3792}

Q. What's your attitude towards War?

A. Well, I was just coming to that. The neighbouring City of Pforzheim was bombed. Twenty thousand people were killed in one night and we, of course, had been once again yanked out of bed and a fire storm was raging in that town that was twenty kilometers away. And we lived in this mountain valley, and there was this terrific howl as if there was a tornado going on, and it was the air being sucked into this town to feed the fires as if it was burning, and the sky was red wherever we looked from, flames as distant as twenty kilometers away. And that left an impression on me that I never forgot.

Then the invasion of the Allies came. You call it liberation. We call it the invasion. The French and colonial troops took over the Black Forest, our region. It is not a pretty story.

I had four sisters – three sisters at the time, and they were of an age when they were ready to be taken as the spoils of War, and my mother was alone. I remember that we were pretty frightened, everybody, and we were hiding in the forest and artillery shells were hitting the areas where we were hiding, and some of our goats got loose and some of our chickens scattered in the forest, and it was mayhem, and we returned to our house only to find out that we had been robbed of everything that was edible. And so we went to our neighbour's house for, I suppose, misery loves company, for a kind of community or moral support, and a French Army officer came in and he said, "Why are you crying?" He spoke German to my mother, and he spoke to {3792|3793} these French soldiers taking all our food and our belongings, and he said, "Don't you cry." And all the stuff was taken back. So some memorable experiences. And in the post-war period, of course, there was the cold. There was no heat. There was no food. We had to go to a church basement to school because the French Army had taken over our schoolhouse. School was on an irregular basis. We didn't have paper to write on. The one thing that I will always remember was hunger, and we broke out in sores all over our skin. Later on I found out it was nutritional deficiency disease, lack of protein and so on, and it was just basically a horrible time. And my father was a prisoner of war. He didn't come home [sic] till almost 1948. So here was my mother with five children putting up some other people who had lost their home in the bombing raids. So we were living in very cramped quarters. We had no proper shoes, we had no clothing. Our suits and pants had to be made from Army blankets. Our shoes, if we had some that were left, had been stripped of the leather soles. We had put wooden soles on them. We had to sleep two in one bed on straw sacks because everything else had been used up. If you had no replacement for anything, it's amazing how quickly clothing is used up. We had a few dishes and so on. It was just the scene of general misery, and things only changed after the currency reform in 1948 in Germany. And the French Army moved out of our schoolhouse and put back in the schoolhouse and life resumed some semblance of normalcy.

The rest of it is basically the story of any other kid. I grew up – I noticed one thing, that {3793|3794} in the inside front pages of our textbooks in school there were foreign language things written. Only later I found out that it meant a kind of a censorship approval stamp by the various occupying powers that censored all our text[b]ooks, even our mathematical books and song books, and I think that is an indication of what education that we children in Germany received after the Second World War. We were the victims of the occupying powers who taught us their version of history, and the result was that we became alienated from our parents. What our parents taught us as their life experience seemed like lies to us and fairy tales, because the teachers in the textbooks that we were given were reflecting a totally different reality.

And this made for many an unhappy home and a kind of tribalism between the younger generation. We were kind of sticking together, and the parent's generation, the older generation was separated from us.

As we got a little older, naturally, my brothers and sisters, we would ask questions of our father who had been in the War, and friends would drop in, and we began to realize that not all was well with history that we were being taught, that in reality our parents had lived and were

eye witness [sic] to one version of history, and our school books reflected a totally different version of history. And this made me, certainly, realize that I had to inform myself somewhat independently.

I graduated from public school and went to a trade school because we had no money to finance our education, although I was one of our top students in our very large class of ninety-six children. I went {3794|3795} to this trade school and always had loved, as a young boy, to sketch and to draw, and enrolled in this art school, taking training as a commercial artist, because as the instructors and advisors to the manpower office told me, that there was no future in the bombed-out beaten Germany for fine artists. The last thing the German people wanted was painters. What they wanted was people who could put the shoulder to the wheel to rebuild the country, and in retrospect, it has turned out to be very sound advice that I got there. I graduated after three years from this graphic arts spec[i]alty school where we were at the same time working at a graphic arts institute earning our living in commercial art, advertising, sales promotion, stuff like this.

During that time I met, naturally, people who had been out in the world, a different class of people, professional people, and at my place of work there were a very interesting group of Germans who had come together from all over Germany, and my suspicions were correct that I was being lied to. And my recollection was one, well, if I am being lied to by what I had thought my parents' generation, and now I am finding out by the school books and the new authorities; I am going to believe nothing. And so I tried to strike out in an independent course, and this beginning and budding research was interrupted by a threat from the German Government which had just passed legislation to re-arm Germany under the pressure of the United States, and I was absolutely convinced if I had anything to do with it, I would never serve in any man's army, because {3795|3796} I believe still that the Germans had killed millions of people, especially Jews, just because they were Jews, and I thought the same generals and the same officers who had been responsible for that were going to be the ones who were building up the new Army which was true in many cases.

Q. Do you still believe that?

A. No, no, no. But I'll come to that. I decided that since I had no chance in Germany to [oppose] being drafted against my will to the military forces, that I would look around for a place in the world that I didn't have to be a soldier, and the thought even struck me that I could go to East Germany where propaganda broadcasts were coming that people could go there if they didn't want to serve in the Army, and kind fate prevailed and I wrote to Argentina, South Africa, Canada and Australia, because they had magazines all over Germany, invitations to young people to, in this, immigrate to Canada and Australia, and you were not going to be discriminated against, one of equals and so on. So I wrote away to various places, and when the coloured brochures came and the descriptions of the different countries, I chose Canada because number one, it had no army, it was the only country that had no army, and also I liked the climate.

Q. No army?

A. Well, no army that you were drafted to. It had a volunteer army. And this was the deciding point. And so in 1958 I came to Canada, and I haven't regretted to this day ever having coming here.

Q. And what have you done since {3796|3797} arriving in Canada in the way of employment?

A. I arrived in Canada in September of 1958, and little did I know that I arrived in one of the worse depressions or recessions that Canada periodically gets, but I was fortunate because my training apparently impressed some of the local people in the graphic arts business and I found employment within four days, even though I couldn't speak any English or French. And I got a very good job immediately and made very good money, went to night school to learn English.

Q. What was your job?

A. I was a graphic artist. I worked for Simpson Sears at the time.

Q. And what did you do?

A. Well, I did photo retouching, working for the catalogue department of Simpsons Sears, and at night school I first took English and later on

French, but during the English that I took, I met a very nice girl and she was there to learn English, too, which surprised me, because it turns out she was French Canadian. She had come to Toronto to learn English also. And we met, fell in love, married, and I worked as a graphic artist for a while, deciding to go on my own, because I had this drive that I wanted to be a businessman for myself. My wife supported me. And shortly after Pierre was born, we decided to move to Montreal because I wanted to totally immerse myself in the French milieu in order to improve my French that I had taken in night school and University courses here in Toronto. To my regret I have to say that I never really did master French as well as English because {3797|3798} French just seems to be a little bit more difficult. And French Canadians, whenever you speak to them in French and you have an accent or you made grammatical errors, are very kind – they immediately respond to you in English. So it is much more difficult to learn French than it is to learn English.

I became a businessman in Montreal. For nine years I lived in Montreal, had a very thriving business, advertising for some of the larger corporations in Canada, which gave me such a good living that it afforded me to take off three months a year, sometimes five months, four months. I saved money frugally and then my wife and I, Pierre, would take off on trips, and the trips involved, at first, sightseeing, but later on it was basically an excuse for me to go to places, to meet authors whose books I had read, or about whose work I had found footnotes in other books. And I went all over Europe, all over Canada, all over America to meet these people, and I had a very interesting time. I will forever be grateful to this country to afford that I had such a good job to have such an interesting life.

Q. And were you searching for something in particular when you sought out these authors?

A. One cannot be awake and alert person living in Canada and America without being exposed to programmes like "Rat Patrol", "Hogan's Heroes" and things like this, and if you are of German background you know there is another German people not bungling idiots or brutal killers, you know there is something going on from all the media and all those books and {3798|3799} school textbooks. And so I decided to, once again, to in depth research with eye witnesses from around the world, and for instance, I went to England to meet a British admiral, Admiral Benville [Barry Domville], and people like that, also, naturally, German people who had been in the War.

Q. Did you learn anything in particular from these people?

A. Well, the first thing that I learned was that the heroes, my heroes which were kind of indoctrinated into me, meaning the Western Allies, were heroes with clay feet, that they had concentration camps, that Admiral Sir Barry Benville [sic] served years in a British prison, was treated roughly with cells in ankle-deep water, dungeons, that other Britishers had been interned, Canadians had been interned in concentration camps, who had lived here who were white, not Japanese, and had lived here for generations. So that was a big surprise to me. I had never heard it before. So that made me realize that not all was black and not all was white. I was beginning to mature intellectually. And when I finally decided to go to university to night courses to advance my education, I found that in Canadian textbooks that I was naturally forced to take, the Germans were depicted in a totally false, negative stereotype manner. And I have been all my life, I suppose, somewhat of an active type. When I saw that I thought that this wasn't right, because I knew that although there were Germans, undoubtedly, which had been cruel or were anything less than virtuous, the great mass of the German people were like the rest of the people of the {3799|3800} world, like Canadians or Americans, decent, law-abiding, hard-working people. And I did not want to be a member of an ethnic group or be associated with a nation that had such a bad public image. And I thought, what was wrong ought to be corrected through truth. And my research which I had done up until then led me to write to various politicians, to, in those days, the Board of Broadcast Governors, letters to editors, and letters to politicians, to public figures, to poets – I remember Irving Layton was one of them trying to stop the negative stereotyp-

ing and to bring out the truth, whatever the truth was. And when I wasn't successful in a kind of invoking the authorities which I felt were duty-bound and paid for by the taxpayers of Canada, I mean after all I was a substantial taxpayer myself, I felt that they should represent German Canadian interests also.

I then appealed to other German Canadians, and in a kind of ad hoc fashion we decided to have letter-writing campaigns, too, but citizens, action groups, or the kind of today we call them human right activists, too.

Q. Do you have a record of all the correspondence you made to what might be called authorities and complaints about the negative stereotyping with Germans?

A. In the beginning it never dawned on me that one day I might find myself a hero in similar places to defend my reputation. I didn't keep copies. I think like everybody else that writes to a politician, we don't file them and keep them in filing cabinets. {3800|3801}

Q. When was this activity going on?

A. In 1962, '63, '64, '65, but I have some letters, for example, to the former Justice Minister Guy Favreau, and later on, when I realized that this was going to be —

Q. You have a file, don't you?

A. Yes.

Q. From people to whom you complained about.

A. Yes, I do. And then I realized this was going to be an effort that took a little more than I thought, and in my youthful exuberance I thought I could take Canada by storm and change it all and can go back to being a businessman. Here I am, thirty years later, slightly overweight, bald and still treading like a hamster in the treadmill.

Q. Have you given us the extent of your research in this whole topic?

A. Well, I could give you the names of authors that I have been to see.

Q. Why don't you tell us a few of the names of authors that you researched and met?

A. In the beginning they were, quite naturally, German, some Canadian, and some British, and later on some Jewish people. The first one I went to see was a frequently quoted author called Eric Kahlmuer (phonetic) and he published numerous books on the Second World War and Holocaust related topics, and I went to see him in Munich. Then I went to Vienna to meet a man called Verbelen who had been the Senior Spy Chief in Austria, and later on had been the Flemish leader in {3801|3802} Belgium, and he had written some fifteen books. He was very much involved in wartime history, and also in post-war European and political history.

Q. Did you have a particular interest in the Holocaust?

A. Not as overwhelming as it became in 1977, '78, '79, but I was bothered, definitely, like every other German, yes, by this guilt feeling that the German nation collectively should be responsible for the death of so many people in the genocidal programme. You know? That really bothered me. So I met a German author by the name of Arthur Hart who was the publisher of a small periodical, monthly periodical called, "Nazion Europa", "Nation Europa", and he had published a very short precise type article on the problem of the six million and was the first one to point my nose into the direction of other authors and other documents.

Q. Why were you interested in finding other authors and other documents on the Holocaust?

A. Because first of all, purely gut feeling, all the Germans whom I had met for the first half of my life by then, you know, they were not the types who would go around killing Jews. My father was no killer. He was just a soldier like every other soldier. And my uncle and my aunt's husband, it was just a perfectly normal common sense feeling. I've met hundreds of people since I grew up, and there is not one of them that looked to me or talked to me or sounded to me like some guy out of Hollywood. So I felt that something was amiss. And when I got older, a little older, naturally, I could look at this problem {3802|3803} a little bit more dispassionately and it led to this, first to doubt, and then —

Q. Doubt about what?

A. That it might not be true.

Q. What might not be true?

A. That the story that the Germans killed six million Jews was not true. I had believed it firmly till 1960, you see.

Q. Then you had a doubt; what raised the doubt?

A. First of all, as I said, the people that I met didn't fit the stereotype that we were supposed to have done the evil deed, and then the article by Arthur Erhart in "Nazion [Nation] Europa" and the interview with him, then the Karl Meier interview, he was a war correspondent on the Eastern Front and was an author of some fourteen or fifteen thick volumes on the history of the War in various divisions. I mean, if anybody would have seen anything, some of these people that I interviewed would have seen something. Leon Degray [Degrelle], Hans Ditrich Roehrs, he was a high-ranking medical man in the Third Reich political hierarchy, and I interviewed him for ten years about the extermination programme, and his experience is on the Eastern Front. Also he had written a book called "Adolf Hitler The Destruction of a Personality", in German, in which he analyzes the various medicines and doctors surrounding Hitler, what they had given him and what frame of mind these drugs and medicines would put a man into, and so on.

There is another German doctor by {3803|3804} the name of Fi[c]kinger (ph) who was a medical expert on the eastern front who has written a number of books on the programme of black fever which is a typhoid, and I went to see him and interviewed him, so —

Q. Where did you see him?

A. In Schleswig-Holstein in West Germany.

Q. When?

A. 1971 or '72. And I obtained his books, apart from a personal interview with him. So I began to realize that there was something that was not right with the Holocaust and it became a topic of more interest, but somehow it was also macabre. I was young. I was an artist. There was an attraction-repulsion about the issue. So I dabbled in publishing my own books. I had briefly helped this German author, Erick Ker[n]mayer, in supplying sections to a book that he published on anti-German propaganda. I have it here in the Court where I did the translating from English to German, supplied the photographs of forged photographs and also of these lurid covers on these men's magazines.

Q. You mention anti-German propaganda. What part did it play in your researches?

A. I think the more important one is to keep me going.

Q. Why?

A. Because it annoyed me that every time I turned on my T.V. programme or I went to a movie I liked, "The Sound of Music", a perfectly good musical, ninety per cent of the time, suddenly there is the whole screen of the Nazi swastika being ripped, or {3804|3805} Nazis in the most fanciful uniform get-ups chasing innocent people. It bothered me, annoyed me. So I was forced to, whether I wanted to or not, on a daily basis, to confront this negative stereotyping of Germans.

Q. And you accumulated material on that?

A. Mountains.

Q. And have you brought some of them today?

A. Yes, I did.

Q. And where are they?

A. In those boxes under the table.

Q. And what was the offensive type of those negative stereotyping to you?

A. It showed the Germans to be all things to all men, usually an evil connotation. We were at one time cowards, criminals, ruthless butchers, romantic dreamers. We were the Colonel Klinks. We were the butt end of every joke, and I didn't like it. My father was a simple man, but a very honourable man, and so were my uncles. And the people that I had been trained by in Germany, my school teachers and so on, and I would not be party to such a blanket condemnation of my entire people.

Q. I would like to show some examples of that type of literature. Could you show us some examples of that type of negative stereotyping?

A. Yes.

Q. Maybe we could take a box of what you've selected and if you could

give examples from that box. {3805|3806}

A. There is so much of this stuff that I will just select a few.

Q. Describe, if you would, the title and whatnot.

A. There is virtually a publication or a book or magazine or a comic book for every warped taste from sadomasochism to pornography in the outright sense. Here is one that was very prevalent in the sixties called, "Man's Epic", "Nazi Torture Cult Lust Orgy of the Wild Nymphs", and it shows these semi-nude women with swastikas on their thighs, German soldiers with swastikas on their arm, whips, man with dogs.

Q. Describe another one.

A. A similar one here, where Germans are putting women on electric chairs again after they have been tortured and so on. So these were especially for young men, men's magazines. There is another one, "War Criminals" A whole series of booklets in the series dedicated only to war criminals, and virtually every German leader of any note had pages in this book, including Rudolf Hoess, the 84-year-old man. "Hitler on Sex and Pain. Why Women Can't Stand Torture". And these things were sold, I did some research into that, to the tune of hundreds of thousands of copies, all over Canada, all over America and all over Australia. And there are comic books for children. This is some of the most insidious propaganda, and I don't know if you know that, but in America every month fifty million comic books are being printed like this. And if you want to look at those pages, there isn't one of these things here that don't show Germans as unshaved brutal {3806|3807} killers. And as a young father with children at home was naturally disturbed when Pierre would come home and trade these things with his friends. And there is a code that these comic book publishers are supposed to abide by, which is more broken than it is adhered to. So I objected to those things. I mean, there's just mountains of those things going all the way back to wartime.

On the contrary, what I have found on my research that the anti-German stereotyping has become more polarized, and is more vicious now than it was in 1941 and '42.

Then there are the other magazines where you get stories wrapped in what looks like an innocuous thing for a man's interest, and the next thing you know, they are talking about Auschwitz here – "Second World War Inside the Camps", publishing virtually all one side of the story only.

Q. Were you beginning to have doubts about that one side in 1960 or '61?

A. Of course I did. By that time I had met enough people, had read enough books and had enough balance. I met Canadians who had been in prison during the Second World War in Canada by their own government, for their political view, were never charged properly, certainly were not compensated for what they called illegal imprisonment. They were not Japanese. They were Canadian, Scottish Canadian, German Canadian. So I began to realize that there was a different side to the history.

Q. Did you think it was right that {3807|3808} the Canadian Government should incarcerate the Japanese?

A. I have studied that policy and it was as racially motivated, more so than of the German policy, because the German policy was largely ideologically motivated, and there were thousands of Jews who lived in Nazi Germany outside the camp but there were very few Japanese, I believe in Vancouver, and they were Canadian born.

Q. In your understanding of the allegation pertaining to the genocide allegation, what conclusion did you come to?

A. There was no policy of genocide by the Third Reich. There is no order for it. Even Professor Hilberg could not produce an order. There are rumours of orders. Somebody said that he heard that. None of these German writers who were part of this thing and have written books since and who live in occupied Germany where the laws are very strict on those topics and the research has to be far more exact than in the free-wheeling society of Canada, none of them has produced an order. Even today there is a standing order for a thousand pounds if a writer can produce one order by Hitler or one order by

Himmler saying that, "We want to exterminate six million Jews."

Now, I lived in Germany when we had ration coupons, ration coupons to build chicken coops, coupons to buy cement, wood, nails, ration coupons for shoes. Believe me, anybody that said that the Germans during the War where they also had ration coupons and needed special permission to build an outhouse needed lumber for that, if anybody tells me that there were {3808|3809} hundreds of thousands of German Army personnel or Einsatzgruppen or secret police or whoever running around Europe in trucks asking for whole trains to be taken somewhere without papers to get the locomotives or the whole train assemblers, is perfectly ludicrous. Only somebody mesmerized by propaganda could believe in such nonsense.

Q. In your study of the subject has any order been produced to indicate a plan to exterminate Jews?

A. No. An order has been produced, and I have a photocopy of it, where Hitler says specifically not to mistreat any Jews because of the rumour mills that were going around in the Allied World. He was very sensitive to Allied propaganda.

Q. You have a copy of that order?

A. It's somewhere in my files, yes.

Q. And what was the extent of your study of the theory of the Holocaust?

A. I am almost like Dr. Botting when it comes to – you read one Holocaust novel, or one Holocaust story, and you virtually have read them all, because only the names change, the places change, the actors change. The accusation never changes – gas chambers, the Germans are guilty, they are the brutes and vicious. So ultimately, in your mind, it begins to contract into a big blob of one Holocaust [sic] story. It is virtually the same. I've got boxes of these books here – "Treblinka", "Doctor in Auschwitz" – the whole historical trend of history series – "Doctors of Death". If you want to, I can list them. It's an unrewarding {3809|3810} enterprise, and I think it's a sad commentary on —

Q. Why is it unrewarding?

A. Because it warps people and it agitates people to help other people. The intent of the writers, obviously, has to be that they want to make the Germans appear in a bad light, and the Germans are upset like I was and like I am that we are being negatively stereotyped. We ought to get on with living. This is 1985 not 1945.

Q. Did you get involved with the German community and other German people in Canada about this matter?

A. I certainly did.

Q. How?

A. I appealed to them in letters to the editors, in advertisements, and when I ran against Trudeau in public speeches, to help me help ourselves and help Canada in the process, because by helping German Canadians get a fair deal, we help Canada to become a better place. It's not a German thing that I am riding this hobby horse and be Mr. Superman German. It is not that at all. I think this country has room for a diversity of people and it also has the greatness that we can come and say, "Look, bad things happened in the Second World War["]". We Germans have forgiven the world a long time ago for the bombing raids and for the mistreatment of our prisoners of War, you know, and so my —

Q. His Honour is interested in your answer. Would you like to direct it to His Honour?

A. Well, that was my answer, really.

THE COURT: Excuse me, members of {3810|3811} the jury.

— The jury retires. 10:45 a.m.

THE COURT: Mr. Christie, I cite you to show cause why you shouldn't be held in contempt. I will deal with you at the end of the trial.

Bring back the jury.

MR. CHRISTIE: May I understand what Your Honour means by that?

THE COURT: The record will display it. Bring back the jury.

— The jury returns. 10:46 a.m.

THE COURT: Thank you, Proceed.

Q. MR. CHRISTIE: What involvement did you have with the German community in regard to their children? We've had evidence of the children from other witnesses and from other people who experienced difficulties in regard to the Holocaust and the school. How did this affect you?

A. In response to my high profile, if you want to call it, German parents from all walks of life and from many parts of Canada contacted me with {3811|3812} problems that they had with school textbooks, with university textbooks, with some physical attacks on their children, death threats to their children in school, and I was like the unpaid ombudsman to these parents.

Q. So what did you do in order to help them?

A. First of all, I calmed them down, because many of them were near hysterics. Some of them had taken their children out of school, and I advised them to talk to the principals, talk to the teachers, try to get a line to the parents of the kids that had threatened them with cruel exterminators and stuff like this. I usually cautioned them not to take the legal route or take legal action, because children in school become very easily hostages. You know, kids get picked on in school. If kids, we come too stridently to their defence, I have enough experience in this to know that that is the case. So I try to use a kind of a conciliatory method of making some teachers see the errors of their ways, and some kids to calm down. And in a number of cases I was successful.

Q. I want to get into the realm of – have you explained thoroughly or to your satisfaction as much as you wish to say about the subject of anti-German propaganda?

A. I don't hope to get you into any more problems if I did something wrong with this display of this stuff, and I would like to know if – I don't want to run afoul of His Honour.

THE COURT: You are not running {3812|3813} afoul of anyone.

THE WITNESS: So we have looked at comic books which are very serious problems, especially for our children. We have looked at men's magazines which are no longer prevalent because of videos, but nevertheless, they were in the sixties.

Then there are other specialty magazines that misrepresent Germans, and then there are, I think, the biggest offender, apart from television, are pocket books.

Now, I challenge anyone to go to any bookstore and to look at the vast display of swastikas of one way or another that you will find in bookstores. I have a collection of hundreds of those books.

Q. Have you read them?

A. I have glanced over them. Some of them I read in detail. Others I don't because, as I say, they are basically the same stuff. It's what they call formula writing in writing circles – the villains assume a certain shape and names and so on, and the story virtually is the same.

Q. Have you read Dr. Vrba's book, "I Cannot Forgive"?

A. Yes, I did.

Q. How did you find it in relation to the types that you have described?

A. Well, I think he said it best himself, that he took artistic liberties when he wrote the book. I certainly think it was a long time in coming, an admission that it was an artistic work rather than {3813|3814} a documentary, and it would have been nice if he had said it some twenty years ago.

Q. I'd like to now move into the realm of your research, what you've described in terms of travelling throughout the world. Have you described all the people that you have interviewed in the course of your research?

A. No, I have not. The one man in West Germany who had a profound influence on me in the sixties was Joseph Ginsburg who publishes under the name of J.G. Burg, and he is a non-Zionist, a Talmud scholar coming from a long family of Talmud scholars, and he wrote a book, "Schuld Und Schicksal". The English translation of the title would be, "Guilt and Destiny".

Q. And what did you derive from that book?

A. Well, in it he reproduced documents about the Madagascar Plan and the official German policy of emigration, not extermination. And his book had a tremendous impact on me because here was, for the first

time, a Jewish author that spelled out in detail what the German policy really was.

Now, he is not a Nazi lover. He was, himself, uprooted and interned in one of the settlements in the East and he was critical of German policy because the sub-title of the book is called, "Europe's Jews Between Hangmen and Hypocrites". But I met Mr. Burg. I corresponded with him and subsequently met him. He came to Canada to do some video film with me. I spent three and a half weeks with this {3814|3815} man. He was a guest in my house, and he has written some ten, maybe twelve by now, books on this angle of the Holocaust. And he flatly said to me, and he says it in his books, that there were no gas chambers in German concentration camps for killing Jewish people.

Q. Do you think there were, from your research, gas chambers in German concentration camps?

A. There were delousing chambers.

Q. What is a delousing chamber?

A. It is a fumigation room, if you wish, for clothing and for bedding and for blankets, some even for food, I understand, but certainly not for killing people. And also I must add that in 1963, as a result of my research, I went for my first visit to Dachau, and in four languages, three of which I could by then understand – English, French, German and Russian – it said, on a model, inside the gas chamber in Dachau where my French Canadian wife was standing right beside me, that nobody was gassed in the concentration camp of Dachau yet. We were standing inside what was called the gas chamber, and in the entrance hall to that gas chamber there were two books, thick books, guest books they called them, impressions where people put their reaction to the concentration camp of Dachau, and in that, in every language in the world, many of whom I couldn't understand, but certainly English, French and German, there were outpourings of such hatred against Germans after people had been to this faked gas chamber, to this macabre display, that I thought to myself, what an evil thing to do to the people of the world, because {3815|3816} many people are uncritical, obviously. They were all around me. They were almost in a kind of religious awe as they went through this concentration camp. And they were agitated to the point of putting down on paper some of the most vicious things that I've ever read. And I decided that somebody had to do something about it, and this is what spurred me on.

Q. What did you learn from your interview and discussions with Mr. Ginsberg?

A. That Jews were not treated nicely in Germany, that there was persecution of Jews – not all Jews, some Jews, many Jews, maybe – that they were humiliated, that their property was confiscated, that in the beginning they had to write their names in large letters outside their stores so that Germans could realize these were Jewish shops. He told me about the Crystal Nacht, the crystal nights with their broken glass, but he cautioned me not to be overswept by emotion. It was highly overblown, an event in Germany that very fewer people died than is popularly claimed, and he told me about his own personal experiences in the Eastern settlements where the Rumanians and others collaborated into putting people into those settlements, saying to me that they were worse off in those areas where they were not in concentration camps in Russia and Rumania and the Ukraine, because there they had some self-government, and many Jewish people died there because, he said to me, that they had forgotten how to survive. There were intellectuals, professors, stuff like this, and in the German camps everybody got maybe not good food, but some food, some blankets, some {3816|3817} shelter, some medical treatment, whereas in these areas where he was, the administration had virtually broken down and it was Jewish self-administration.

Q. Where was this?

A. It was in yellow Russia.

Q. Yellow Russia. Did he describe Auschwitz at all to you?

A. Yes. He said that he was part of a Russian team or a Russian commission that, when they were liberated by the Red Army, he went as part of this commission to Auschwitz in 1945, and he said when he was there he found no gas chambers. And I introduced him to the Toronto

media. There were some police officials present, and he would not tell me the name of the commission. And when I pressed him on it in three and a half weeks, he said that he was entitled to keep that secret because it would be interpreted that he was a communist, and he didn't want to be known that he was a communist, but from what he described what he saw, I have no doubt that Joseph Ginsberg was in Auschwitz in 1945.

Q. Did he publish these things in his book?

A. He certainly did.

Q. And you are familiar with his book?

A. I certainly am.

Q. What other authors did you interview and persons who had been eye witnesses to these situations?

A. I have signed and sworn affidavits of Germans who were in the camps shortly after the War {3817|3818} and who they are too old to come to Toronto, but I had them notarized in Germany who installed some of these death contraptions, like the apparatus to shoot people in the neck for mass killing. And this is another big pillar of the Holocaust. Q. So they had instruments to shoot people in the back and neck, did they?

A. Built in 1946 on Russian instructions by these German engineers who are very much alive today and who took the trouble to write their experiences in front of notaries and sworn under oath.

Q. What do you mean, they were built during the War?

A. No. They were built after the War.

Q. Why?

A. So the Soviets could show the tourists who were herded through there and the officials, not like the films we saw here where the Senators were shown through and thought they saw a gas chamber in Dachau. It is part of propaganda. Mr. Walendy read the directive of the British Ministry of Information about creating, deflecting propaganda. Anybody over the age of twenty that has studied this stuff doesn't find this surprising.

Q. Are there other people you interviewed in your research besides Dr. Ginsberg and others? Can you name other people?

A. Yes. I interviewed a woman, Frau von Tonnigen (ph) who was the wife of the former Minister of Finance in Holland, and she knew and her {3818|3819} husband knew Seyss-Inquart, who was the Governor of Poland, and knew Heinrich Himmler personally, and they were high-ranking officials of the government who, through the policy of deportation went during the Nazi area and they had also known Hitler, and she is very much alive. He was killed under mysterious circumstances while in Canadian custody. She never heard any discussions of gas chambers in Dutch concentration camps or policies of mass extermination. And she is very much alive to tell me this.

Then I spoke to minor party people, because sometimes the lower echelons we have heard here in Court that it was not the high-ranking officers that the evil deeds, it was a kind of miraculous conspiracy that was started in the lower ranks by themselves, and I interviewed people who had been on the Western Front and the Eastern Front, had been working in Warsaw, which was the main railroad switching point, one lady in particular called Emma Schoenlebe who had prepared the timetables for the GERman [sic] railroad intersection point in Warsaw, and who would have had knowledge of alleged death trains.

Q. Mm-hmmm.

A. And one-way trains and all this stuff. She said to me that they had plenty of trains going to various concentration camps, but the idea of them not coming back and stuff like this was ludicrous because there were constant train movements into camps and out of camps, and we had some of the eye witnesses here in the courtroom, and Mrs. Sabina Citron who was the lady who laid the charge against me in the first {3819|3820} place, she was taken out of Auschwitz to other camps. So it wasn't a one-way ticket.

Q. How do you know she was taken out of Auschwitz to other camps?

A. She told us under oath at the preliminary hearings.

Q. She didn't testify in the trial.

Q. [A.] Not yet.

Q. So did you do other interviews with people in connection with the Holocaust allegation?

A. Well, I naturally, everybody in this courtroom that was here has heard that I interviewed and collaborated with Dr. Faurisson, in France, with —

Q. What did you find out from him?

A. Well, those who were here know I got plans of Auschwitz, and I got his research on the gas chambers in America going all the way back to 1924, '25.

Q. Why is that, in your opinion, to your view, why was that necessary to examine that?

A. Because the same method of killing, allegedly, was used in Germany. And the same compound in the gas chamber was allegedly used also in Nazi Germany.

Q. How does that make it relevant in your view?

A. You know, science doesn't suddenly change, and chemical compounds don't change their nature just to please a particular ideology. I think that Zyklon-B, the trade name or whatever it is, the chemical name, will be forever that. It doesn't {3820|3821} change for Germans and it certainly doesn't change for Jews.

Q. But that still doesn't explain why you think the American gas chambers are relevant to the German allegations.

A. Well, I thought that it was very much relevant because it showed the construction and the care and the quality of a building, the size of a building necessary to kill just two people or one person, and it showed it at a time when the technology would be similar to what German technology was like, and there was some suggestion in this courtroom that today's technology is different. That's true. We have more advanced technology, but if a gas chamber built in the 1930s or 1940s in North America using Zyklon-B as the murder weapon can be compared to what is alleged to be gas chambers in Nazi Germany, I think we get a very good comparison of what is feasible and what is not feasible, what is possible and what is not possible.

Q. Why, in your common-sense understanding, why does the examination of the gas chambers show that it was not possible to do the mass gassings alleged?

A. The photostats of the documents that Dr. Faurisson supplied to me was that over forty safety steps alone that were necessary to prepare a victim for gassing in the gas chamber, to receive the victim, and then the cleaning of the gas chamber and so on were so extensive and has been borne out, if I may say, by later testimony by the chemist, Dr. Lindsay, that it is ludicrous to suggest that these Germans used this method to kill these people, as it is alleged. I {3821|3822} don't believe it.

Q. Other than Dr. Faurisson, do you know a Dr. Stäglich?

A. Yes, I do. He was a German anti-aircraft officer stationed at Auschwitz. He was a judge for the finance court having to do with tax matters in Hamburg. From what I can read, a respected member of his particular profession. And he wrote an article about his experiences, his eye witness account of what happened to him and what he saw in Auschwitz. Apparently the next thing the poor man finds himself without a job, his pension reduced, vilified and now stripped of his doctorate in Germany for telling the truth about his eye witness account in Auschwitz.

Q. How was he stripped of his doctorate?

A. Because the Director of the University where he received his doctorate in law decided a man who has such views should not have a doctorate from his university because by that he was dishonouring that university, and he was using the decree passed by Hitler, strangely enough, by Jewish academics to do it.

Q. You mean there are still laws passed by Hitler in Germany?

A. I am not an expert in law, but as I understand the German Criminal Code, it is virtually the same with few additions. It was the same that was under Hitler, and it was the same that was active under Kaiser II.

Q. So Dr. Stäglich has written on the subject. Have you read what he's written? {3822|3823}

A. I read the initial thing which got him into trouble.

Q. What?



A. Well, his experiences at Auschwitz that he was as an officer free to roam in Auschwitz, and he saw no evidence of mass gassings. And then, when he got into hot water and was forcibly retired, he wrote a very thick book, I can produce it in this court, of some eight hundred pages, describing, as the title says, the "Auschwitz Mythos [Mythos]", "The Myth of Auschwitz", all the convoluted ways that the judiciary and the press and everybody works together to keep this myth alive.

Q. Why do you think they do that?

A. Germany is an occupied country. We have a media which was and still is licensed by the by the Allies. They receive their licence under certain stipulations, and the stipulations were not to show the former German Government under Adolf Hitler in any favourable light, and to not publish a picture of Hitler in less than thirty screen reproductions, which means rather large dots, so that people couldn't use it as wall hangings. That's how thorough these Allied licencing authorities were, and that is a thing which apparently has quietly now been dropped recently, but up until the middle seventies Hitler pictures in German publications and news had to remove the swastika insignia, a German veteran could not show the medal, he has to wear a new one with the swastika removed because it is a two-year jail term if you display a swastika. {3823|3824}

Q. So did you read that big book?

A. No. I read portions of it because he writes, with all due respect to the legal profession, like a typical lawyer, and I have read the story before. It's —

Q. Have you talked to Stäglich?

A. Yes, I have.

Q. How often?

A. I have corresponded with him. I have telephoned with him back and forth asking some fine points. I had asked him to be a witness here at this trial, but he just had a heart operation so he couldn't come here. I have a very nice letter from him where he supports and also lauds my work.

Q. Have you discussed this issue with other people throughout the world and interviewed persons who have written on the subject?

A. In 1968 already I went to West Germany, and there went to the Government Office in Bonn responsible for the Ministry of German Units and took along some of my then smaller collection of German propaganda and pointed out to them the devastating [sic] effect it was having in Germany, in foreign lands and also on German sales of industrial products in Canada and America, and so on, and I had a whole afternoon session with the Secretary of this Ministry and some assistant secretaries, and we discussed the problem at length, yes. I mean, there was one remedial step that we hoped to undertake. I have gone to German Consulates, German Consular officials, press attaches, consules [sic], vice-consules, [sic] on the level in Montreal, certainly here {3824|3825} in Toronto and also in Ottawa. Usually they tell me that they are diplomatic representatives, and they are very tightly governed and regulated that they cannot interfere in the affairs of this country or host country, and it is much better if German Canadians fend for themselves and fight our own battles. That was virtually the answer that they gave me.

Q. Did you interview other people as to eye witness accounts and research in that regard throughout the world beyond what you've described?

A. I interviewed a writer who put out a book on foreign volunteers in the S.S., because many of those people are accused in this popular literature by the exterminationists that especially Latvians, Estonians were the killers and got them to do the dirty work.

Unfortunately the man has died since, but he published a book on the Germany's foreign volunteer armies, and in his research he came across the Einsatzgruppen, the work of the Einsatzgruppen, nowhere near to the extent that one Einsatzgruppen would kill ten thousand or thirty thousand people, but he mentioned that there were executions of a hundred, two hundred, three hundred even[,] partisans, even in the area where von Manstein was operating towards the Crimea.

Q. Do you deny those executions?

A. No, of course not. I am convinced that the Germans were ruthless, tough, certainly in the east where the Soviet Government did not adhere to the Geneva Conventions, did not adhere to the rules {3825|3826} of warfare, of the Hague Convention and so on. This was a gloves-off fight with a ruthless enemy, and I have done enough research into Soviet treatment of German prisoners, Stalingrad Army, von Paulus (ph) comes to mind, where ninety-two thousand Germans surrendered and only six thousand came back. The others are dead. And those six thousand which did come back, I've met a few of them, they are like the living dead.

So I am sure that the Germans were rough and that they did execute people, and I am the first one to admit that there was wrong done in some cases. War is terrible, therefore I subscribed to Faurisson's dictum that war itself is a crime, and that we ought to remove reasons for war through information.

Q. Just how many people can you tell us you've interviewed since you came to Canada for the purpose of understanding what happened on the Eastern Front in the Second World War?

A. If I say countless, it sounds like braggings [sic], but frankly, I didn't keep score in the sixties because I never thought it was important. I have some interviews in the last ten years which I have made, but not only in Canada but overseas, in America and so on.

Q. Are there any other examples?

A. Yes. I interviewed a friend of Menachin [sic] Begin's called Haviv Shiver (ph) in Washington and he is the man who told me about —

Q. Was he Jewish?

A. Yes, he was. He was the former Major of Betheba. I have a long interview with him. It {3826|3827} is on tape. I have marked it. And he told me about the activities of when they were taking over Israel, how they acted towards the Arabs, and he has since become a Christian, because he was so horrified and felt guilty about what this fight took and the brutalities committed in it. You know? Then I went to interview Benjamin Friedman in New York City, who is a very prominent Jewish manufacturer, candy manufacturer who used to be the president of Secretary Morgenthau. (Sic)

Q. You mean the secretary?

A. He was the secretary to President Wilson, and I have a two-hour tape in my publishing house of my interview with him, and it is a wide, far-reasoning interview touching on topics of the First World War, how it came about, the Balfour Declaration, how the Second World War came about, the railroad arrangements. He was a big influence on me. He was a very nice man and he just apparently recently died, ninety-six years old. He was a kind man and he was maybe one of the few that I met, he was Jewish, he became Christian, also. And so —

Q. What influence did your conversation with him have?

A. Well, he showed me that we had to live in this world together. By the time I interviewed him he was a man getting on in years and he had no animosity, and there was a quality about him which was almost — it was perfectly evident from the interview — and I interviewed a French psychologist, Professor Dommerque.

Q. Are these writers people who have published? {3827|3828}

A. Dommerque has written a number of books in French, yes. And they are small publications.

Q. Is he Jewish?

A. He is very much Jewish. He belongs to one of the most illustrious families going back in France. He was a resistance fighter, he tells me, during the War.

Q. Why did you interview [sic] him?

A. Because he had written on the Holocaust, and I had received his publication in which he calls the Holocaust a mensonge historique, which means a historical lie, which is the same thing Dr. Faurisson said. And I republished his letter. And I had difficulties with Ottawa to come to my support, and he made tape recordings for me of his viewpoint, and his independent research comes to the conclusion that approximately seven to eight hundred thousand Jewish people died of all causes during the Second World War. He does not believe in the gas chambers, and he certainly does not believe that the Nazi Government



were in totality ogres. As a matter of fact, he had some, from his psychologist point of view, interesting assessment of some of the leaders at the time, which he shared with me in a tape recording.

THE COURT: Is this a convenient time, Mr. Christie?

MR. CHRISTIE: Yes, sir.

— The jury retires. 11:20 a.m.

— The witness stands down.

— Short adjournment. {3828|3829}

— Upon resuming.

— The witness returns to the stand.

THE COURT: The jury, please.

— The jury returns. 11:55 a.m.

THE COURT: Go ahead, Mr. Christie.

Q. MR. CHRISTIE: We were discussing people that you had interviewed in the course of your research, Mr. Zundel, and we are discussing the Professor Dommerque in France. Is there anything more that you learned from him that had a bearing on your opinions?

A. He also did research into the gas chamber allegation and population statistics and corroborated independently what Dr. Faurisson had told me about the situation of French Jews during the Second World War, and after the Second World War he —

Q. Where were these interviews [sic] carried out?

A. Some by telephone. Most of them in person.

Q. Where?

A. In France, in Germany, anywhere. Usually in these people's homes.

Q. Where? Professor Dommerque where?

A. Him by telephone. In other words, I would call him from Toronto, or first it would start out as a matter of correspondence, and then, when {3829|3830} I realized that I wasn't getting out of the correspondence fast enough what I wanted to get, I would call him and make tape recorded interviews with him.

Q. And did you obtain his books, his curriculum vitae and that sort of thing?

A. Yes. I have a signed, notarized affidavit when he gave it to me that I could present to this court, if need be, because his teaching does not permit him to be here. If the trial was held somewhat later, he had offered to come here.

Q. And do you know what his academic background is?

A. He is a professor of psychology, still employed in teaching psychology in France.

Q. Do you know where he teaches?

A. It's on his letterhead. I could look it up.

Q. Who else did you conduct interviews of?

A. With Professor Dr. Austin App. He was a great influence on me. He was an American, and once was awarded the medal of the Great Educator of Men. He was a professor of, I think, literature at La Salle College at one time, and he is retired and now dead, and I have many of his books and I have some filmed interviews and some tape recorded interviews with him. He spoke quite good German, so I made some interviews in German and other interviews in English which I distributed.

Q. What books did he publish?

A. He wrote a number of books on {3830|3831} the Third Reich, on the six million, one called "The Six Million Swindle". And he also came to the conclusion, based on in-depth research by himself with especially people within the hierarchy of the Catholic Church. He was a very well-known Catholic writer, and he went, for instance, to see Bishop Neuheuser (ph) [Neuhäusler] who had been a Bishop in Dachau, and he put these experiences in there, responses to him in these book forms, and later on also in my interviews and tape recordings and all of them come to the conclusion that life in concentration camp was no Sunday school picnic. It was terrible. There was deprivation and in all the things that we have heard from some of these eye witness people, except for the gas chamber. They talk about delousing, the methods by which they arrived, by which they were registered, but there is always one component missing, and that is always the gas chamber allegation. After many years of research he came to the conclusion that there

were no gas chambers in German concentration camps. Then I consulted the technical engineer in the United States who published based on his research the method of killing inmates in what are now called gas wagons. These are mobile gas chambers, allegedly so, and he has done a great deal of research into automotive engineering, and he comes to the conclusion that in the trucks that are allegedly used for these gas wagons usually are Saur trucks from the firm of Saur in Austria that they basically produced diesel trucks, and in some of the films that we are shown, diesel engines, some of the eye witness accounts said these are diesel engines killing these prisoners, {3831|3832} and apparently the emissions from diesel engines are not so poisonous that they could kill people. He said it would give you a searing headache. It might make you even unconscious, but it certainly wouldn't kill you.

Q. Why is that?

A. Because one is carbon dioxide that is emitted by diesel engine, and carbon monoxide by gasoline engines.

Q. Who is this person?

A. He is an automotive and chemical engineer in the United States. Again he wanted to testify here, but he had other commitments. If the trial had gone on a little longer, he would have come up here to testify.

Q. And how long had you been in communication with him?

A. Three or four years.

Q. Had he written books?

A. Booklets, video tapes.

Q. On this subject?

A. On this subject. And I interviewed a Professor James Martin who was long before this Institute for Historic Review, he was the foremost revisionist, Dean of Revisionist in the United States.

Q. And his name was ...

A. Professor James Martin.

Q. Where was he a professor?

A. In Denver. I interviewed him in California, and I had read his books previous to that, and he talks — he is a scholar that has actually done {3832|3833} about sixty or seventy years of research into what is now known as revisionism. He was a very knowledgeable man on the work of Professor Dr. Harry Elmer Barnes who was a revisionist after the First World War, and he introduced me to this man's works, and he was also of the opinion that this unspeakable crime didn't happen in the way it allegedly is.

Q. Is he still alive?

A. Yes. He is elderly, but still alive. I asked him to come as an expert, but he is too old to travel.

Q. And what has he published on this subject of the Holocaust?

A. Numerous books on revisionism. Nothing specifically on the method of killing and so on. He looks at propaganda versus revisionism. That is his field of specialty. And then I frequently consulted, visited and interviewed Professor Oliver who lives south of Chicago and is an author of numerous books and was an intelligence officer during the Second World War, and he shared some of his findings about anti-German propaganda, especially which he had published under a nom-de-plume. Then Professor —

Q. What nom-de-plume did he publish under?

A. It was a very famous American writer during the War called George Sylvester Fierech (ph) and it stands out in my mind because it was alleged that Fierech was the illegitimate son of the Kaiser. So one of the names he used in propaganda was Fierech in conjunction with all the names. Then I spoke to, {3833|3834} corresponded with and certainly read over and over again two major works by Professor Dr. David Hoggan, and his two massive works. One is called, "Der Erzwungene Krieg" — "The Forced War". There is no English edition of this work. It is a book of over a thousand pages. And it details and goes in depth into the coming about of the War, what caused it, what forces were at work. It's a massive, interesting study. It was published, I believe, by Grabert and Lubinen [in Tübingen]. And he wrote another book called ... (German title), which is "The Unnecessary War". The title speaks for [itself]. He came to the conclusion that that War, Second World War, was totally unnecessary. Then Professor Charles Weber who was here as a

witness, he shared some of his findings with me. Then Dr. Lindsey, who was also a witness here, the chemist who especially convinced me that Zyklon-B in the manner described in many of these Holocaust exterminationists' thesis books could not be the compound used in the manner described in the gas chambers. He shared with me and I still have the photographs which he took on all his trips to these alleged extermination camps in the East and I have used those in video films. Then there are some films —

Q. There is something I want to ask you particularly, if I might. Have you read the book, "Debunking The Genocide Myth" by Paul Rassinier?

A. Yes, I did, a long time ago.

Q. Did you study that?

A. Yes, I did.

Q. Did it form a basis of your opinion? {3834|3835}

A. Yes. I got after the French version copy because my French isn't what it should be, and I obtained the English version after.

MR. CHRISTIE: May I file that, Your Honour.

THE COURT: Yes.

— EXHIBIT 69: Book "Debunking The Genocide Myth" by Paul Rassinier.

Q. MR. CHRISTIE: What part did Paul Rassinier play in your understanding of this question?

A. Paul Rassinier was one of the first non-Germans that got concerned with this question. Maybe because I am an artist, I am more into atmospherics. I was impressed that that man, who undoubtedly suffered in German concentration camps, was a French national, was a former member of the French National Assembly, was certainly anti-Nazi, that he would have the greatness, as a person, to overcome his own personal animosity and to exonerate [sic] the German people from this terrible thing.

Q. And did you get a chance to meet him?

A. No. He died two weeks before I got to France.

Q. I didn't intend to interrupt you, but can you carry on describing people?

A. Yes. During that trip when I had planned to meet Rassinier I met Henry Coston, a famous French writer, and he is possibly the best known, {3835|3836} call him the greatest French authority on Freemasonry and implication world politics. His specialty concerns the Great Orient Lodge in Europe.

Q. And are you aware of the distinction between that and the British lodges?

A. Yes, I am. I met him in Paris where he lives and still writes.

Q. Yes.

A. Then I met a Professor Dr. Otto Frederick, who is one of Austria's most renowned geologists. He has undertaken a study of all the stones and rocks and formations in all of Austria. He's gotten many awards. And he, too, has studied the Holocaust question, got into hot water over it and won two court cases, and he shared with me the information which helped him win the court cases which are part of the basis of my own thinking.

Q. Well, what is that information?

A. It's information which I have mentioned before, that there is a physical impossibility involved. This man is a geologist, a mining engineer, and he examined it from a scientific area and brought into it — he has three doctorates, that man. So he brought into it all his expertise, and he comes to the conclusion that no Jewish people died in the Holocaust [sic] as stated in this eye witness literature through gas chambers. He again, like anyone else that is serious about this question, does not deny Jewish suffering.

Q. Do you?

A. No, I don't deny Jewish suffering. It is a well-known fact. Then Dr. Helhuber (ph), an {3836|3837} Austrian who has three doctorates to his name, published on the human side of what war does.

Q. What did he publish?

A. Oh, yes. He even wanted me to publish two of his books. One in French and have one translated in English; but publishing is a terribly

expensive enterprise, and I had to turn him down.

Q. Has he published already on the subject?

A. Yes, he has. In Austria.

Q. And what are the titles of his books?

A. Oh, you got me there. I don't, frankly, remember.

Q. What is his thesis, having discussed it with him?

A. He is a very strong Catholic. He chides me in some of his letters that I am not religious enough in my writings. He thinks I should inject more religion; but outside of that he thinks it's necessary that the job that I do, I do.

Q. What is his thesis on the Holocaust?

A. That there was suffering in the Second World War, that not anywhere near six million Jewish people got killed in that War.

Q. Are there any other authors or publishers?

A. Well, there is Ditleb Felderer that Your Honour has met and everybody has met. I went to see him in Sweden. I first heard about him on a {3837|3838} publication, I think it was the Latin Jewish Chronicle that there was this splinter Jewish group. Somebody sent me information that there was a Jewish revisionist who was publishing stuff about these camps in the East. That really aroused my interest and I corresponded with him and I got a book authored by Ditleb Felderer and David Cohen, and that led to an exchange of letters.

I then travelled to Stockholm because I wanted to see for myself if this man was for real or not, and I did a filmed interview with him, audio interviews in English and in German, and obtained from him at that time slides, maps and charts and firsthand information. I even brought back from him actual crystals in a bottle of Zyklon-B which he had brought from Poland.

Q. From Poland?

A. But by now the gas had gone out of it, just the carrier of it.

Q. What did you think was significant about his work?

A. I don't share his flamboyant style of promoting what he finds. He called me that I was a typical humourless German, too serious, and, well, that's — maybe that's true, but he impressed me most with him was that he is an eccentric, but he took fantastic photographs and risked a great deal to get these photographs, even jail, to bring this truth out, and whatever one might think about him, he is an incorruptibly honest researcher.

Q. What did you see from the photograph? what effect did it have on your mind? {3838|3839}

A. He has just beautiful colour slides of fumigation chambers in the rusty conditions that you can find them today in these camps.

Q. What camps?

A. In Auschwitz, Auschwitz I, II, Birkenau, Treblinka. Treblinka is not much left, but especially the Auschwitz complex. He apparently snuck into forbidden rooms and had very good camera equipment and came back with close-up photographs, and interestingly enough, these photographs of the fumigation chambers look very similar to Dr. Faurisson's photographs of the American gas chamber.

Q. Well, how is that significant to your understanding of the gas chamber story?

A. Because according to Felderer the Polish authorities in the camps don't claim that these were gas chambers, that they were fumigation chambers. And you can see the clothes racks and mattress racks where mattresses were fumigated in those chambers, particularly in those photographs. It is as if somebody walked away yesterday and just left every thing standing in place. An interesting component which I learned from him and had not seen with anybody else was the stained, bloodstains that apparently Zyklon-B leaves on mortar cement walls, brick walls and so on, he came up with extreme close-up photographs, and gave to me a sample of brick which he chipped out from one of those chambers. Now, I haven't had it analyzed. He assures me by this work that this was the residue of Zyklon-B that Zyklon-B causes in mortar and brick. {3839|3840}

Q. Have you had an opportunity to see from him what was inside Leichenkeller I on the map?

A. I did.

Q. Why is that relevant?

A. Because he had taken infrared photographs of this structure, and in the photograph itself you can very clearly see that there had been partitions, walls on the floor, on the side and on the ceiling. You can see very crudely-chopped holes in the ceiling with reinforcing rods pulled back. He showed me photographs of crematoriums not connected to chimneys which are on the outside. He showed me – I mean that man has just thousands of photographs, and I spent almost three weeks in Sweden, frequently going to visit him, and very seriously studying this. He showed me photographs of kitchens where even today you see these German field kitchen pots, huge pots, where food was prepared in, which I remember from the wartime in the German Army used to come through a valley. And laundries, Olympic-sized swimming pools.

Q. Have you seen photographs of that?

A. I have seen it. And it was a big surprise to me.

Q. Have you seen the Auschwitz Album and other documents that show Auschwitz?

A. Yes, I have.

Q. And are you satisfied in regard to the location of that pool?

A. In some maps the pool is just {3840|3841} omitted. It's not shown. And I certainly didn't find any mention of it in the Auschwitz Album.

Q. In regard to Mr. Felderer's work are there colour slides of the inside of Leichenkeller I in Krema II in Birkenau?

A. Yes, there are.

Q. What is significant about that in your opinion?

A. Because, I mean, they are of such brilliance and sharpness that you can see every minute detail, even the structure of the wood and the concrete and the rust on the metal and the Zyklon-B stain on the fumigation chambers. There are pillars there in that particular photograph, very clearly visible, huge pillars about the thickness of a man's grab, grabbing around it, that weren't supposed to be there.

Q. The inside of Leichenkeller I, did you see any Zyklon-B stains?

A. No. In that photograph, that's the remarkable thing. There are no Zyklon-B stains. That's the one that is – are you referring to the one gas chamber that is now on display in Auschwitz today?

Q. I said Leichenkeller I, Krema II. Would you be able to identify these photographs if you could show them to the jury?

A. Yes, I could.

Q. And were they the basis of your opinion?

A. They sure were.

Q. And have you had instructions {3841|3842} from Mr. Felderer as to what they represent?

A. Yes, I did.

Q. And have you called Mr. Felderer back to show them to the jury?

A. Yes, I did. I hope he can be here with us today or tomorrow.

Q. And did he have to come from a distance to do so?

A. Yes, he did.

Q. How far?

A. California.

Q. Now, what else did [you learn from Mr. Felderer's photographs?

A. That, to my big surprise, there was apparently a theatre in Auschwitz where inmates were acting out plays, and that there were pianos. You can clearly see the outline and shape.

Q. Do you know the work of Fanya [Fania] Fenelon?

A. Peripherally, yes.

Q. What is it about?

A. About her life as a pianist.

Q. And is she Jewish?

A. Yes.

Q. And are you aware of the existence of an orchestra in Auschwitz?

A. Yes.

Q. And are they in the revisionist literature?

A. No. In Washington, D.C. I had files that I had researchers go to. One of them is {3842|3843} called Durfelder (ph) file. And that file talks about the whole Auschwitz area, Monowitz and so on, and there are very good black and white photographs of bands, male bands, female bands.

Q. What do you mean, "bands"?

A. Well, orchestras.

Q. Musical

A. Musical bands.

Q. Are these supposed to be S.S. men?

A. No. These were largely inmates, musicians who were inmates.

Q. What else did you learn from Dittlieb Felderer's pictures?

A. Not from Felderer's pictures. They are photographs in there of the very latest x-ray equipment. One of them even has a person lying on it, a very healthy-looking person, and there is even one photograph of a fencing match going on, where it says, "Auschwitz Monowitz Fencing Club", or whatever, in the background.

Q. These are in the archives where?

A. In Washington, D.C. And there is also a menu in there, the daily menu broken down in calories, and the composition of each meal, which I would say is as good as any meal that we could get in a cafeteria today, maybe not quite as large portions as we are used to in Canada, but it was a good meal with soups, mashed potatoes, carrots, even some meat, coffee.

Q. You heard the evidence of Mr. Vrba on the issue of drinking coffee at Wetzler's {3843|3844} mortuary shack. Have you examined the maps to see if such buildings existed?

A. I couldn't find the mortuary shack.

Q. Okay. Have you looked at maps of Auschwitz-Birkenau?

A. Yes, I have, but I certainly don't claim to be an expert map reader, believe me.

Q. Now, are there any other people you consulted?

A. Yes, I did.

Q. Is there anything else you derived from Dittlieb Felderer, first of all?

A. Well, there is one more item which I learned from him, and that is his analysis of the Swedish book, "The Diary of Anne Frank", which was published later on in the United States, and it is interesting that his work seemed to parallel the work of Dr. Faurisson; both apparently were unaware of one another's interest in this thing, at least the ongoing research, and I was interested, naturally, in it myself because an attorney whom I employed in West Germany for some cases in West Germany, he handled the Ernst Roemer case, and it is during the Ernst Roemer case in the investigation that it came out that the Diary of Anne Frank, at least the pages that were examined by the forensic branch of the German Bundis (ph) Kriminal [Bundeskriminalamt] which is similar to the FBI Criminal Lab, they had travelled to Switzerland. Otto Frank had died by this time, and the Anne Frank Foundation apparently had taken over the estate and Otto Frank never allowed, to my {3844|3845} knowledge, people to actually analyze the pages of the diary.

Q. Well, getting to the point, what was the conclusion?

A. Well, the conclusion was that many of the additions in the diary were made in ballpoint pen and ink which only became available in 1951.

Q. Well, who did that analysis that you know of?

A. The West German Government, Forensic Criminal Police.

Q. And where was it used?

A. In the Ernst Roemer case in Hamburg. Der Spiegel, the German news weekly published an almost two-page article about that also.

Q. When?

A. In 1981.

Q. And other than that, in respect to the Anne Frank Diary, what was your conclusion respecting the Anne Frank Diary from what you now know?

A. Well, for me the forensic study of the actual pages by the German police who had no interest to falsify or corroborate but just at the order of the Court in Hamburg to analyze the stuff, that was the piece de la resistance. As far as I was concerned that was proof that a literary fraud had been committed. We don't know who the person is that committed it, but we do know that we have handwritten analysis in another court case by a graphic expert, handwriting expert called Becker in a case in 1960, and she analyzed all loose leaves as well as the books of the Anne Frank Diary and {3845|3846} she came to the conclusion that the loose leaves, plus the additions, plus the two books

of chaos (ph) they call them, like pads, that they were one and the same writer.

Now, if the additions were made in 1951 with a ballpoint pen, it does mean that this girl did not die, or she did not write the diary. Whoever wrote the diary did it in 1961 in some parts and still very much alive in 1951.

Q. So there's part of the reference to the Anne Frank Diary in the book, "Did Six Million Really Die?", isn't there?

A. There is, but I concede that there is an error in that part of the story about Anne Frank.

Q. Were you aware of this at the time?

A. Not when I published it, no.

Q. What is the error in regard to that?

A. Well, Harwood erroneously believed that Meyer Levine had written the Diary of Anne Frank. He did no such thing. He just wrote a stage adaptation of the play, and Otto Frank wasn't too happy about the way it turned out, gave it to somebody else. That is the story, at least as I have pieced it since, and since he wasn't happy with the story, he didn't think it was his job to pay for it. So there was a dispute about the sum of money involved, and that is what the court case was.

Q. Does that affect your opinion on {3846|3847} the substance of the book itself, Anne Frank's Diary?

A. Not really, no, because the forensic study by the West German police nails it down as being a fraud.

Q. So how would you describe the Harwood reference to the Anne Frank Diary in relation to the truth or falsity?

A. It's an error, but it was an honest error.

Q. Was the statement about the Anne Frank Diary being a hoax a false statement?

A. No. That statement stands, and I stand by that, naturally, but the picture about the Meyer Levine thing was an error.

Q. When did you become aware of that?

A. I believe I became aware of that certainly after I published it, you know. I don't recall exactly when it was.

Q. You've had a lot of research done into the details of the book "Did Six Million Really Die?". Is that right?

A. Yes.

Q. How many people have you employed or had help from to check the facts alleged in that booklet?

A. I had been involved in a study of this topic for a long time, and I had planned to write something on this topic, but always held back because it's such a distasteful subject to me. And I just couldn't get myself to write it, and then I heard {3847|3848} of a booklet in Europe called, "Did Six Million Really Die?" out of England. I wrote to the publisher, got a copy of the booklet in English. Then I received one in French, in Dutch, in Flemish. There were later editions in Swedish, in Finnish, in German I already said. I think there is one in Hungarian, and one in Rumanian. I saw at that time before I ever thought of publishing it four or five different languages of this booklet, so I naturally read through this booklet and I thought that it was in a nice condensed form virtually what I had intended to write myself, because I thought something like that should be written. Most of the revisionist literature of the day, like Rassinier, fairly thick tones, and I have learned one thing being in the graphic arts, that people like to read less and less, especially serious stuff. So I felt this was a good vehicle, of the best that I had seen. And Dr. App with whom I was at that time working and had been selling some of his publications, "The Six Million Swindle", for instance, and another booklet called, "A Straight Look at the Third Reich", and Christopherson's booklet, "The Auschwitz Lie", I thought that the Harwood booklet was superior to all the three or four which was selling at the time.

Q. Why?

A. Because it was a handy form. It had pictures in it. It was more complete, more well-rounded, and so I began to import it from England. But I found that these English people were very sloppy businessmen and certainly couldn't wrap a parcel decently. The thing would always come to Canada in {3848|3849} shreds. So it was impossible to sell it. And I

was giving it away to newspaper people and so on. And ultimately, in the end, I got myself an American source to purchase it from an American source that has since been reprinted in America. It certainly matched the German version that I had also gotten hold of, and then there was this bruhaha about the Attorney General from British Columbia saying that I was a hate mongerer, the newspaper stories published in the back, and I was called some rather non-complimentary names at the time in a press story, and I was besieged by media people in writing this story called, "Firm Aiding hate Racists", — and then panicked and I thought, since the Attorney General of Ontario was asked to lay charges against me under the Criminal Code —

Q. When was this?

A. In the eighties, I think. Maybe late seventies, early eighties. And so I thought, if I am going to be closed down as a publishing house for distributing [sic] this stuff, I'd better bet one more chance of showing to the people of Canada, the media, politicians, clergymen and so on what this booklet was all about because I didn't think it was hate literature.

So you read in here the introduction and the last ten pages, the only thing in this booklet that I have contributed is the words, "Truth at last Exposed", a little self-promotion over here, the story of my life over here, then, to all Canadian lawyers and media representatives. This page. The last page, and the back page. I had contacted the publisher of the Harwood booklet thinking I could put out a Canadian {3849|3850} edition, and he would not permit me to change one comma, one picture or anything.

So what you are seeing, what is hanging down here has been reproduced in the offset process using photography to make offset plates. I had absolutely nothing to do with the content of this booklet except that, of course, I paid the printer to print it for me, and I paid the postman and the postage and so on to send it out to me.

Q. On the basis of what you heard and all the research, do you think there is anything wrong with the contents that you described?

A. Well, the Meyer Levine thing is wrong, and Mr. Griffiths pointed out that I overlooked things in the Red Cross Report which I can explain. I don't know if this is the time or the moment.

Q. I ask you if you stand by what was printed.

A. Ninety-nine per cent of this publication is as good today as it was ten years ago when it was written. It is flawed, as Mr. Walendy said yesterday, because there has been so much new material that has come on the market since that time. He can say that. He is a full time publisher, researcher, writer and academic in this field. I am an artist, really not interested in writing one more booklet about the Holocaust. I took somebody else's writings and today I find myself here because the man most likely made some sloppy errors in the Red Cross Report thing and the Meyer Levine story. {3850|3851}

Q. What other sources did you research? Ditleib Felderer did the last —

A. Well, the story of Anne Frank, the attorney —

Q. Well, what about authors?

A. Authors. Some of the people I was going to mention are people whom I have obtained what I consider unimpeachable witness accounts, German eye witness accounts of our side of what happened inside those camps.

Q. Can you name the name of those? Were they published at all? You haven't mentioned Thies Christopherson.

A. Yeah. Thies Christopherson is one of them. Then I interviewed for part of my story on Frank Walus, and this fellow Demjunjak [Demjanjuk], a fellow called Reis. He was a German official during the War. His job was to issue identity cards, apparently, in this camp. And he came to Toronto and I interviewed him here in Toronto.

Q. And did he indicate the existence of gas chambers to you?

A. No, he certainly did not.

Q. What was his view on that?

A. Well, he says he was there, and he's at a loss to explain how something like that could have happened under his very nose for all the time that he was there. He denied flatly to me that he saw anything of the

sort.

Q. Anything of what sort?

A. Gas chambers. {3851|3852}

Q. Did you inquire about any other methods of mass extermination from him?

A. No, because I knew his function. He was a paymaster in the Treblinka office, and I mean, I don't think that anybody except shortly after the War claimed electrocution and steam killing, but this is so far out and ludicrous that in 1985 nobody believes in it, and I wouldn't have embarrassed the man asking him.

Q. Who else did you interview?

A. Rudolf [Rudolph] who was a member, a former member of (German phrase), that's like the security service, and he was an interpreter and sometime interrogator in the (German phrase) office in Krakow which was directly under the Governor, and he himself had been in Polish concentration camps shortly after the War, certainly where some of the camps were which the Germans took over. He never saw any gas chambers or heard of any gas chambers.

Q. Have you met with and talked with a Dr. Butz?

A. Yes, I have.

Q. How many times have you met with him?

A. Four times.

Q. Have you read his book?

A. I have read his book.

Q. What is the thesis of his book?

A. Yes, I know the thesis of his book. I found the book, from my own taste, somewhat dry and statistical. It is a somewhat boring book, but {3852|3853} nevertheless the thesis of the book stands.

Q. What is the thesis?

A. It is that in no way did the Germans exterminate six million Jews by using gas to do it in gas chambers as described in the popular literature.

Q. What does he do in the examination of that thesis?

A. There is an appendix. The book is over there. Page after page after page of footnotes and documentation. I know that the opponents of Dr. Butz are calling him non-scientific and slipshod researcher and so on. I would have to say that that book is well-researched. It is only a university professor could love it.

Q. So you take a certain amount of pride in your publications, I gather.

A. Contrary to what Dr. Walendy said yesterday, that I am a non-serious type because of my few adventures into flying saucers – I admit freely that I have written a number of flying saucer books; I think they were quite funny and successful and did exactly the job that I designed them for – what I publish myself in my publishing house is a small publication. Here is a newsletter which is two and a half pages thick, if you want, sometimes more, sometimes ten pages or fifteen pages on a regular basis. I make absolutely no pretense to be the greatest revisionist writer, researcher or publisher. I am not nearly as serious as Dr. Walendy was or Dr. Butz. I made no such claims. All I am interested in is finding a tool, a {3853|3854} simple tool that people can read to oppose all this anti-German stuff. And the day that I have been successful that I have brought balance into the picture of the Second World War and make the Germans fess up to exactly what they did – no more, no less if I have achieved that, then I will retire and I will be out of trouble. Believe me. I am not a passionate publisher that likes to see his name in print. That is not my intention at all.

Q. What kind of a tool do you think that the book, "Did Six Million Really Die?" is?

A. It is simple, plain English for common sense people. It has pictures in it, because publishers know today that the attention span has been ruined by television, so ...

Q. Is it the truth?

A. Is it the truth?

Q. Yes.

A. I believe that this book is the truth with one or two honest errors.

Q. Now, who else did you discuss the question of the Holocaust with?

A. Well, one Jewish man, Max Lipson, who had me on his programme

lots of times.

Q. I mean research.

A. Oh, research. Excuse me. He is Rabbi Elmer Burger of the American Council for Judaism. He gave me a number of insights on Zionism, because Zionism is very much part of the Holocaust legend.

Q. Why? {3854|3855}

A. Because Zionism is the chief beneficiary of the Holocaust legend. Financially, propagandistically, politically – even, to a certain amount, morally – they seem to have a copyright [sic] on pain because of this propaganda. So I sought our Rabbi Alma Burger because he had published formerly in the Toronto Sun in his publication called "Current Events and Issues", Jewish issues in 1968. And that fascinated me, so I travelled to New York and interviewed Rabbi Burger who I've met since. He is the one that, for the first time, made very clear to me what the difference is between Judaism and Zionism. His particular philosophy of life and the people that he represent[s] is that they are Americans first and foremost, and Jews by religion, whereas the Zionists are Jews first, at least that is the way I understand it, and virtually to the exclusion of anything else. They happen to reside [sic] in a different country, but their first loyalty is to Zionist tenets, Zionist goals, Zionist politics, and he felt it was a dangerous ideology because it questioned in the eyes of the general public the loyalty of Jews living in America or in Canada.

Q. And what does the State of Israel have to do with the Holocaust?

A. The State of Israel, since its foundation, some people even say it was only founded because there was a Holocaust because the Allied occupying powers in Europe, for instance, especially Britain, felt that the Jews needed a homeland, you know, and so one of the chief tools and argument, if you peruse {3855|3856} the newspapers and magazines of the Time and History books about it, is that these Jews were homeless and they were victimized by all in Europe and they needed a place where they could go and be safe and be in safety, and so it came up as an aftermath to World War II.

It is interesting that when Israel had been created, the question came up of reparations. Now, this is according to my source, Ginsberg, and Menachin [sic] Begin later on Premier of Israel, stormed out of the Knessit [sic] when there was a question of accepting money from Germany in reparations. It was quite a small sum at the time, but he didn't want money. He called it blood money at that time. But things changed. Germany became, got back on its feet, became prosperous again, and then a delegation of Israeli leaders came to Bonn and negotiated a deal with Konrad Adenauer's government, and it found its official sanction in the Treaty of Luxembourg where Germany, for the first time since 1945 officially, a German Government, even if it was only West Germany, but a German Government admitted under the signature of one of its Chancellors, Konrad Adenauer, that the Germans had killed quote millions of Jews. Never before had that been written down anywhere. Not just one million or three million, but that great number, millions of Jews.

Based on that, the German Government promised to give sizeable [sic] reparations to the State of Israel, a transfer of technology, ships for the Israeli merchant navy, build transmission lines, housing, harbour, streets, and so on, in Israel proper. And this reparation is, as one has to call it, Dr. Hilberg gave a {3856|3857} good definition – I think it was him – it was indemnification, and there was reparations and restitution. This whole complex the German people have paid, and I think it will come as a surprise to many people that over a hundred billion German marks – now, a hundred billion German marks is the gross national product of many a state. It is a huge sum of money. And one of the reasons why I say what I say and do what I do is that intellectual writers and historians have accused the German people of being directly responsible about the troubles in the Middle East and all the deaths caused in that region, because we spend money so freely to this particular state which then turns around and uses some of that money to go to war against its Arab neighbours, and once again the German people stand accused of being responsible for murder and war because of the money that we so freely payout without strings attached.

Q. Have you been involved in the Walus case?

A. In the Walus case?

Q. Yes.

A. Yes, I did.

Q. Why?

A. Frank Walus was a farm worker in Germany during the Second World War. The people who were in this courtroom saw him. He is a simple man with Grade 3 education. He is not very much more literate in German than he is in English. I had pity on him, and when he was pounded upon by Simon Wiesenthal {3857|3858} I thought it was disgusting, and I thought I should come to his aid, and I did. I helped him with research. I helped him with money and I published a long expos of his case in my newsletter which I distributed to thousands and thousands of addresses all over the world appealing for help, for finances, that this man could get justice. And I am proud that I did.

Q. Did any help come? Did you send that information to the media?

A. I certainly did. Worldwide.

Q. Was there any coverage of his case at the time?

A. Yes, there was. The Toronto Sun in Toronto locally had an article on Frank Walus, quite a good article.

Q. Were you aware also of the Finta case?

A. Yes. The Toronto Sun did a feature article, two-page spread on this case, and Dick Jackman was the writer for whom I have great respect, and I know that he is a man who goes to the source, and he had double-checked the story back and forth, and —

Q. Why is this relevant to your concerns about the Holocaust?

A. Because basically the same people that brought me here today, namely the Holocaust Remembrance Association, were the driving force behind causing Finta's problem. Ultimately it was Wiesenthal who was responsible for Walus' problem. My problems did get abused by Simon Wiesenthal writing to Robert Kaplan, which cost me one {3858|3859} year's postal privilege. So that's true, yes. There was an involvement there, yes.

Q. Are you aware of any continuing involvement from that source, even here, today?

A. Simon Wiesenthal frequently publishes in one of his news letters.

Q. In this courtroom?

A. I don't understand your question. Simon Wiesenthal certainly isn't here.

Q. No. Does he have any representatives here?

A. Well, yes, he has Mr. Littman here who is a representative of the Simon Wiesenthal Centre, apparently, according to the news reports.

Q. And have you heard from other people that those who write as you do questioning some of these beliefs about Zionism are visited by such people?

A. Well, I have known that for the last twenty-five years, because I experienced it myself. No sooner did I become vocal on this issue that I did receive the usual number of threats, except in my case I was visited by the R.C.M.P., and I mean, I have lists of names of famous Canadians who were beset, if that is a good word, who were threatened and ultimately did lose their jobs because they broadcast these things. One is Max Lipson, the former news director of CHUM on the radio who had me on his station, SJRN in St. Catharines, and he was told once too many times; and this Jewish man who was an orthodox Jew, going to a synagogue every Sabbath and read the Torah on everything {3859|3860}

I asked him, he said, "I have to read Torah on this", this man was hounded out of his job, out of his home, had his marriage destroyed and ended up by checking himself into a mental home in Ottawa because he was so hurt, and his crime was that he had allowed Ernst Zundel on his radio programme. He was told once too many. So there's Max Lipson. So this is not an issue that makes a difference between Germans or Jews. It is a highly charged ideological question, it seems to me, and he was a victim of it. The fact that he was a Jew, he got possibly worse treatment. After all I am still alive and still working. Max Lipson is not. He has been blackballed from the media. That man is a broken wreck today.

Q. How does this relate to the other people you've talked to, like you mentioned Faurisson, Felderer, Walendy, Butz, Stäglich — what is the relationship in regard to that?

A. Well, they all suffered for their viewpoint and we don't have to go that far away from Toronto. We have, I think his name is Brian Nelson of CRV who made one broadcast in a far-off place like Kuwait and promptly was fired from his job here in Toronto because he had called Israel "that Zionist entity", or whatever. You know? Now, ask any of the writers that have — Fisher, Douglas Fisher wrote in one of his columns that when he touched upon the maltreatment of the Palestinians in only one column, that he was called an anti-semitist, that people visited the publisher of the Toronto Sun trying to get him fired for it. I've got the column. So this is not a unique {3860|3861} experience. Larry Henderson who used to be CBC anchor man. In his case I don't think it had to do with the Holocaust. It had to do with communism. But these pressures do exist. All of us who have written something or published something or broadcast something know about that. I mean, this is an open secret that, I think, it was the Reverend A.C. Forest of the United Church Observer who wrote a book entitled, "Who Must Know Better Must Say So" about Palestine. Coles, by the way, at the time the people owning Coles were Jewish brothers. They published a book. The next thing the JDL or somebody else, forty or fifty individuals were outside Coles Bookstore and got the book removed. And A.C. Forest was in trouble over it. He had his name banded about and questioned, and from what I know and have observed of the man, he is an upstanding good Canadian.

So this is nothing to do with somebody liking an ideology or not, or me publishing flying saucer books or things favourable of Hitler. This is an inquiring, you know. The fact is there is a terror loose in this land against people who tackle the Holocaust from a revisionist viewpoint. If I may add, I think I am one of the few Canadian writers and publishers that had his home bombed and within a very short time the JDL, an offshoot of the JDL's People Liberation Army or something, took credit for it, and the bomb, according to the bomb squad, was a pipe bomb, and I have from the FBI anti-terrorist organization all the anti-terrorist file, and each one lists attacks by ideological, by Puerto Ricans and the Symbionese {3861|3862} Liberation Front in the old days, and the JDL always uses pipe bombs of the type used outside my place.

Q. What are the results of your research respecting the subject of the Holocaust and, for example, the evidence of Dr. Vrba?

A. I don't believe him. I think that he is, maybe not himself personally, but certainly that his testimony as reflected in the War Refugee Board is a direct result of that British directive that Walendy read yesterday that the Allies were deflecting away from the murderous rampage and the destruction in Europe, and especially the atrocities committed by the Red Army by putting the blame on the Germans and cranking up the rumour mills and the atrocity mills, and I believe that the War Refugee Report has to be looked at only in that light, because, for instance, the one point it makes in a glaring error is that he claims a hundred and fifty thousand French people killed by gas in Auschwitz in two years alone, whereas Klarsfeld, thirty years after the War, when there is more material available, not just trucks rumbling by his barracks at night but research manifesto, and he comes to the total number of Jews evacuated to Germany for the entire War to a little less than seventy-six thousand.

Now, here we have Professor Vrba standing here insisting that this is not true, that he, counting, lying in his barrack as a youth, in the night in Auschwitz, counted a hundred and fifty thousand French people gassed at Auschwitz. I think it was an insult.

Q. Did you study the Nuremberg War {3862|3863} Trials records?

A. Certainly. Not as well as some of the people who have appeared on the witness stand. I looked for specific reference points. I find it very burning and very upsetting reading, and after I am through with the Holocaust I hope to have Nuremberg overturned.

Q. Why do you hope that?

A. Because it's a travesty of justice in my opinion. It will be a blemish on civil[s]ation as we know it, and certainly a magnificent traditional

system that we have created in most civilized countries.

Nuremberg, in my opinion, it is only my opinion as an artist and a writer, will go down as a blemish on the record, because so many people did so many nasty things in order to get these people convicted. I am very saddened for all those participants. I really am.

MR. CHRISTIE: In view of the time, Your Honour, may we take a break?

THE COURT: Two fifteen.

— The jury retires. 1:00 p.m.

— The witness stands down.

— Luncheon adjournment.

— Upon resuming.

— The jury returns. 2:25 p.m.

— The witness returns to the stand. {3863|3864}

THE COURT: Go ahead, Mr. Christie.

MR. CHRISTIE: Thank you, sir.

Q. Mr. Zundel, in the testimony this morning you indicated you relied on a book called, "The Hoax of the Twentieth Century" by Arthur Butz.

I now show you a book by that title. Would you examine it, please. Is that the book you referred to?

A. Yes, it is.

Q. What relationship does it bear to the thesis presented in "Did Six Million Really Die?"

A. It basically answers the extermination thesis that the Germans killed six million Jews by the method of gassing, gas chambers, were largely Allied documents. And it points out that the Germans did no such thing.

Q. What relationship does it have to the thesis of this book, Exhibit I?

A. One could almost say that the Exhibit No. 1, "Did Six Million Really Die?" is an abstract or a condensation of the thoughts in this book.

Q. And you've met Dr. Butz four times?

A. Yes, I did.

MR. CHRISTIE: Could I file that as an exhibit, please, Your Honour?

MR. GRIFFITHS: Your Honour, longer ago than any of us care to remember, at the beginning of this trial I indicated that this shouldn't be a trial of one library against another. I have no objection to my friend referring to it, showing it to Mr. Zundel, {3864|3865} obviously, but matters that are being filed as an exhibit of a very large number of books, it is unreasonable to expect that the jury or anybody else are expected to read those books in rendering their decisions. The fact that the book is accepted and is shown to Mr. Zundel, we have all heard of this book before during the case in the course of this trial, but in my submission it is not appropriate that it be made an exhibit, or the other books, for that matter. We might have more of them.

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: It is not my desire to be unreasonable, but it is my desire to lay before the jury the reasonable basis for my client's belief. He, unfortunately or fortunately, reads all these books, and the jury should be entitled to see them to decide for themselves whether there is a reasonable basis for his opinion. It is not my client's desire to be involved in such a process.

THE COURT: We have heard this before, Mr. Christie. We know that. No one desires to be involved in a court case.

MR. CHRISTIE: No, sir. But I suggest that the jury ought to be able to see and hear from him the basis of his opinion, the research involved. It is all very well for my friend to acknowledge that the book exists, but there are a lot more things I would like to introduce and refer to in my submission and see what it is that is such an unreasonable basis for his opinion that the Crown has to prove. Now, I think I am entitled to lay before the {3865|3866} jury the foundation of my belief and to lay before it in the form of evidence, and if he says, as he just I did, "This is the basis of my belief", then the Crown can argue it is an unfounded basis, let the jury see for themselves and they will be able to see whether it is an unreasonable basis.

THE COURT: I agree. That will be an exhibit.

— EXHIBIT NO. 70: Book, "The Hoax of the Twentieth Century" by Arthur Butz.

Q. MR. CHRISTIE: Have you also read and analyzed the book by Dr. Rudolf Vrba, "I Cannot Forgive"?

A. Yes, I did.

Q. And did you examine it from the point of view of inconsistencies?

A. Yes, I did.

Q. And have you marked the points where they are inconsistent?

A. Yes, Yes, I did.

MR. CHRISTIE: May I file that, please?

THE COURT: You can file the book.

MR. CHRISTIE: They are all marked the way you found those inconsistencies. I have no desire to remove them in any way unless the Crown wishes to do so.

— EXHIBIT NO. 71: Book, "I Cannot Forgive" by Rudolf Vrba. {3866|3867}

Q. MR. CHRISTIE: Did you rely on the evidence from a book of Dr. Charles E. Weber called, "The 'Holocaust' 120 Questions and Answers"?

A. Yes, I did.

Q. Is this the copy of that book?

A. Yes, it is.

Q. Why do you find it useful to understand the question —

A. I like it because it's thin, small, simple to understand. It is for normal common-sense explanations. It is similar in format to this.

MR. CHRISTIE: Thank you. May that be an exhibit, please?

THE COURT: Exhibit 72.

— EXHIBIT NO. 72: Book, "The 'Holocaust' 120 Questions and Answers" by Charles E. Weber.

Q. MR. CHRISTIE: Have you relied on such Jewish sources as those of Nahum Goldman, "The Jewish Paradox"?

A. Yes, I have.

Q. I now produce and show to you a book called, "The Jewish Paradox" by Nahum Goldman. I ask you to identify it and see if that is the book you referred to.

A. Yes, it is.

Q. Why is that a relevant basis for your opinion?

A. Mr. Goldman was one of the leading figures in Jewish life for almost eighty years {3867|3868} and was a colourful figure, interesting man, and he was the chief architect of the reparation scheme of the West German Government to the State of Israel.

Q. What portion of that book do you say is relevant to the book, "Did Six Million Really Die?"

A. Most of it, but particularly the section dealing with the foundations or the behind the scenes development of the Nuremberg War Crimes trials, how they came to be, who originated them, who thought about them.

Q. What did he say about that?

A. He says it was the brainchild of two Jewish Lithuanian jurists, Jacob and Nehemiah Robinson.

Q. Who told us ...

A. Thanks to them the Jewish Institute worked out two completely revolutionary ideas.

Q. What did he say about that?

A. Page 122, "The Nuremberg tribunal and German reparations".

Q. Did he say anything else about that that you consider important to your position?

A. Well, I'd have to read the whole book. It is a very important book.

Q. Have you read it all?

A. Yes, I have.

Q. I now produce and show to you a book by R.T. Paget called, "Manstein". Is that relevant to your understanding of the question of the Einsatzgruppen?

— EXHIBIT NO. 73: Book, "The Jewish Paradox", by Nahum Goldman. {3868|3869}

A. Yes, it is.

MR. CHRISTIE: Could that be an exhibit, please?

— EXHIBIT NO. 74: Book, "Manstein" by R.T. Paget.

Q. MR. CHRISTIE: Why is it?



A. Because von Manstein was charged with war crimes, and some involved the mass execution of an outrageously large number of Jews, and during his trial this question was looked into, and I find that in this book the simplest, most common-sense expose is made of why these charges of these massive numbers of people killed by the Einsatzgruppen could not be true.

Q. Well, is there a particular part that indicates the answer to that problem?

A. Yes, there is.

Q. Please read the portion that you used as a basis for your opinion on that matter.

A. It is a rather lengthy one.

Q. You can find it besides the parts that are relevant to the issue of your opinion.

A. On page 170, I think that's the most cogent point. Previous pages also deal with the number of Jews allegedly executed, and the number given for four and a half months is eighty-five thousand. The man quoted to have made those charges is Ohlendorf, and I have here:

*"According to Ohlendorf the procedure {3869|3870} was first that the Jews were required to register, then they were assembled in some ..."*

Q. What page are you reading from?

A. Page 170.

*"According to Ohlendorf the procedure was first that the Jews were required to register, then they were assembled in some central building and informed that they were to be resettled, then they were taken to some convenient anti-tank ditch at least 10 kilometres from the nearest inhabited place, shot and buried in what Ohlendorf was pleased to describe as a humane manner. The fact that in town after town the Jews were prepared to register and assemble certainly establishes that the executions were extremely secret if they happened. Apart from these lethal activities the S.D. undoubtedly did a big police and intelligence job. They travelled some 1200 miles and they did a considerable amount of fighting against the guerillas."*

And now comes to the very important point:

*"It seemed to me that the S.D. claims were quite impossible. Single {3870|3871} companies of about 100 with about 8 vehicles were reporting the killing of up to 10,000 and 12,000 Jews in two or three days. They could not have got more than about 20 or 30 Jews who, be it remembered, thought they were being resettled and had their traps with them, into a single truck. Loading, travelling at least 10 kilometres, unloading and returning trucks would have taken nearer two hours than one. The Russian winter day is short and there was no travelling by night. Killing 10,000 Jews would have taken at least three weeks."*

*In one instance we were able to check their figures. The S.D. claimed that they had killed 10,000 in Simferopol during November and in December they reported Simferopol clear of Jews. By a series of cross checks we were able to establish that the execution of the Jews in Simferopol had taken place on a single day, 16th November. Only one company of S.D. were in Simferopol. The place of execution was 15 kilometres from the town. The numbers involved could not have {3871|3872} been more than about 300. These 300 were probably not exclusively Jews but a miscellaneous collection of people who were being held on suspicion of resistance activity. The Simferopol incident received a good deal of publicity because it was spoken of by the prosecution's only live witness, an Austrian corporal called Gaffa who said that he heard anti-Jewish activities mentioned in an engineers' mess when he was orderly and had passed the scene of the Simferopol execution. As a result we received a large number of letters, and were able to call several witnesses who had been billeted with Jewish families and also spoke of the functioning of a synagogue and of a Jewish market where they bought icons and similar bric-a-brac right up to the time that Manstein left the Crimea and after.*

*It was indeed clear that the Jewish community had continued to function quite openly in Simferopol and although several of our witnesses had heard rumours about an S.D. excess committed against Jews in Simferopol, it certainly appeared {3872|3873} that this Jewish commu-*

*nity was unaware of any special danger.*

Q. Who wrote that book?

A. It is by R.T. Paget, K.C., M.P.

Q. Who is he?

A. He is a member of Parliament and I think he was the defence lawyer of Manstein, if I am not mistaken.

MR. CHRISTIE: Could that be an exhibit, please.

Q. Did you also, in the course of your research of the question of the Holocaust, study the question of cremation and disposal of the dead?

A. Yes, I did.

Q. I now show you a book called, "The Disposal of the Dead" by C.J. Polson. Have you read and studied that book?

A. Yes. Especially the section having to do with the method of incineration of bodies and so on.

Q. Why is that relevant to the issue of the subject of the Holocaust and the cremation of the dead therein?

A. It's one of the central themes that the Germans cremated millions of people in cremation ovens, which we have photographs of, and some which are still in place in this concentration camps. So one can calculate by the capacity of these particular cremation ovens, and by what is standard cremation times, the number of victims possible to burn.

Q. What, from your study of that {3873|3874} book, was the indicated time for the cremation of a single human body in normal, modern circumstances?

A. It says:

*"The time taken to cremate a body depends upon the build, weight and water content of the subject and on the kind of furnace, but the usual time is from one to two hours."*

And this book was published in 1953, in England.

Q. In the course of your study did you also study the question of the transfer agreement?

A. Yes, I did.

Q. I show you a book entitled, "The Transfer Agreement". Have you studied that book?

A. Yes.

MR. CHRISTIE: Could this book, "The Disposal of the Dead" by C.J. Polson, be an exhibit?

THE REGISTRAR: 75.

— EXHIBIT NO. 75: Book, "The Disposal of the Dead" by C.J. Polson.

Q. MR. CHRISTIE: What relevance did that book have to the question of the extermination thesis of the Jews?

THE COURT: What is the name of the book?

MR. CHRISTIE: "The Transfer Agreement".

Q. Who wrote it? {3874|3875}

A. Edwin Black, Copyright [sic] 1984.

Q. What is the relevance of the book to the exterminationist thesis?

MR. GRIFFITHS: I'm sorry, is that 1984? So it post dates this charge.

THE WITNESS: Yes, it does.

THE COURT: I didn't know that.

MR. CHRISTIE: Thank you. I will withdraw the question.

Q. Have you studied the question of Dr. Stäglich's work?

A. Yes, I have.

Q. I now produce and show to you a book called, "Der Auschwitz Mythos [Mythos]". Are you familiar with this book?

A. Yes, I am.

Q. Have you read it?

A. As I said this morning, not every letter of it because it's a very wordy, almost legal document, and I have an aversion against that style.

Q. What have you derived from that book?

A. That Auschwitz was not a death camp, that it was an industrial complex, that he was there during the War and had the firsthand knowledge of what went on there. He was apparently with a flak, anti-aircraft battery.

Q. Are you familiar with the work of Thies Christopherson?

A. Yes, I am.

Q. And has he published in English {3875|3876} a book called,



"Auschwitz Truth or Lie?"

A. Yes, he has.

Q. And have you used that in your research and understanding?

A. Yes, I have.

MR. CHRISTIE: Your Honour, this last book, "Der Auschwitz Mythos", I would like to file it as an exhibit, if I may.

THE COURT: No.

Q. MR. CHRISTIE: Do you read and understand the German language, sir?

A. Yes.

THE COURT: No for the reason that in the event that the jury wanted to read it, unless the members of the jury were fluent in German, and I mean all members of the jury were fluent in German, it would be quite impossible, and if they weren't all fluent in German, it would be very difficult for any member of the jury to not impart its contents to the others, which is not the way a jury considers verdicts.

MR. CHRISTIE: Thank you, sir.

Q. Have you read and understood other German books, sir?

A. Quite a number, yes.

Q. Are there other books that you referred to in your research by Jewish authors, for example Alfred Lilienthal?

A. Yes, but I was going to say, Your Honour, that puts me in a bit of a bind because I have read so many books in German on this topic.

Q. How many books have you read in {3876|3877} German on the topic that supports your understanding on the thesis of the book, "Did Six Million Really Die?"

A. Well, about twenty years' worth. There would be hundreds, at least, thousands of books over the years, over the twenty-year period.

Q. Among those what part would Dr. Stäglich play?

A. He is an important recent addition to my findings. He basically only confirms what I had gathered before.

Q. I now produce and show to you a book called, "The Controversy of Zion" by Douglas Reed. Have you referred to that in your research?

A. I have researched it because of the content on Zionism, but it is not in the booklets here. Well, excuse me, it is in "The West, War and Islam". It is relevant to "The West, War and Islam".

Q. Why is it relevant to "The West, War and Islam"?

A. Well, because it is – Douglas Reed is a very well-known British author who has written many books.

Q. Well, what does it say that is relevant to "The West, War and Islam"?

A. It outlines the power and development of Zionism.

MR. CHRISTIE: Thank you. Could I file that?

Q. Is there any particular part of that book to which you referred?

A. Quite a number of pages, yes. {3877|3878}

Q. I can't hear you very well.

A. Quite a number of pages, yes.

Q. Thank you.

THE REGISTRAR: Exhibit 76.

— EXHIBIT NO. 76: Book, "The Controversy of Zion" by Douglas Reed.

THE COURT: That is in English, is it?

MR. CHRISTIE: Yes, it is.

THE COURT: And I presume it is published, Mr. Christie, before this charge.

MR. CHRISTIE: Shortly after the War. If I am not mistaken, the last copyright [sic] is 1978, but it is quite an old book, really. It was last published in 1978. I am not sure when it first came out, Your Honour, but I think it fits within the time that is relevant prior to 1983.

May it be an exhibit, please?

THE COURT: Yes.

Q. MR. CHRISTIE: Now, did you, yourself, publish a book relative to the Second World War other than "Did Six Million Really Die?"

A. Yes, I have.

Q. I now produce and show to you a book, "Report and Hearings of the Sub[-]Committee on the Judiciary United States Senate". Do you recognize that book?

A. Yes, I do.

Q. How is that relevant to your thesis in "Did Six Million Really Die?" {3878|3879}

A. It talks about some of the background of some Jewish leaders in the Bolshevik Revolution.

Q. Is that published under the authority of the United States Government?

A. The original report, yes.

Q. This is a re-publication?

A. Yes, it is.

MR. CHRISTIE: Thank you. Could that be an exhibit, please?

THE COURT: This is to do with Exhibit No. 2, is it?

MR. CHRISTIE: I think Exhibit No. 1 and 2, but ...

Q. Could you answer the question, witness?

A. Both, yes. More so with "The West, War and Islam".

Q. Why?

A. Because it outlines the history of the Bolshevik Revolution.

Q. What has that got to do with "The West, War and Islam"?

A. Well, by showing the origins of communism, Bolshevism, pointing out that it is Jewish to a large extent. It has a basis on the thesis of that flyer.

Q. The relationship between Judaism and communism?

A. Zionism, communism.

THE COURT: Exhibit 77.

MR. CHRISTIE: Thank you. {3879|3880}

— EXHIBIT NO. 77: Book, "Report and Hearings of the Sub-Committee on the Judiciary United States Senate.

Q. MR. CHRISTIE: It is called the Overman Report, is that right?

A. Right.

Q. I can hardly hear you beyond the jury.

A. Yes.

Q. I now produce and show to you a book called, "Germany Must Perish" by Theodore N. Kaufman. Do you know that book?

A. Yes, I do.

Q. And what does that have to do with your thesis in the booklet, "Did Six Million Really Die?"

A. It is one of the first books that I purchased in America, and it is the most virulent anti-German books, and it is one of the books that stimulated me to get off my derriere and do something about the propaganda.

Q. Why? What does it say?

A. It is a plan for the total annihilation of the German people.

Q. When was it published?

A. In 1941.

Q. I now produce and show to you a book called, "At Last the Truth about Eichmann's Inferno Auschwitz". Have you read that book? {3880|3881}

A. Quite some time ago.

Q. How is that relevant to the thesis of the book, "Did Six Million Really Die?"

THE COURT: Exhibit 78.

— EXHIBIT NO. 78: Book, "Germany Must Perish" by Theodore N. Kaufman.

THE WITNESS: It is not an important work. It is just one of the number of books about happenings in Auschwitz by Miklos Nyiszli. We have spoken about him in this courtroom.

Q. Have you read that book?

A. Years ago.

Q. And what does it indicate to you relevant to your thesis in "Did Six Million Really Die?"

A. Well, he recounts some pretty hair-raising tales.

Q. Do you believe it's true?

A. Embellished, if there is a seed of truth, yes.

Q. Are you familiar with the work of Udo Walendy?

A. Yes, I am.

Q. How long have you been in cooperation with him?

MR. CHRISTIE: May I file this as an exhibit, please?

THE COURT: No. 79. {3881|3882}

— EXHIBIT NO. 79: Book, "Auschwitz" by Dr. Miklos Nyiszli.

THE WITNESS: I purchased my first book from him in 1963, late in '63, and purchased quite a number of books from him. Only in the seventies did we establish a kind of relationship master-pupil type relationship.

Q. Who is the pupil?

A. I am.

Q. Why?

A. Well, he is one of the most prolific writers on political history [sic] in West Germany today, and he writes, with very few exceptions, again, material which I like, as he introduced it yesterday, small booklets like this. One can read through them in a night or two, and he is pedantic in the citing of his sources. He uses his common sense approach, simple language. At least, that's in those smaller books. Some of his heavier at home are a little more difficult to read, but I started out by getting his book, "The Truth For Germany".

Q. I now produce and show to you a book, "Auschwitz in I.G. Farben Process". Are you familiar with that book?

A. Yes, I am.

Q. When was it published?

A. 1981.

Q. How is it relevant to your thesis in "Did Six Million Really Die?"

A. As Mr. Walendy said yesterday, it {3882|3883} is a compilation of the court happenings in the trial of Dr. Tesch, the man who was in charge of Zyklon-B distribution to the concentration camps, and he had almost a monopoly on the production, I believe. He was assigned by the German Government to produce and make sure that there was always a steady supply of these chemicals. He was also a chemist, very well-known chemist in Germany, I believe, and Walendy wrote the first, the foreword, which is really a fair-sized book.

Q. Well, what do you mean? People don't know what you mean by the foreword. Is that the blue part of the book?

A. Yeah. That's it.

Q. All the blue pages?

A. Because there is so much of it, he divided the book. There is the photo section, map section of Auschwitz and camps and so on, and [ ] then there is his commentary on the trial.

Q. Have you discussed his books with him?

A. Yes, I have.

Q. Have you discussed the thesis of the book, "Did Six Million Really Die?" with him?

A. Yes, I did.

Q. What are his conclusions communicated to you?

A. Well, as he said yesterday, he thinks that this booklet is right. That's what he said, that it was truthful, but we have ten additional years of released documents from various government archives and so on. So he felt that an improvement could be {3883|3884} made in the booklet.

Q. All right. That's in German, isn't it, the book in your left hand?

A. Yes, it is.

Q. All right. I now produce and show to you two books on Zionism. How is that relevant to the issue of "The West, War and Islam"? Identify them if you would, please.

A. The one book is by Alfred Lilienthal, and it is called "The Zionist Connection". It was published in 1978, and it is what many consider one of the definitive books on Zionism, their methods of operation, Wiesenthal, greediness of certain Zionist organizations and institutions.

Q. Have you studied it in detail?

A. Yes, I have.

Q. What do the bookmarks represent?

A. Well, these are all quick markers that I can refer to during a radio show or T.V. show.

Q. You have used that as a source of material for your opinions?

A. Very extensively, yes.

Q. What is it called, again?

A. "The Zionist Connection".

Q. By ...

A. Alfred Lilienthal.

Q. And is he Jewish?

A. He certainly is.

Q. Thank you. What is the other book? {3884|3885}

A. It is, "The Decadence of Judaism In Our Time".

Q. By ...

A. Moshe Menuhin, and he is the father of the famous violinist.

Q. Yehuda Menuhin?

A. Yes.

Q. Is he Jewish?

A. Yes.

Q. What is the thesis of that book relative to your printing on "The West, War and Islam"?

A. It is similar to Alfred Lilienthal's book.

MR. CHRISTIE: May that be an exhibit, Your Honour?

THE COURT: Exhibit 80.

— EXHIBIT NO. 80: Book, "The Zionist Connection" by Alfred Lilienthal.

Q. Why is it similar?

A. Because it delves into Jewish politics, history, power, organization.

Q. What does it say about Zionism?

A. It is not that complimentary.

Q. Does it say anything else?

A. Well, I would have to go —

Q. Never mind.

A. It outlines the Zionist credo in page after page.

Q. What is your position on the {3885|3886} Zionist credo?

A. If somebody wants to be a Zionist and doesn't harm the rest of society, I have no quarrel with him, but if they become so powerful and assume the role of the government within the government, or a state within a state, then I think it is the duty of every decent man to oppose him.

Q. And how?

A. By publishing information on them exposing the social danger that they represent.

MR. CHRISTIE: Could I file this please, your Honour?

THE COURT: Exhibit 81.

— EXHIBIT NO. 81: Book, "The Decadence of Judaism In Our Time" by Moshe Menuhin.

THE WITNESS: It is a compilation of the assessment of the trials, especially Doenitz' treatment.

THE COURT: Mr. Christie, the jury might be interested in who Admiral Doenitz was.

THE WITNESS: Admiral Doenitz was the last leader of Germany. Adolf Hitler made him Chief of the Reich and he was in power a very brief time, and he was in charge of Germany's submarine warfare during the Second World War and was charged as a consequence as one of the war criminals in Nuremberg, and in this book are all the assessments by famous military men and judicial people and priests and bishops, many famous people from around the World who agree with, if I may {3886|3887} humbly say, with my assessment that Nuremberg was a travesty of justice, and he certainly got a rough deal, and I have put, given photographs to these authors, signed their submissions and —

Q. It's a compilation of submissions of various people throughout the world on that subject?

A. Yes.

Q. Including Supreme Court Justices?

A. That's right. Famous authors.

Q. Thank you.

THE COURT: Exhibit 82.

— EXHIBIT NO. 82: Book, "Doenitz at Nuremberg: A Re-Appraisal".

Q. MR. CHRISTIE: In relation to the work of F.J.P. Veale referred to in the book, "Did Six Million Really Die?", have you read the book, "Advance to Barbarism"?

A. Yes, I have.

Q. I now show you a book, "Advance to Barbarism" by F.J.P. Veale. Is that relevant to the thesis in the book, "Did Six Million Really Die?"

A. Yes, it is.

Q. Why?

A. Because it outlines exactly what the title says, the tragedy that was the Second World War and how we advanced to barbarism.

Q. And what is the conclusion of that book in terms of its thesis?

A. My conclusion was that he was an English writer that appealed to the world that we should {3887|3888} prevent war rather than talk about war.

Q. What's his conclusion about the Nuremberg trials?

A. Not very complimentary.

Q. Well, let's not understate the case. What does he say?

A. He says it was a travesty of justice.

Q. Is this your copy of the book?

A. Yes, it is.

MR. CHRISTIE: Thank you. Could that be an exhibit, please?

THE COURT: Exhibit 83.

— EXHIBIT NO. 83: Book, "Advance to Barbarism" by F.J.P. Veale.

Q. MR. CHRISTIE: Do you know who Veale was?

A. He was — in German we call a jurist. He was certainly a lawyer or a magistrate.

Q. Did you ever meet him?

A. No.

Q. Did you ever meet him personally?

A. No. I just know his book.

Q. Are you familiar with this book, "Unconditional Hatred" by Lord Russell, R.N.,

A. Yes, I am.

Q. Why is it relevant to the thesis if at all of "Did Six Million Really Die?"

A. He explains the war guilt in {3888|3889} Europe, the propaganda for war.

Q. And is that book relevant to the issue of "Did Six Million Really Die?"

A. Well, this was the result of war, and this explains, this man explains how it got there, through propaganda and so on.

THE COURT: You will have to do better than that, Mr. Christie.

MR. CHRISTIE: I will withdraw the question. Since it's not relevant, I won't file it.

Q. Is there something that goes in that?

A. Yes.

Q. Thank you. Was it part of your studies?

A. Yes, it was.

Q. I now produce and show to you a book entitled, "The Dissolution of Eastern European Jewry" by Walter N. Sanning, with a foreword by Arthur Butz. Are you familiar with this book?

A. Yes, I am.

Q. Was it part of your understanding and research as part of this Holocaust question?

A. Yes, it was.

Q. What part did it play?

A. It's a statistical analysis of population trends and, what do you call it, surveys, what do you call it, when you count people, census, census figures of Jewish populations. It is a highly technical analysis of the population.

Q. Is it published by the Institute {3889|3890} for Historical Review?

A. Yes, it is.

Q. And do you know what its conclusion is in relation to "Did Six Million Really Die?"

A. Again, he concludes that nowhere near six million Jews could have perished in the Second World War.

MR. CHRISTIE: Could I file that as an exhibit, please?

THE COURT: 84.

— Exhibit No. 84: Book, "The Dissolution Of Eastern European Jewry" by Walter N. Sanning.

Q. MR. CHRISTIE: I now produce and show to you a book called, "The Myth of the Six Million". Have you read that book?

A. Yes, I did.

Q. What is its conclusion?

A. It's similar to "Did Six Million Really Die?"

Q. It is what?

A. It is similar to "Did Six Million Really Die?" However, there is no author given for it.

Q. Why?

A. Well, I have found out in the meantime who did write it, but the author was not given because he was a university professor afraid of losing his job.

MR. CHRISTIE: Could I file this? I don't think the Crown objects. {3890|3891}

MR. GRIFFITHS: No. It is July '83.

THE COURT: What is the name of it?

MR. CHRISTIE: "The Dissolution of Eastern European Jewry" (sic)

— EXHIBIT NO. 85: Book, "The Myth of the Six Million" — Anonymous.

Q. MR. CHRISTIE: The author was a university professor; is that right?

A. Yes.

Q. And do you know now who it was?

A. Yes, I do.

THE COURT: What is the name of this book, Mr. Christie?

MR. CHRISTIE: "The Myth of the Six Million".

THE COURT: By an unknown author?

MR. CHRISTIE: Not unknown to my client.

Q. I now produce and show to you, "Atrocity Propaganda 1914-1919". Are you familiar with that book?

A. Yes, I am.

Q. Who is the author?

A. James Morgan Read.

Q. Why is it relevant to the thesis in the book, "Did Six Million Really Die?"

A. Because it illuminates how hate propaganda was in the First World War, and the results {3891|3892} that it had, and there is a striking parallel to what happened in the Second World War.

Q. Thank you.

MR. CHRISTIE: May I file this as an exhibit, please?

THE REGISTRAR: No. 86.

— EXHIBIT NO. 86: Book, "Atrocity Propaganda 1914-1919" by James Morgan Read.

Q. Are you familiar with the work of Dr. Raul Hilberg?

A. The one that we have discussed in here, yes.

Q. I now produce and show to you a book, "The Destruction of the European Jews" by Dr. Raul Hilberg. Are you familiar with this book?

A. Yes, I am.

Q. How much inquiry have you made into that book?

A. He is in the same category as our Mr. Stiglich. I have gone through the book, scanned it and marked areas I was interested in and looked for the inconsistencies, and they were discussed already in this courtroom.

Q. Yes. How much time have you spent studying that book?

A. I really didn't —

THE COURT: He didn't say "studying". He said he scanned it, looked for inconsistencies.

THE WITNESS: I took a speed-reading {3892|3893} course a few years ago and I read rather quickly, and only go for the meat of the matter which interests me.

Q. All right. Thank you. Are you familiar with the book, "Truth For Germany" by Udo Walendy?

A. Yes, I am.

Q. Published in 1981. Are you familiar with the contents of that book?

A. Yes, I am.

Q. Is it relevant to your thesis as to the questions in "Did Six Million Really Die?"

A. Yes, it is.

Q. Why?

A. Because it is a source book thoroughly documented about the entire political situation, development, war, war period, post-war period in Germany.

Q. Did you study this in the course of your research?

A. I especially studied the German version. This is a translation of that

book.

MR. CHRISTIE: Could that be an exhibit, Your Honour?

THE REGISTRAR: No. 87.

— EXHIBIT NO. 87: Book, "Truth For Germany" by Udo Walendy.

Q. MR. CHRISTIE: I now produce and show you a book. Could you identify the author and indicate the year of publication?

A. The book is called, "Germany is {3893|3894} Our Problem", a plan for Germany by Henry Morgenthau, Junior, former Secretary of the Treasury, and it was published by Harper Brothers in New York and London, 1945.

Q. Why is it relevant to the thesis in "Did Six Million Really Die?"

A. Because it contains the Morgenthau Plan.

Q. What is that?

A. The Morgenthau plan was the official plan adopted by the United States Government for a time to turn Germany into a gold pasture, (sic) to deindustrialize Germany by destroying its industries and plans for production and so on.

Q. How do you consider that necessary to the thesis in "Did Six Million Really Die?"

A. I consider that as a real plan for the concentration of people —

THE COURT: That wasn't the question. Ask it again, please.

MR. CHRISTIE: Yes, sir.

Q. How do you consider that necessary to the thesis of the booklet "Did Six Million Really Die?"

A. Because it outlines a plan, a detailed plan of how to destroy Germany, and the methods to use it. And if one was looking for a master plan of how to exterminate a people, here was a good example, and I thought there were certain parallels to this, and —

Q. Could you indicate what parallels?

A. You'd have to give me a few {3894|3895} moments. For instance, the institution reparation section details the transfer of German territory, German property, German industries, which would have led to the eradication of at least one third the population of Germany, maybe half, because the Germans couldn't feed them.

Q. I now produce and show to you a book on the Red Cross published by the Red Cross in 1974 on the German concentration camps from 1939 to 1945. How is that relevant to your opinion respecting the Holocaust and respecting Auschwitz and the thesis in "Did Six Million Really Die?"

A. This is the booklet which has landed me in a problem with this little magazine, in that I had read this in the original, well, the French version, because the English version was out of print.

Q. Would you open it at the bookmark, please? Read, if you would, the highlighted portion.

THE COURT: In what language?

THE WITNESS: This is in English, Your Honour, but I was just going to explain to you what that booklet did for me. This is the first publication of the Red Cross visits to Auschwitz and the other concentration camps, and it does not talk about extermination camps in this book. However, I brought it to Mr. Griffiths and the three larger volumes and the subsequent edition, where this particular part — it incorporated words to the extent of there having been extermination camps were added.

Q. After the war. {3895|3896}

A. So I had read this, and —

Q. Well, could you indicate the portion that indicates the relevant part to the thesis about "Did Six Million Really Die?" in respect to Auschwitz?

A. The story of a visit by the International Committee of the Red Cross delegate to the Commandant of Auschwitz Camp September 1944, and —

Q. Does the subject of gas chambers come up in that report?

A. Yes. They say:

*"The principal British spokesman from Teschen spontaneously asked us whether we knew about the 'shower room'. A rumour was in fact going round that the camp was equipped with a very modern shower room where groups of detainees were being gassed. The British*

*spokesman tried to secure confirmation of this through his Auschwitz Kommando. It was impossible to prove anything whatever. The detainees themselves said nothing."*

Q. Are you familiar with what was done with that report later in history?

A. Well, it was amended with words talking about extermination camps that were added to this, and it was incorporated in the larger reports.

MR. CHRISTIE: Could I exhibit this, please? {3896|3897}

THE COURT: Exhibit 88.

— EXHIBIT NO. 88: Book, "The Work of the ICRC For Civilian Detainees in German Concentration Camps from 1939 to 1945".

Q. MR. CHRISTIE: I now produce and show to you a book entitled, "What to do with Germany" by Louis Nizer. Are you familiar with this book?

A. Yes, I am.

Q. How is it relevant to the thesis in the book, "Did Six Million Really Die?"

A. This book is quite similar to the Nahum Theodore Kaufman book, "Germany Must Perish" which we started out with, and it follows the Morgenthau plan. As a matter of fact, it pre-dates the Morgenthau Plan, so you could say that one writer had a concept of eradicating or exterminating the German population totally in 1941; Louis Nizer watered this plan down in his "What to do with Germany" in 1944. It was still pretty radical and pretty drastic. And then Morgenthau, in 1945, delivered to the government his plan which would have resulted at least in partial extermination of the German people.

So this book, Morgenthau's book and Kaufman's book you could say are soul brothers.

Q. What is indicated to you in the period of time that is indicated?

A. One of hatred, vengeance, un-{3897|3898}forgiveness.

Q. What was the situation at the time of the Nuremberg Trials?

A. One of vengeance, hatred, unforgiveness.

MR. CHRISTIE: I would like to exhibit that, Your Honour.

THE COURT: Exhibit 89.

— EXHIBIT NO. 89: Book, "What to do with Germany" by Louis Nizer.

Q. MR. CHRISTIE: I now produce and show to you, "None Dare Call It Conspiracy" by Gary Allen. Are you familiar with that book?

A. Yes, I am.

Q. Why is it relevant to your thesis in "Did Six Million Really Die?"

A. I like it because it's like a political handbook. It is publicly available. It is small. It is thin. It is simple and it sold over five million copies. It is something that people don't shy away from.

Q. How is it relevant to the thesis of "Did Six Million Really Die?"

A. It talks about the power structure, world government, collaboration between capitalism and communism.

Q. Is it relevant to the area of "The West, War and Islam"?

A. It is more relevant to this one {3898|3899} than "Did Six Million Really Die?", yes.

Q. Thank you.

MR. CHRISTIE: Could I exhibit that, please?

THE COURT: Ninety.

— EXHIBIT NO. 90: Book, "None Dare Call It Conspiracy" by Gary Allen.

Q. MR. CHRISTIE: I now show you a book called, "Censored History" by Eric Butler. Are you familiar with that book?

A. Yes, I am.

Q. How is it relevant to "The West, War and Islam"?

A. It deals with Zionism, Soviet Zionist collaboration. It is written by an author who I know personally. He has frequently visited in Canada and has been my guest. He analyzes the smear tactics employed against people that are discussing the six million by calling them anti-semites and worse.

MR. CHRISTIE: Could I exhibit that, please?

THE COURT: Ninety-one.

— EXHIBIT NO. 91: Book, "Censored History" by Eric D. Butler.

Q. MR. CHRISTIE: I show you a book entitled — it is in German. I won't file it.

A. This is a book about Dachau {3899|3900} and Landsberg prison and

the executions there.

THE COURT: Just a moment. If it is in German, Mr. Christie, the witness can say what it says. Since all of these books are being filed by you as exhibits, it seems to me that — well, he can say what it says, but what good is it to the jury in case they want to check?

MR. CHRISTIE: Well, I suppose my friend has the ability, as we all do, to cross-examine him and put to him that he is not saying the right thing about it.

I mean, I am in a bit of a problem here because I think a lot of his information comes from those sources.

THE COURT: You have been doing all right up to now. You have about thirty-five or forty books.

MR. CHRISTIE: They are all in English, Your Honour; but the point is that his source of information comes from that.

THE COURT: How can Mr. Griffiths, unless he is fluent in German, know what the book says?

MR. CHRISTIE: Well, that is really Mr. Griffiths' problem, Your Honour. Sorry, but I don't think it is my problem to have to translate books for him. It is within, I hope it is within my right to put before the jury the facts as the witness —

THE COURT: I think you can put to the witness that he's read the book and he relied on it. I think that is all you can put unless you elect to file it. You have elected to file the books; they are going {3900|3901} in as long as they are in English. You can go that far.

Q. MR. CHRISTIE: Did you rely on that book?

A. Yes, I did.

Q. Why?

A. Because it is a book about the injustices as I consider them done to these people in Dachau and Landsberg.

Q. Where is Landsberg?

A. Landsberg is a famous prison that Hitler was imprisoned there.

THE COURT: Just a moment. What have I finished saying?

MR. CHRISTIE: I didn't ask about the book.

THE COURT: He relied on it. Now you say what the book says.

MR. CHRISTIE: He has other sources.

THE COURT: Then ask him about the other sources, not that.

Q. MR. CHRISTIE: Do you know from sources about Landsberg?

A. Yes, I do.

Q. What do you know about the van Roeden [Roden] report?

A. It was set up by the Senate for the alleged torture of German prisoners in Allied hands in Dachau.

Q. And what did it find?

A. That they had indeed been tortured. {3901|3902}

Q. What kind of torture?

A. It was referred to as "hooding", meaning to put black hoods on people and punching them.

THE COURT: Just a moment. Are we talking about an event subsequent to 1945?

THE WITNESS: Yes.

THE COURT: How is that relevant to the exhibit?

MR. CHRISTIE: It has to do with war crimes, and this book says "War Crimes" —

THE COURT: Well, are those people subject to the alleged torture at Nuremberg?

MR. CHRISTIE: They were tried at Dachau, Your Honour.

THE COURT: I am asking you whether they were tried in Nuremberg.

MR. CHRISTIE: Not technically.

THE COURT: Well, is Dachau made reference to in Exhibit 1 [sic] as far as those trials are concerned?

MR. CHRISTIE: It seems to me there's reference to Malmedy.

THE COURT: You can ask. If it isn't, you can't.

MR. CHRISTIE: Certainly, Your Honour. It is the Simpson van Roeden Report.

THE COURT: All right.

Q. MR. CHRISTIE: Can you tell us what the Simpson Van Roeden [sic] report indicated was the type of torture used in respect to the Dachau trials?

A. "Hooding", which means putting {3902|3903} a black hood over a prisoner and then hitting his face with fists or gloves. Investigators would come and pretend that the accused was gonna be shot that night, and priests ask for their confessions, and if they obtained these confessions, they would then go and use the confessions against other accused. Beatings, severe beatings, psychological torture. It caused quite a stir at the time and led to the suspension of executions of some of these men and the call for clemency in all those who were convicted in Dachau; and the men who were responsible for the tortures, their names, naturally, because of the inquiry, became public and they were hauled in front of this committee.

Q. What became of the men who were initially convicted after their sentences were suspended through the use of this evidence?

A. The executions continued nine or ten months after the storm in the press had died down.

Q. How do you think that's relevant to the issue of the trials of the other major so-called war criminals?

A. One cannot read the Simpson Van Roeden [sic] Commission material and come away from it thinking that it was anything else but the norm.

Q. Are you familiar with Judge Wunerstrum's [Wennerstrum] publications, and did you do research into the Chicago Tribune?

A. Yes, I did.

Q. Did you find in relation to — what did you find in relation to the book, "Did Six {3903|3904} Million Really Die?"

A. That the claim made in the booklet is essentially correct, that Judge Wunerstrum [sic] had spoken out and in uncomplimentary terms referred to some of the ethnic backgrounds and recent naturalization papers of some of the interrogators at Nuremberg.

Q. Are you familiar with the results of your investigation into the "Did Six Million Really Die?" conducted in the course of finding out if it was true?

A. Yes, I did. I got the original source from the Chicago Tribune. Also a speech that Justice Wunerstrum [sic] had given, I think it was in either Washington State or Oregon State, a get-together of judges and lawyers, and he had repeated his charges there. I believe he had even expanded on it.

Q. Are you familiar with the book, "Gruesome Harvest" by Ralph Franklin Keeling?

A. Yes, I am.

Q. What part, if any, did it play in your understanding of the Holocaust?

A. It is one of the most upsetting books I've ever read.

Q. Why?

A. It was published in 1947 and it details the misery and the post-war conditions in Germany that millions of German people found themselves in, slave labour and hunger and disease and lawlessness in Europe, whole parts of Europe, and he does quote in there a quote by General Eisenhower that I thought he would never have made, and I was shocked when I double {3904|3905} checked them that, indeed, he had made them.

Q. How is that relevant to, for instance, the Posen speech that is alleged to be that of Himmler?

A. General Eisenhower says that, "We will kill every German in our way as we are advancing into the Rhine." I have to look for the quote where it is.

Q. How is that relevant —

A. He says:

*"Allied fervor to destroy everything German had been expressed by General Eisenhower with the opening of the Roer drive. 'Our primary purpose,' he declared, 'is destruction of as many Germans as possible. I expect to destroy every German west of the Rhine and within that area in which we are attacking.'"*

MR. CHRISTIE: May I file that as an exhibit, please?

THE REGISTRAR: Ninety-two.

— EXHIBIT NO. 92: Book, "Gruesome [Gruesome] Harvest" by Ralph Franklin Keeling.

Q. MR. CHRISTIE: Did they do that, to your knowledge?

A. I don't think they did that, no. Many times it is like Stalin said, "No soup is eaten as soon as it is cooked." {3905|3906}

Q. Now, this is in German, is it?

A. Yes, in German.

Q. Why have you, over the years, continued to research into this area?

A. I do a lot of radio shows and give lectures and write my newsletter. I get asked by a lot of students, high school students, university students and just ordinary people, some newspaper people, too, questions about this issue, and I find that I have a memory that is maybe not as good as it ought to be, and so I constantly have to go over books that I have to refresh my memory, and there is so much new material coming out, one can't really keep up with it. It is a value judgment. You have to make choices. I usually start reading a book by the index and start the front of the book and start the rear of the book and then go down through the book quickly to find out what material I have not read over the years, because otherwise I would be constantly only regurgitating what somebody else said or thought, and I don't think that this is a very good state of being.

Q. And when has your research stopped?

A. It has never stopped.

Q. I now produce and show to you a book, "Atrocity Propaganda Is Based On Lies". Have you seen this book, and what is it?

A. It is a trilingual book, came out in 1983 by the Jewish publication house of Jakow Trachtenberg Verlag in Berlin, and it contains the answer of various German Jewish individuals and {3906|3907} organizations to the atrocity propaganda that started to spring up as soon as Hitler became Chancellor in Germany, and many of these things are notarized affidavits by leaders in Germany at the time. It is a book, I acquired it in Germany.

Q. And how is it relevant to the thesis in "Did Six Million Really Die?"[?]

A. It shows that many leading German Jewish organizations and Jews at the time were also upset by this agitation that was going on outside Germany, and it shows a working along by German government by Jewish and anti-Zionist organizations at the time.

THE COURT: Is there an English version?

THE WITNESS: It is trilingual, Your Honour.

THE REGISTRAR: Ninety-three.

— EXHIBIT NO. 93: Book, "Atrocity Propaganda Is Based On Lies"

Q. MR. CHRISTIE: In the course of your research did you obtain the plans from the Auschwitz Museum from Dr. Faurisson?

A. Yes, I did.

Q. Why?

THE COURT: I think, before we start on that, we should have an adjournment. Fifteen minutes.

— The jury retires. 3:25 p.m.

— The witness stands down. {3907|3908}

— Short adjournment.

— Upon resuming.

— The jury enters. 3:53 p.m.

— The witness returns to the stand.

THE COURT: Go ahead, Mr. Christie.

Q. MR. CHRISTIE: Mr. Zundel, I produce and show to you two books. I'd like you to identify the book, the author or publication and the publisher's name, please.

A. Both books are by Professor Dr. David Hoggan. One is called, (German title), "The Unnecessary War", published in 1974 by Grabert Verlag Tubingen.

Q. How many pages is that book?

A. Six hundred and twenty seven.

Q. And the other book?

A. This one is again by David L. Hoggan, and it's called, (German title), "The Forest War", and it deals with the origins and the originators of the Second World War and subsequent events. It is published by Robert Gain (ph) in 1976.

Q. And are those your books?

A. They are my books, yes.

Q. How does this relate to the book entitled, "The Myth of the Six Mil-

lion" which is anonymous?

A. I was told on very good authority — {3908|3909}

THE COURT: No.

THE WITNESS: No? Sorry.

Q. MR. CHRISTIE: Why do you believe the book "The Myth of the Six Million"?

A. Because it was written by David Hoggan.

Q. And is he known to you?

A. Yes, he is.

Q. What is his background?

A. He is a university professor in California.

Q. And do you, from your own personal — have you had conversations with him?

A. Yes, I have.

Q. Why doesn't he come out and admit that he wrote the book?

A. The publication of these two books in Germany cost him such grief in America, even though they were never translated into English or published here, that he decided that that hot potato he was going to do without his own name on it.

Q. Did you have some models made in order to understand the allegation pertaining to Auschwitz?

A. Yes, I did. I had numerous models made over a number of years. The first ones I made myself in my — as a skill as an artist, I put something together, but they were not in proper scale. So they were more for visual effect rather than for technical accuracy, and they were to portray the ludicrousness of some of the claims advanced by the {3909|3910} exterminationists in their claim of dropping Zyklon-B pellets down certain holes into gas chambers and other claims where German soldiers were supposed to climb through rafters and attics to dump Zyklon-B pellets and so on.

However, I found that I used these in video films I had made, and the one complaint was that they were not to scale, and therefore they could be misleading. So this is when I had commissioned a professional model maker to make the new models exactly to scale so that I could improve my presentation and not have this criticism.

Q. Have you, in order to make these models, obtained plans?

A. Yes. I get those plans from Dr. Faurisson, and —

Q. Where did he indicate they were from?

A. From the Auschwitz Museum when he was in Auschwitz himself. I saw these plans for the first time in 1979 at a convention of some three hundred writers on history, historians, academics.

Q. Revisionists?

A. Revisionists, yes.

Q. Where?

A. Academists [sic]. In Los Angeles, California.

Q. And did you present a paper there?

A. Yes, I did present a paper for Dr. Faurisson because he felt his English wasn't well {3910|3911} enough, and since I had a knowledge of French and was there, he asked me to present his paper for him while he was beside me showing the slides of these plans, and he explained part of these plans to the audience.

Q. What was the topic of the paper you presented for Dr. Faurisson?

A. I don't remember the exact title of the talk, but it had to do with the impossibility of the exterminationists' claim that the Germans could kill so many Jews in these structures in a day in Auschwitz, because they were in direct contradiction to the plans that Faurisson presented and the photographs of the gas chambers and so on.

Q. Have you examined the models that were prepared lately?

A. Carefully. Checked them, measured them, went over them with fine toothcomb.

Q. And have you discussed them with other researchers in this field?

A. Yes, I have. I have even made video films with these researchers, looking at these video films at these models. These are very sophisticated models where the roof can be lifted off and the top floor can be lifted off revealing the first floor, second floor, basement and so on.

Q. In your study of the Holocaust literature have you come to understand the operation of the crematoria process?

A. For a layman I think sufficiently, yes.

Q. And as a result of that, what {3911|3912} conclusions have you come to as to the extermination claims, for example, advanced by Dr. Vrba here?

A. I don't want to slander the man, but I think that they're ludicrous.

Q. Why?

A. It couldn't be done, not even for Dr. Vrba. It couldn't be done. He makes outrageous claims. He obviously made a mistake in the height of the building, for instance.

Q. Which building?

A. The so-called gas chamber building.

Q. He was describing to us, as I recall, a building that he said an S.S. man climbed up on to?

A. That's right.

Q. Have you examined the plans?

A. Yes, I have.

Q. In the area that he described, from what he called Wetzler's mortuary hut, to what he said was a flat roof building, what is the height on the plans of that building?

A. I don't remember the exact measurement, but it certainly was just barely above the ground that building.

Q. Have you seen the slides of Auschwitz?

A. I have seen, I think, thousands of slides of Auschwitz till my head was spinning, and have selected from those that Felderer had and that Dr. Faurisson had, and that Dr. Lindsey had, a number of {3912|3913} the ones that I think are the most pertinent. I mean, to show so many slides to an audience or to people who one wants to educate or inform, it would be boring. So I selected what I consider were the most pertinent ones. At least, it's a value judgment, but I think that my background in graphics, I made a very fair choice in there. There are some two hundred, two hundred and twenty-five slides that tell the story very well, illustrated very well.

Q. Why have you instructed these models to be made?

A. Partly for my own sake.

Q. Why?

A. Because I like to see things in three dimensions. There are people who learn very well theoretically. I learn by seeing and by touching and by comparing, and I wanted to be a little bit sure that I understood these structures and what was alleged to have gone on in there. Also for the films I have felt that I owed it to the people who were going to watch these films to do the best job that I possibly could.

Q. And what observations have you made as a result of this research in respect to the allegation of extermination made in those premises?

A. It just doesn't hold water. It is illogical. It is impossible, physically impossible to have, as the claim is made, two or three thousand people in one gas chamber where these people were supposed to have been gassed and have in an adjacent building three, four thousand other people waiting, getting undressed, waiting to go into the gas chamber {3913|3914} where the corpses go in, and then have a relatively small door coming out of this gas chamber, the door going inside it, and a very small lift that wouldn't allow for more than one body at a time to be lifted from that ground floor up to where the crematoriums were.

I mean, it would have taken an endlessly long time to haul these individual bodies out, take them up in this lift and put them towards where the crematorium was. And then there is the problem of the crematoriums. They are five units, three openings each, makes fifteen units. There's x number of corpses – some say two thousand, others say three thousand, others say more in this chamber. If I calculate the length of time it took – in the British book it says two hours – even in the figure of one hour they have to be cremating just the first batch of gassed people for two and a half, three weeks, and the others were waiting in the adjacent dressing room. It's ridiculous.

Q. How many versions of the Auschwitz story have you studied?

A. There are thousands. I have, maybe, studied personally dozens with wildly different claims. For instance, Dr. Vrba said 1,765,000, I believe, victims for a two-year period. Now, I have the Encyclopaedia Judaica in my house. In there they say four million. And the Russian said 4.5 mil-

lion. Now here they have three sources – one is the official Russian Government, then there is the Encyclopaedia, and then Dr. Vrba who gives his, and then we have Dr., Hilberg who says 1.1 million. We are talking about people. People get sent to jail for life for murder {3914|3915} and here we are talking about one million, three million and it gets to rest on the reputation of the German people who can't defend themselves.

Q. Are you familiar with the processes that went on at Nuremberg by studying some of the volumes of the Nuremberg trials?

A. Yes, I did.

Q. Are you familiar with the process of the voir dire, for example, in your own case?

A. Yes, I am.

Q. Do you understand what that is?

A. Oh, we have had a number of them here, yes.

Q. Have you examined the record of the Nuremberg Trials to see if there are voir dres pertaining to the statements there?

A. Not that I can recall.

Q. What do you mean, not that you can recall?

A. Well, this was apparently not a procedure followed in Nuremberg.

Q. In the film, "Nazi Concentration Camps" which we were shown, what was your observations pertinent to the issue of the conditions in Germany from your studies?

A. I'd have to – I mean, that is a terrible film, and I am very saddened that people would have suffered like that at the hands, or in institutions where people were in charge. I think there is not a German alive that doesn't feel a sense of shame about this, and I had known about Dr. Barton's {3915|3916} work for almost fifteen years, so I realized that the tail end of the film depicted a tragedy which was not premeditated. Nevertheless, it doesn't make the film any less shocking.

As I told you, I grew up in Germany. During the wartime I was a very small boy, but I had seen in my village and my neighbourhood the damages that bombs can do to bridges and waterfalls and things like that. I felt, somehow, that the makers or compilers of this film were blaming the victims, the Germans who were the victims of this genocidal bombing campaign by the Allied powers in order to get unconditional surrender. We were in a nation as much victim as these poor people in that concentration camp in Belsen, Hademar [Hadamar] and all the other places.

If I may say a few words to the lampshade story, that's a grotesque propaganda lie, and John J. McCloy (ph), I believe the Military Governor of West Germany, pardoned Elsa Kovwoch (ph) [Ilse Koch] when she was accused and sentenced during the War about the lampshades. And he came, apparently, to understand that there might have been a medical research station at one of the camps where tattoos [sic] were taken from people, not unlike places where we keep embryos – I have been to museums in Austria, museums in America where embryos in various stages of development are kept or where the effects of syphilis on the human body are shown photographically in bodies affected by syphilis and cancer, and the shrunken heads came from an eastern museum where they came from the head hunters. Now, I was not there, but the Elsa [Ilse] Koch (ph) {3916|3917} story I recall that John J. McCloy had pardoned her and she was re-arrested by the Germans when she was freed and put back in prison again because, unfortunately, it is one of the German character traits that we want to be more Catholic than the Pope, and in Germany, we have in East Germany we have communists who are more communist than Karl Marx himself.

Q. I'd like to show you a book "The Jewish Lists". I ask you if you are familiar with the book.

A. Yes, I am.

Q. Why is it relevant to "The West, War and Islam"?

A. It's a book put out in 1979 by Schocken Books in New York, and it is by Martin Greenberg, a Jewish writer, and it lists all the physicists, generals, actors, writers and hundreds of other accomplished Jews and various professionals about the medium of television, the media and so on, and it is interesting because many times it gives their real name,

their birth name and their assumed name after War.

THE COURT: And it lists what?

THE WITNESS: It lists hundreds of other lists of accomplished Jews, Jews in all areas of life, Your Honour.

Q. MR. CHRISTIE: I'd like you to explain to His Honour and the jury why it is relevant to "The West, War and Islam".

A. When we talk about the media, for instance, journalists, publishers and so on and {3917|3918} television producers, it has, for instance, a whole section on television executives, and I won't bore the audience or the jury or Your Honour with all this, but William Paley is in there, Leonard Ruskin, Richard Salant, David and Robert Sarnoff, Newton Minow, Don Mankiewicz, Robert Kaufman – many of the famous people in the media we find in here, and it is called, "The Book of Jewish Lists", and it is unabashedly proud of the fact that these people are Jews. And quite a bit of my knowledge of name changes by people in the media and show business and so on comes from this book and other books like it.

MR. CHRISTIE: Could that be an exhibit, please?

THE COURT: Yes.

THE REGISTRAR: No. 94.

— EXHIBIT NO. 94: Book, "The Jewish Lists" by Martin H. Greenberg.

Q. MR. CHRISTIE: In your article, "The West, War and Islam", you make claims that the western media is to a large extent Jewish controlled; is that right?

A. When I say the Western media, I didn't mean the Vancouver Sun. I mean in the same context that the Third World countries of Africa, Asia and Latin America have called United Nations Conferences about the Western domination of the world's media. Now, they don't cite Jewish domination of the Western media dominating the Third World. I distinctly {3918|3919} recall that there were meetings held by these Third World countries threatening to boycott the Western media because they felt that they were getting the short shrift in the media field, and I don't think – it is an open secret, General George Brown, the Chief of Staff of American-Canadian Armed Forces, gave a speech in 1977, I think October, November, in Duke University which nearly got him fired when he said, "Look at who owns the banks and the media in America", and he mentioned the influence these people have in public life in America.

Now, he was the Chief of the General Staff and he was called on the carpet by President Ford for saying that, but even though he was embarrassed, he stuck to his guns and he was reconfirmed as Chief of the General Staff.

Q. So what Western media do you mean when —

A. I mean the Washington Post, which is influential because it is read by every member of the United States Government delivered free of charge, apparently, to Senators, Congressmen, their administrators, the President, the White House, the New York Times and large publications like that. And I would hasten to add that I am not saying that there is a commissar with a special room in all of these newspapers that checks all the copies that the reporter submits to them.

Q. Then what are you saying?

A. I am saying that reporters – I have met many in my life – they are alert, they deal with news and people every day. They continually have {3919|3920} to be told with a sledge hammer that, for instance in the Toronto Sun, Paul Godfrey yanked an advertisement only three, four weeks ago that was placed by Penthouse which had a big swastika in the centre of the ad. And I remember him the next day talking about, it was offensive to him. "I am a Jew and it shouldn't have been done and if it was shown to me it would not have made the newspaper. Well, doesn't that say that this man can even censor advertising? This happened right here in this City. And take the reporter for CTV that I mentioned this morning, White – that is a long distance from Toronto. All he made was one broadcast. It was a man with a tremendous tradition in journalism. All of a sudden he is without a job.

Q. You are charged with false news. I now produce and show to you, "Canada The Twentieth Century". How is that relevant to the charge?

A. It's a school textbook currently used in Canadian schools and it says

on page 146 it is by FitzHenry [sic] and Whiteside. Under the heading, "Holocaust" there is a whole section —

MR. GRIFFITHS: Does this have anything to do with Mr. Zundel's belief, this book?

MR. CHRISTIE: Yes, Your Honour. I can demonstrate that. The book demonstrates [sic] the false statements made by the Holocaust that led Mr. Zundel to doubt the story itself. If I might be allowed to have the witness —

MR. GRIFFITHS: When was it published? {3920|3921}

MR. CHRISTIE: There is no publication date, if you would like to examine it.

MR. GRIFFITHS: I understand this comes from the early sixties, then.

THE WITNESS: I couldn't find it here.

MR. CHRISTIE: It had something to do with my client's belief prior to 1983. That is why I introduced it.

THE COURT: Anything further, Mr. Griffiths?

MR. GRIFFITHS: No, sir.

THE COURT: Go ahead.

THE WITNESS: It just says, "In Auschwitz and Poland Jews were stripped of their clothes. Men and women and children were herded into showers. When the showers were turned on they rained poison gas. Once the gas was cleared the piles of bodies were shovelled out. Dentists examined them for fillings. Sometimes human hair was used to stuff mattresses. Bodies were boiled to make soap."

Q. MR. CHRISTIE: What is wrong with all that, Mr. Zundel?

A. Professor Raul Hilberg said that he investigated the soap story and he said it was a rumour, that there certainly was no such thing going on in Auschwitz, if I recall.

Q. What effect did these stories have upon your perception of the Holocaust as a whole in the story?

A. Maybe I will get in trouble for {3921|3922} saying this, but I think it is hate propaganda against quite a large segment of the population in this country, and not only in this country.

Q. Now, I understand you've read a number of books in German. You referred to the Burg books. Are you familiar with this book?

A. Yes. It is by Judge G. Burg, real name Ginsburg.

Q. What effect does it have on your opinion on the Holocaust?

A. The title is "Scapegoats", and he points out how the German people have become scapegoats in this Holocaust story.

Q. Has he suffered for his views?

A. Yes., he has.

Q. How?

A. Well, when he went to put flowers on the grave of his deceased wife, equivalent members of the Jewish Defence League except German version of it beat him, assaulted him and he was hospitalized.

Q. How old is he?

A. He is getting on in years. He is seventy-five, seventy-six, quite frail and small and he now has a problem with his eyes.

Q. How long have you known him?

A. I have known of him since I first read the book.

Q. Personally?

A. Personally. I have corresponded with him and so on, seven years, six years.

Q. Have you made a study of the {3922|3923} Stroop report, or had other people undertake a study to check into that matter?

A. I checked myself, and I had others check my findings and give me an opinion on what they found. I certainly didn't find fifty-six thousand people dead.

Q. Have you also conducted inquiries to determine if the story about the fire shooting from the chimneys day and night was possible?

THE COURT: Mr. Christie, it may be getting on late in the day, but there is really no reason why you should ask leading questions like that. You might not be quite so bald.

MR. CHRISTIE: I'm sorry, Your Honour. I thought I could get to the point.

Q. What have you studied about the question of chimneys that, in this case, have been alleged to be burning and shooting flames into the



air?

A. Well, since I have been in Canada I have built one house from scratch where I laid on hands myself. I had the plans drawn up and so on, and there was a chimney built in there with a fireplace, and in my current house I have a fireplace, and I am pretty alert to the danger that flames can cause to ordinary bricks, and I mean, it's just ordinary wood and ordinary flame. But if one looks at the long channels from the crematoriums to the chimneys in the places where this event is supposed to have taken place, namely Auschwitz, you talk – I mean, one sees that it must have been in some of the outlying furnaces, the next furnaces in ten, twelve meters anyways, of a kind of a pipe or a {3923|3924} passage made of – it's like a conduit for the flames and stuff like that. It was so long, it would have been the wierdest [sic] flame. They would have to first go down and go around curves and up chimneys and still be long enough and powerful enough to shoot fourteen feet out of the brick chimney.

Well, that seems a little far fetched to me and we have heard from Dr. Lindsey and I discussed it with Dr. Lindsey at length after the preliminary hearing when that charge was first made, I think it was Mr. Friedman made it when he said during the preliminary that he could determine when the skinny Polish Jews were burned by the colour of the flames or fat Hungarian Jews were burned by the colour of the flames. I immediately called Lindsey and asked, "What do you think of this?" Because I am not an expert on chemistry. And he just laughed uproariously and certainly thought he was ludicrous.

Q. Have you studied photographs of the smoke channels at the camps of Maidanek and Auschwitz?

A. I studied the slides by Dittlieb Felderer, yes, and of course, I also used some aerial reconnais[s]ance photographs over Auschwitz.

Q. Made by ...

A. Made by the United States Air Force or the South African Air Force, some of them.

Q. And did you examine them for smoke?

A. Yes, I did. And this is one area where I think I have some expertise in that I am {3924|3925} a photo retoucher by trade, and I have earned my living with photographs and retouching photographs for years, and I had these photographs purposely enlarged and looked at them under powerful magnifying glasses, and there were certainly no flame shooting from chimneys, and there was certainly no billowing smoke coming from the chimneys.

Q. How many of those photographs were taken?

A. The United States Air Force and Allied Air Force overflew these camps, apparently, every ten days.

Q. Do you have those photographs here?

A. Yes, I do.

MR. CHRISTIE: Could we produce them, Your Honour, please?

THE COURT: Have you shown them to anyone other than – have you shown them to Mr. Griffiths?

MR. CHRISTIE: I believe we did once, Your Honour. I will show them again if you want.

THE COURT: Do you have any complaint about them?

MR. GRIFFITHS: I haven't seen them, Your Honour. I'd like to have the opportunity, if it doesn't unduly interrupt the flow of my friend.

MR. CHRISTIE: We can do that another time. I will show them to my friend this evening.

Q. Have you examined the question {3925|3926} of the fuel problem for the cremation of various corpses like a million human beings?

A. I made some calculations, and —

Q. Have you studied that question from the point of view of the authorship of the book that was filed on that subject?

A. Yes, I did.

Q. What conclusions did you make as to the amount of fuel necessary from that research to cremate one human body? How much coke?

A. This is a complex question, and I want to give you a common sense answer to it, because charges have been made that bodies have been cremated in pits, and when a body is burned in an open pit, like Indira Ghandi was, for instance, burned in an open cremation, it takes 440

pounds of wood to burn one human body. That would have meant, if all the people were burned in open pits that were alleged to have been burned in open pits, like Mr. Vrba said and others have claimed in the Holocaust legend, there should have been wood piles visible in those aerial photographs of a huge size. But there were no unduly large wood piles in any of these photographs.

Q. Did you see any wood piles?

A. Well, Mr. Vrba said that he even hid in a wood pile, so there must have been some wood piles. And much of the construction of the concentration camps, the wood posts and so on, the barracks and so on, so there must have been wood; but I mean, twelve thousand bodies multiply that by 440 pounds of {3926|3927} wood, there is an enormous pile of wood, day after day. There should have been trains visible or some people should have talked in literature about the mass shipments or coal shipments to Auschwitz, or coke shipments to Auschwitz, because the Auschwitz furnaces, apparently, were coke-fired.

Q. Did you ever make any study to determine the amount of coke necessary to produce enough energy to cremate one human body?

A. I am not an expert in it, but in the technology of the day, applying common sense rules, the estimates vary for coke per one body, about forty kilograms.

Q. And how many pounds is that?

A. That's in Canadian pounds almost a hundred pounds.

Q. And then, for a million bodies, how many pounds?

A. That's a hundred pounds multiplied by one million, so that's a hundred million pounds. And that's a lot of pounds.

Q. In all the research you have been able to undertake from the sources you have been able to communicate with, has there been any indication of that volume of coke or coal or wood available?

A. Strange as that may seem, I have come across very few discussions, if any, of large shipments of coke to Auschwitz or coke trains being unloaded. None of these inmates that we have – well, certainly not of the eye witnesses that we have had here. We have had them unload potatoes; Mr. Friedman {3927|3928} said he was unloading potatoes. So here are these kids unloading potatoes not coke. And Vrba said he was unloading bodies and sardines and slivovitz and all this stuff.

So I don't mean to be facetious, but certainly, in order to make a point, did the S.S. unload the coal and did the prisoners unload the slivovitz and the potatoes Ludicrous. It is a common sense look at this problem.

Q. Have you examined the photographs of the hole in the roofs of Kremas II and III and Leichenkeller 1?

A. Yes, I have, extensively.

Q. And could you describe them?

A. It's – the roof is a very solid roof. It is reinforced by concrete, and the roof itself is reinforced concrete, and there were very, crude holes chipped into it, and the reinforcing rods were bent down and they were just hanging there in every which direction. It hasn't even been patched up. The rest of the building is in very good state of repair. It is a properly constructed building, the way I would, if I may say so, expect Germans to build buildings, you know. And then, suddenly, there is this awful hole or a series of holes in the ceiling with, of all things, wooden enclosures where you can see through and wooden lids on it, and we have heard testimony here from an expert in chemistry about the properties of Zyklon-B, and we have heard Dr. Vrba describe how the method was done by the S.S. men climbing up, carrying the can, and then dumping it in the hole. Well, he wouldn't have {3928|3929} gotten one step back from the hole or he would have been dead, because most of this stuff would have come up since it rises.

Q. Have you photographs of what you have referred to?

A. Yes, I do.

Q. Where is the place that you have referred to located?

A. In Auschwitz. Auschwitz I. That's the old gas chamber.

Q. And the old gas chamber, have you seen photographs of it?

A. Yes.

Q. Do you have photographs of it?

A. Yes.

Q. Did you have them enlarged?

A. Yes, I did.

MR. CHRISTIE: Those, too, I'd like to show at maybe a later date.

Q. Having seen those photographs and enlargements of what is proposed to be the old gas chamber, what do you have to say about that?

A. The kindest thing I can say for them, it is a macabre if vicious joke and con game pulled off on tens of thousands, maybe millions of people who go to visit those sites out of respect for those who may have died there. And I think it is diabolical that people in this day and age should do that and continue to do that. It is misleading the public and if it is done in Canada, these people, I am quite sure, would be closed down and, most likely, would be standing where {3929|3930} I am standing right now.

Q. Have you made an inquiry as to the colour of the bodies of persons gassed with Zyklon-B?

A. Yes, I have.

Q. Why did you do that?

A. Again, because some of the survivors' literature talks about how these bodies looked, and so I contacted a pathologist who has experience in, he told me, four cases of Zyklon-B poisoning, and he described to me in an affidavit, notarized affidavit, what it does to human bodies and how quickly it discolours the human body, and what the hallmarks are of a human body that has ingested or come in contact with Zyklon-B.

Q. And were those symptoms consistent with the stories you've heard?

A. Certainly not. And also these symptoms set in much later than some of the survivors have claimed, that some symptoms or parts of some of the symptoms allegedly set in. It takes quite some time before the symptoms are visible in the body, and they are usually first visible in the stomach area and the lining.

Q. Did you inquiry into the – for example, we've heard Mr. Urstein's evidence here in regard to hauling bodies. He said that it was from the same level as the ground. From your observations of the plans what do you say about that?

A. I don't know where he worked or where he was, but he certainly wasn't where he alleged he was, because those buildings were below ground, and {3930|3931} he said definitely, when asked repeatedly, he said they were level.

Q. What effect does that have on your belief in the gas chamber story?

A. Well, I have lived in a number of houses since I have been in Canada and if I lived in a place for a certain length of time I certainly know whether I walked upstairs into the kitchen or downstairs into the kitchen, you know. Certainly if I had such a horrific experience that I had to carry human bodies out, that would tend to, as Dr. Vrba said, give my memory training a jolt.

Q. Now, in your observations you said that you relied to some extent on what Udo Walendy discussed with you. What did he discuss in relation to fake photographs?

THE COURT: We will hear about those in the morning.

MR. CHRISTIE: Yes, sir.

THE COURT: Nine thirty.

— The jury retires. 4:35 p.m.

— The witness retires.

— Whereupon the hearing is adjourned to February 20, 1985.

(VOLUME XVIII FOLLOWS) {3931|3932}

## VOLUME XVIII

### FEBRUARY 20, 1985

— Upon the hearing resuming.

MR. CHRISTIE: Good morning, Your Honour, may I proceed with my witness?

THE COURT: Yes. I was going to mention, if there is any motion to introduce evidence which is the subject of any past ruling on my part,

that will be done in the absence of the jury while I hear argument and make a ruling, subject to that procedure.

MR. CHRISTIE: Yes, sir.

I was wondering, maybe Your Honour could assist me by directing me, I was going to proceed through the lettered exhibits and ask the witness if he relied on some of these informations. Would that pertain to —

THE COURT: It might very well pertain to that. I don't know. I'd have to hear from you as to which ones. Are you going to do all of them?

MR. CHRISTIE: No, sir.

THE COURT: Which ones will you do?

MR. CHRISTIE: I will have to provide a list, Your Honour.

THE COURT: You can carry on now, I gather?

MR. CHRISTIE: Oh, yes.

THE COURT: I think that should be done in the absence of the jury, and if you can let Mr. {3932|3933} Griffiths know, we can save some time. He may agree or not. That depends upon his views.

MR. CHRISTIE: Thank you, sir.

THE COURT: Anything else? Call in the jury, please.

— The jury enters. 9:40 a.m.

THE COURT: Yes, Mr. Christie.

### ERNST ZÜNDEL, previously sworn.

#### CONTINUED EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. Mr. Zundel, do you recall the evidence of Dr. Hilberg about the subject of 56,065 persons involved with the Strop report?

A. Yes, I do.

Q. And do you recall Mr. Hilberg saying – Dr. Hilberg saying that is his figure of Jewish dead?

A. Yes, I do.

Q. Did you conduct an inquiry into the trials of the war criminals in respect to that matter?

A. Yes, I did.

Q. I now produce and show to you pages 256 and 296 of Volume V of the "Trials of War Criminals Before the Nuernberg [sic] Military Tribunals", and I ask you to go to the pages relative to the figure of 56,065. {3933|3934}

A. Page 256:

*"A great number of Jews, who could not be counted, were exterminated by blowing up sewers and dugouts. 'Of the total of 56,065 Jews caught, about 7,000 were exterminated within the former ghetto in the course of the large-scale action, and 6,929 by transporting them to T II (an obvious reference to Treblinka), which means 14,000 Jews exterminated altogether. Beyond the number of 56,065 Jews an estimated number of five to six thousand were killed by explosions or in fires.'"*

End of quote page 256.

Q. And that is from the Allied view of the matter; is that correct?

A. That's right. Contained in the War Trials of War Criminals Nuernberg Military Tribunals.

Q. Could you turn to page 256 and refer to the number of 56,065 persons?

A. It is on page 986. It says:

*"He cannot free himself from his share in Brigadefuehrer Strop's shameful boast – 'The total number of Jews dealt with is 56,065, including Jews caught, and Jews whose extermination can be proved.'"*

Q. From your observations of those {3934|3935} transcripts did you draw any conclusions as to the accuracy of the statement of Dr. Hilberg that the 56,065 figure represents Jewish dead?

A. If I may say without being unfair to Dr. Hilberg, this is, I feel, symptomatic of his way of looking at things to claim, just because fifty-six thousand people were caught in the ghetto and were arrested or detained or whatever, to refer to them as being killed. It's very clear from this particular document and there are many other supporting documents in books from England, from America, that say that fifty-six thousand people got killed.

MR. CHRISTIE: May. I file this as an exhibit, please, Your Honour, being Volume V of the Trials of War Criminals?

THE COURT: Yes.

— EXHIBIT NO. 95: Volume V of "Trials of War Criminals Before Nuernberg [sic] Military Tribunals".

Q. In respect to the whole of your thesis of "Did Six Million Really Die?", what part did Camp Dachau play?

A. It is a major part.

Q. Why?

A. Because some of the major events and allegations in the Second World War centred around Dachau. Dachau was for many years the largest camp, concentration camp – it also being the main distribution centre for Red Cross parcels and so on. {3935|3936}

Q. I'd like to draw your attention to the magazine, "Vital Speeches", and the editorial article of Malcolm W. Bingay, "What I Saw In Europe", page 625, and ask you whether it refers to gas chambers in Dachau. Please read it loud.

A. It is a publication by the "Vital Speeches of the Day" and it is from August 3rd, 1945, and it certainly does talk about gas chambers. It quotes:

*"The gas chamber which I had read about and heard about, as I have said, was not at Buchenwald. At Dachau we found one. It was nothing that was just thrown together for temporary use. That, to me, is one of the most hideous facts in the investigation.*

*It was a solidly built building. The cornerstone was cut to the year 1937; a great, brick structure; and over the top of it the words 'Brause Bad,' Shower Bath. Prisoners were told that they were to be taken to the bath. They had the idea that a bath, a shower, meant that they were to be liberated. They were given a little piece of soap and rag for a towel. They were put through these doors from which no man ever returned alive. The lobby looked very much like an American bath house with a {3936|3937} mosaic floor and wicker furniture. At the center was a big desk, and there were flowers on it – faded flowers.*

*These victims, fifty at a time, were told to strip. They were ushered into what they thought were showers. There were what looked like shower sprays, but no water ever came out. When they were all under these showers, the great iron door clanged shut. A heavy glass covered peephole was there for the guards to watch. The gas was turned on. All were dead within three of four minutes. Then great ventilators were turned on to cleanse the air of the poison, and other prisoners were moved in. The bodies were dragged to the crematories. It is estimated that these crematories burned as high as a thousand bodies a day."*

Q. What's that indicate to you, a common sense view of the existence of gas chambers in Dachau?

A. There are numerous historians, expert writers, researchers, even the people who are running Dachau today as early as 1963 when I visited Dachau museum. The Dachau site, I was told, there were no gas chambers in Dachau. There were a number to see {3937|3938} for tourists.

Q. Now, when was the publication?

A. August 1st, 1945.

Q. I now show to you a book called, "The Liberators" by Yaffa Eliach and Brana Guerwitsch published in 1981. Are you familiar with this publication?

A. Yes, I am

Q. What does it indicate about gas chambers in Dachau and how they were used?

MR. CHRISTIE: May I file the "Vital Speeches" article, Your Honour?

THE COURT: Yes.

— EXHIBIT NO. 96: Article in publication "Vital Speeches" by Malcolm W. Bingay.

THE WITNESS: On page 37 of this book it states, under section 8, "Inspection of the Crematorium and the Gas Chamber":

*"Next I was conducted to the gas chamber. This establishment consisted of three rooms, the dressing room, the gas chamber or shower and the office. Here, the unsuspecting prisoners after a long train trip were conducted under the subtle pretext of taking a shower before entering the enclosure. In the dressing room, they calmly undressed in batches of sixty, hung up their {3938|3939} clothes, men, women, and children*

*together. Each was given a towel and soap and calmly conducted into the gas chamber. Over the entrance to the gas chamber was written in Jewish the word, 'Showers'. The subtle Nazi mind was at its height, in the gas chamber! The room itself was inlaid with a high quality, brown tile. The ceiling was covered with chrome-finished shower nozzles, two hundred of them. The door was tightly closed behind the fatal sixty; they waited quietly, calmly, soap in hand, for the water to clean their filthy bodies. Suddenly, the cruel Nazi hand pushed the gas lever! Cruel, deadly gases, not water, poured from the shower heads. In two minutes all were dead. The mad Nazi in the office then released the lever, peered through his glass window at the dead, sneered as he had done thousands of times before, and pushed another lever to suck out the gases. When the gases had been removed, a large door at the opposite end of the 'shower' was opened. SS troops would rush in, drag the bodies to the warehouse {3939|3940} to be thrown on the ever growing heap, while other S.S. men calmly gathered up the bars of soap and towels for future 'shower Guests'. While this was going on, but inches away in the undressing room, other victims happily undressed in expectation of their shower! All quiet, all was orderly – the peak of calmness. The doves warbled outside. The flowers were beautiful in the garden."*

Q. Do you believe that is true?

A. I think it is a vicious lie and it is published in 1981 by respectable people.

Q. Why do you think it is not true?

A. Dr. Broszat, the man in charge of the Institute for contemporary History, and Germany's highest official in these matters, already in 1960 stated publicly in the German newspaper "Die Welt" there were no gassings, especially in Dachau, and not in the Altreich, meaning old Germany.

— EXHIBIT NO. 97: Photocopy of book, "The Liberators" by Eliach and Gurewitsch.

Q. MR. CHRISTIE: I now produce and show to you an excerpt from "The War A Concise History 1939 – 1945" by Louis Snyder, published in New York in 1960. Could you find the part where it refers to {3940|3941} gassings at Dachau?

A. On page 426 it says:

*"Perhaps the worst atrocity-center of all was Dachau, near Munich, where 32,000 were liberated on April 29, 1945. Here the method of execution was diabolical. Victims were provided with a towel and a piece of soap with orders to enter the Brausebad, the shower bath. They were lined up outside, marched into a room, ordered to undress. They expected water to flow from the showerheads in the ceilings. But, instead, gas descended upon them. As fast as they were killed, their bodies were removed through a back exit to the adjoining crematory, where five furnaces, each holding several bodies, worked around the clock. It was a model of Nazi efficiency! For this grisly business of wholesale slaughter a Polish scholar and attorney, Dr. Raphael Lemkin, invented a new word 'genocide,' derived from the Greek word genos (tribe, race) and the Latin cida [caedere] (kill or exterminate). Professor Lemkin called attention to Hitler's statement in Mein Kampf – 'the {3941|3942} greatest of spirits can be liquidated if its bearer is beaten with a rubber truncheon.'"*

Q. Do you believe that that account of Dachau is true?

A. It seems to me that there must have been one rumour which has been repeated for the last thirty-five years by quite notable [sic] writers, and it was based on a lie, obviously.

Q. How does this relate to the matter of Auschwitz and the story about Auschwitz?

A. The German concentration camps were virtually all the same, same type of administration, and the same layout. Many of the building plans and huts and so on were repeated over and over again. The way of most military establishments. So what was true, in Dachau, was true for all the other camps.

MR. CHRISTIE: Could I file this, please, Your Honour?

EXHIBIT NO. 98: Photocopied excerpt from "The War A Concise History 1939-1945" by Louis Snyder.

THE COURT: Yes.

Q. MR. CHRISTIE: I now produce and show to you a book entitled, "The Scourge Of The Swastika" by Lord Russell of Liverpool, published in 1954. I'd ask you if it provides a vivid description of gassings in Dachau.

A. On page 37, headed, "Epilogue" {3942|3943} – I won't read the whole page. It just says this was in Dachau, 1945, and I quote:

*"Gone were the corpses which once lay in the annex waiting their turn to be burned when the gas chamber killed more than the ovens could hold: gone too were the lines of hapless humans waiting outside in the changing room for their turn to enter the lethal chamber. Gone they were forever; but their ghosts remained and their memories filled the air.*

*But there, clean and swept, still for all to see was the room where the victims undressed, the gas chamber itself with the peep-hole through which the operator watched for the last death agony so that he could switch on the electric fan to clear the air of its deathly fumes, the adjacent crematorium, and the iron-wheeled stretchers by which the corpses were brought to the oven's mouth, ..."*

Q. And what does that indicate to you about Dachau?

A. I think it's becoming apparent that the story is very slightly – this is 1954, 1945, 1981 – it's the same lie, except repeated in a slightly {3943|3944} different way.

MR. CHRISTIE: Could I file this, Your Honour?

THE COURT: Ninety-nine.

— EXHIBIT NO. 99: Photocopied excerpt from "The Scourge Of The Swastika" by Lord Russell.

Q. MR. CHRISTIE: I now produce and show to you a book entitled, or an excerpt from a book entitled, "This Must Not Happen Again! The Black Book of Fascist Horror" by Clark Kinnaird, published by Howell, Soskin, Publishers Inc., 1945. I'd ask you if that book contains an excerpt which indicates gassings in Dachau.

A. It contains a picture of an American soldier standing outside an alleged gas chamber with a death head emblem on it, and it says in German, "Careful. Gas. Danger to Life." And the caption reads:

*"In this gas chamber at Dachau, 100 prisoners were executed at a time. Many hundreds were forced into it in a single day."*

Q. From your study of photographs and other research into the field, do you recognize what is depicted in the picture called "The Gas Chamber"?

A. It is a fumigation chamber for clothes.

Q. For what?

A. For clothing. {3944|3945}

THE COURT: That will be Exhibit 100.

— EXHIBIT NO. 100: Photocopied excerpt from book "This Must, Not Happen Again!" by Clark Kinnaird.

Q. MR. CHRISTIE: I now produce and show to you a book entitled, "S.S. Dachau", printed by the United States Army. Would you identify the date of its publication, please?

A. It's a Pentagon publication from the O.S.S. Section, 7th Army, U.S.A., July 1945. And the foreword is written by William W. Quinn, Colonel, G.S.C., whatever that means. And it details on page 33, headlined "Executions", "Gas Chambers":

*"The internees who were brought to Camp Dachau for the sole purpose of being executed were in most cases Jews and Russians. They were brought into the compound, lined up near the gas chambers, and were screened in a similar manner as internees who came to Dachau for imprisonment. Then they were marched to a room and told to undress. Everyone was given a towel and a piece of soap, as though they were about to take a shower. During this whole screening process, no hint was ever given that they were to be executed, for the {3945|3946} routine was similar upon the arrival of all internees at the camp.*

*Then they entered the gas chamber. Over the entrance, in large black letters, was written 'Brause Bad' (showers). There were about 15 shower faucets suspended from the ceiling from which gas was then released. There was one large chamber, capacity of which was 200, and five smaller gas chambers, capacity of each being 50. It took ap-*

*proximately 10 minutes for the execution. From the gas chamber, the door led to the Krematory to which the bodies were removed by internees who were selected for the job. The dead bodies were then placed in 5 furnaces, two to three bodies at a time."*

And then it goes on to talk about crematories.

Q. What does that indicate to you about Dachau and the subject of gas chambers?

A. Well, that is, officially, a United States publication and it comes from July 1945. The first public mention we have in August 1st, "Vital Speeches" article, so I think we are getting very close to the source of this misinformation.

Q. Thank you.

MR. CHRISTIE: Could I file this, {3946|3947} Your Honour?

THE COURT: Exhibit 101.

— EXHIBIT NO. 101: Booklet, "S. S. Dachau", Pentagon publication.

Q. MR. CHRISTIE: I now produce and show to you a translation and photocopy of a letter from Dr. M. Broszat. Just read the pertinent portion. Identify the author, the date of publication and the pertinent portion on the issue of the gas chamber, if you would, please.

A. The article is by Dr. Martin Broszat, Institut für Zeitgeschichte, München, which is the Institute for Contemporary History in Munich.

Q. Can you describe that for the benefit of the jury, just how official is this organization?

A. This is an organization of experts. It is an official German institute attached to the Institution of Munich in Bavaria and is called upon to render expert opinion, supply documents in court cases of this type. And Dr. Broszat is a frequent expert witness in these proceedings.

Q. So what does he say about gas chambers in Dachau?

A. The article appeared in "Die Zeit". This is from the U.S. edition 26th August, 1960, No. 34. And "Die Zeit", in Germany, is the paper of record. And the translated version reads:

*"Neither in Dachau nor in Bergen-Belsen nor in Buchenwald Jews or other prisoners were gassed. The {3947|3948} gas chamber in Dachau was never fully completed and 'put into operation'.*

*Hundreds of thousands of camp inmates who perished in Dachau or in other concentration camps in the territory of the Altreich (German Reich in its frontiers of 1937) had predominantly fallen victim of the catastrophic hygienic and supply conditions. Alone in the twelve months from July 1942 up to June 1943, 100,812 persons died of sickness and starvation in all concentration camps, according to the official statistics of the SS."*

And it goes on to say:

*"The mass extermination of the Jews by gassing commenced in 1941/1942 and took place exclusively at a few places that had been selected for this particular purpose, and with the aid of the respective technical facilities, above all in the occupied Polish territories (but nowhere in the Altreich): in Auschwitz-Birkenau, in Sobibor on the Bug, in Treblinka, Chelmnno and Belzec. It was there, but not in Bergen-Belsen, Dachau or Buchenwald that those mass extermination facilities {3948|3949} camouflaged as shower baths or – disinfection rooms were constructed of which mention is made in your article."*

This was in response to an article that had appeared in "Die Welt [Welt]".

*"This necessary differentiation will certainly alter not one little bit the criminal nature of the erection of concentration camps. However, it may help to clarify the fatal confusion which is caused by the fact that many an incorrigible person would avail himself of an argument which is correct but polemically separated from its context, and that, in reply to this argument, people would hurry to the scene who have a correct general judgement of the subject, but who base themselves on false or erroneous [sic] information."*

Q. What do you derive from that letter?

A. That certainly Dr. Broszat, without equivocation, states that there were no gas chambers in Dachau, Buchenwald or Bergen-Belsen, which means that every book, every article, every film that is made has been made and is still being made and is shown in the western world is nothing but a bunch of lies. {3949|3950}

Q. What do you derive from the last part of this letter pertaining to his statements about the Eastern camps?

A. Somebody clutching at straws, and just as they took twenty years or fifteen years to admit that there were no gas chambers in Bergen-Belsen, Dachau and Buchenwald where people were hanged for operating gas chambers, I am told, they will come around and admit sooner or later there were no gas chambers in Sobibor, Treblinka or anywhere else.

Q. Do you know who Stephen F. Pinter was?

A. Yes, I do.

Q. Who was he?

A. He was an attorney. I believe he was an investigative attorney in the Nuremberg War Crimes proceedings.

Q. How did you become aware of him?

A. He signed an affidavit that he never – that he did not believe that six million Jews were killed in Germany, and that there were gas chambers, I believe. And it is quoted in the booklet, “Did Six Million Really Die?”. I had friends who have corresponded with him. I received photocopies of the correspondence and I am told that Mr. Pinter is very much alive in California today, age ninety-six.

Q. Are you aware of his publication of a letter in “Our Sunday Visitor” in 1959?

A. Yes, I am.

Q. I now produce and show to you a photocopy of the letter of Stephen F. Pinter of the 14th {3950|3951} of June, 1959, from “Our Sunday Visitor”. What does that say pertaining to the gas chambers in Dachau?

A. It's headed —

THE COURT: Excuse me. The previous article will be Exhibit 102.

— EXHIBIT NO. 102: Article in “Die Zeit” August 26th, 1960, by Dr. M. Broszat.

THE WITNESS: It is headed, “What Our Readers Think”, headline, “German atrocities”, and I read the pertinent part:

*“In addition, false statements appear in the Pritchett article, such as the reference to gas chambers at camp Dachau. I was in Dachau for 17 months after the war, as a U.S. War Department Attorney, and can state that there was no gas chamber at Dachau. What was shown to visitors and sightseers there and erroneously described as a gas chamber, was a crematory. Nor was there a gas chamber in any of the other concentration camps in Germany. We were told that there was a gas chamber at Auschwitz, but since that was in the Russian zone of occupation, we were not permitted to investigate, since the Russians would not permit it. {3951|3952}*

*Pritchett also uses the old propaganda myth that millions of Jews were killed by the national socialists. From what I was able to determine during six postwar years in Germany and Austria, there were a number of Jews killed, but the figure of a million was certainly never reached. I interviewed thousands of Jews, former inmates of concentration camps in Germany and Austria, and consider myself as well qualified as any man on this subject.*

*Stephen F. Pinter*

*St. Louis, Mo.”*

Q. Thank you.

MR. CHRISTIE: Could that be an exhibit, please, Your Honour?

THE COURT: Exhibit 103.

— EXHIBIT NO. 103: Photocopy of letter in “Our Sunday Visitor”, June 14, 1959, by Stephen F. Pinter.

Q. MR. CHRISTIE: Did you have your researchers in 1974 inquire of Stephen F. Pinter by communication?

A. Yes, I did.

Q. And did your researchers receive communication from him? {3952|3953}

A. Yes, he wrote back. I have a photocopy of his letter on his own stationery with his address here.

Q. And do you know the person to whom that letter was directed?

A. Yes, I do.

Q. And he has assisted in appreciation of your research?

A. Yes, he has. For many years.

Q. And could you read the portions pertinent or pertaining to the subject of the Dachau gas chambers?

THE COURT: Just before you do that

MR. GRIFFITHS: Excuse me, Your Honour. What year is this letter?

MR. CHRISTIE: '74.

MR. GRIFFITHS: And this is a personal letter to a researcher of Mr. Zundel?

MR. CHRISTIE: Correct.

Q. You were endeavouring to contact Stephen Pinter, I gather, through your researchers?

A. That's right.

Q. And he communicated with this letter?

A. Yes, he did.

Q. All right. Could you read the portion referable [sic] to the gas chamber in Dachau?

A. *“As I recall there was no gas chamber at Dachau, and in talking to former inmates of Camp Dachau, one of them a Polish priest, who {3953|3954} during my stay at Dachau, was celebrating Mass daily in the Camp Chapel. I seem to recall seeing the room pictured and labeled ‘Gas Chamber at Dachau’, at the time I was there but am not sure, after all of these years.”*

And he goes on and says:

*“In General, I wrote many years ago to our local daily newspaper, that the allegation of the extermination of the Jewish race was grossly exaggerated, that I had many Jewish clients, who had lived in Germany, Poland and other countries at Hitler's time and for whom I collected Hundreds of Thousands of Dollars, thus getting their stories first hand, and could state that the SIX MILLION story was a myth. I received a call from a local Jew, wanting the assurance that at least a million had been killed, but told him I could not do so, because I did not believe it reached that number. And I had to get complete stories in order to be able to collect for them.”*

Q. Thank you. In the course of your research did you get a booklet called, “After The Battle” respecting the camp of Dachau. {3954|3955}

THE COURT: The previous document will be Exhibit 104.

— EXHIBIT NO. 104: Letter dated Marsh 22nd, 1974, by Stephen F. Pinter.

Q. Does this booklet indicate a problem in respect to that issue of the gas chamber?

A. This is copyrighted [sic] 1980, and it has an extensive section with many photographs, some in colour, some using old photographs and recent photographs.

Q. I'd just like to draw your attention to the issue of the gas chamber that was alleged in some of the literature, and ask you what it says about that now.

A. It shows the same door that was shown in the film that we saw in this —

Q. “Nazi Concentration Camp” film?

A. That's right.

Q. Does it show the door with the words “Brause Bad”?

A. Yes. It shows sequences of this.

Q. Well, please read what it says underneath to describe what the picture now says?

A. It says:

*“Above left”, and shows this photograph of the defumigation [sic] chamber with the American G.I. in front of it.*

*“Although this picture, taken on April 30 by T/4 Sidney Blau, is {3955|3956} captioned as the gas chambers being examined by a Seventh Army soldier, they are in fact the decontamination rooms for the clothing removed from the dead located at the extreme western end of the crematorium building (on the left in the photo on opposite page).”*

And then it says:

*“Above right: The same door today.”*

And it shows one of the authors standing in front of the alleged gas chamber, this time with the German writings, the death's head skull and crossbones removed.

Q. Please read now what they say about gas chambers.

A. *"The actual gas chamber is examined by medical corpsmen of the 42nd 'Rainbow' Division. It was disguised as a shower room and the painted inscription 'Brausebad' remains above the entrance door" (photo to centre right). Today the notices and associated literature in Dachau state that the room (above right) was never used for its intended purpose."*

Q. What do you derive from that in your understanding and common sense?

A. That it has taken from 1945 to 1980 to finally reach a publication that you could buy {3956|3957} on newsstands that Dachau, in effect, had no operating gas chambers for people.

MR. CHRISTIE: Can that be an exhibit, please, Your Honour?

THE COURT: 105.

— EXHIBIT NO. 105: Booklet, "After the Battle", No. 27.

Q. I now produce and show to you a book called "Dachau Concentration Camp" published under the authority, I think, of the International Committee of Dachau, 65, rue de Haerne, Brussels. I'd ask you to indicate from that what you derive about gas chambers in Dachau.

A. This is a publication which one can purchase at Dachau today, and this organization is made up of former Dachau inmates and friends of those people. And it says on page 15:

*"In 1942 a gas chamber was also built in the Dachau concentration camp, but inexplicably, it was never used. It was located within the new crematorium, a larger building whose construction with four ovens became necessary when the first crematorium, which had only one oven, proved inadequate."*

THE COURT: 106.

— EXHIBIT NO. 106: Book, "Dachau Concentration Camp" {3957|3958}

MR. CHRISTIE: Thank you, Your Honour.

Q. Do you know what page you are reading from?

A. Page 15. I put a little dog[ear] in it. It is just that there is writing on them. So I thought it was the ruling that I shouldn't do that.

MR. CHRISTIE: I'd like to now produce and show to you a book called, "What was it like in the Concentration Camp at Dachau?" Are you familiar with that booklet?

A. Yes, I am.

Q. What's it say about gassings in Dachau?

A. It is a book by the Auxiliary Bishop of Munich, Dr. Johann Neuhausler, who was there.

Q. He was there. How was he there?

A. As an inmate.

Q. What does it say about gassings in Dachau?

A. It says at page 29:

*"Now we come to the sad story about the exterminations. Besides the cases of arbitrary flogging to death and direct murdering of individual prisoners by brutal SS-men, camp-seniors, block-seniors and apartment-seniors and even by the Capos of the infirmary, general massacres and individual executions took place at the order of the Gestapo {3958|3959} and the high Nazi leaders. General massacres took place above all in the so-called Invalids-transport which had no other purpose than death by gassing. As already mentioned, Dachau had, in the last year, also its own gas chamber. But its 'showers' were never used. Instead, the inmates of the Dachau camp were sent to Linz in Austria to be gassed."*

And then it goes on to some figures.

Q. Did you try to find out about the allegation of gassings in Linz, in Austria?

A. Yes, I did.

Q. Have you had the benefit of information on that?

A. Yes, I did.

Q. Who?

A. Dr. Faurisson for one. He was referring to Hartheim Castle.

Q. Who is?

A. Dr. Faurisson. And this author here, but in Linz it was the only institution where it alleged Hartheim Castle, but it falls under the matter that

Dr. Broszat says because Linz is very much in the Altreich.

THE COURT: Exhibit 107.

— EXHIBIT NO. 107: Book, "What was it like in the Concentration Camp at Dachau?" By Dr. J. Neuhausler [sic]. {3959|3960}

Q. Have you consulted Dr. Faurisson about what he found in Linz, in Hartheim Castle?

A. He said that he found a very small room. He had the slides to —

Q. Have you seen the slides?

A. Yes, I have.

Q. And have you seen what it depicts?

A. I want to correct myself. Linz was in Austria, so therefore it would be outside the Altreich.

THE COURT: What is that?

THE WITNESS: That means the pre-1937 border, Your Honour.

Q. MR. CHRISTIE: Have you seen the photographs of the Hartheim Castle alleged gas chamber?

A. Yes, I have.

Q. Could you describe what it looked like?

A. It is just basically a small room in a castle, castle with thick walls. There's a door on it. It doesn't look anything near like a gas chamber that was used in the United States, for instance, for executing prisoners.

Q. Are there windows?

A. There are glass windows that prisoners could look out, or the gasers could look in, yes.

Q. And do you know how many people are alleged to have been gassed there?

A. They ranked from one million and a half to a few thousand. I believe when I was in Dachau {3960|3961} in 1963 they said one thousand three hundred and some people were sent to Hartheim Castle. They usually referred to it like a euthanasia centre, but I am not too sure on that figure.

Q. In respect to Dachau I now produce and show to you "The National Geographic Magazine" of 1947 and I ask you what it indicates on the killings in Dachau. How many people does it say were killed in Dachau?

A. It says in The National Geographic article:

*"At Dachau, where the Nazis cremated more than a quarter of a million civilian victims ..."*

Q. How many cremation ovens were there in Dachau, to your knowledge?

A. Well, the story is very confusing. We have heard already quite a number of claims in these various articles. Some of these crematories were built but were never used, apparently, by the end of the War, so it depends entirely on whose stories you believe. The exterminationists take a rather high figure. The people who believe that Dachau is just a concentration camp take a lower figure.

Q. What is your view of the matter?

A. I think there were three or four crematories. There was a new one, there was an old one and some new ones added.

Q. What about the quarter of a million victims mentioned in The National Geographic of 1947? {3961|3962}

A. Well, 250,000 people, to cremate that in the facilities that are available in Dachau, even if we were to use all the facilities which were not ready by the end of the War, mathematically you couldn't reach the figure.

Q. Have you collected, through your research attached to that, a series of items referable [sic] to Dachau?

A. Yes, I have.

Q. And could you indicate what they show you in respect to the claims about Dachau?

A. I have a fairly thick and bulging file on Dachau, and Dachau was — I have been there twice — a very well-constructed, well-run camp that, if I were to describe how it really looked, and some of the photographs that I have seen, there were large chapels for people to have religious services in with crucifixes on the wall for different denominations. There were religious services. There were tree-lined streets, flower beds,

kitchens with stainless steel laboratories described, large milk cans, described in the Bishop Neuha[ä]us[er's book. So to all extents and purposes it was a German concentration camp that was run efficiently, and as the statistics clearly show, terrible death numbers were reached in epidemics, usually typhus epidemics, especially towards the end of the War. More people died in Dachau from January, February and March in 1945 than did in the entire existence of that camp back to 1933 or '34.

Q. Why is this relevant to your understanding or belief about Auschwitz? {3962|3963}

A. I could be flippant and say if you have studied one you have studied them all. I don't want to be that way. The administration of the German concentration camps, the people that were sent there were interchanged. They were trained the same way. The facilities were virtually the same. So why would they have rather nice, clean comfortable, under the circumstances, camps in Ravensbrück, for instance, the way we have heard from Bormann, or Dachau in some of these things here? It doesn't make any sense. The only sense that I can derive from it is that Chelmno, Sobibor, Treblinka and also Auschwitz are out of reach for Western investigators, and since there is communist control in those areas, these people can get away with lying in a massive scale, the way they lie about propaganda and everything else.

Q. You are familiar with the photograph in the book, "Did Six Million Really Die?" which refers to a bunch of – it says, "Smiling faces on release day". And then we see the film with all the corpses and it tends to make one wonder.

Have you checked to see if that photograph was actually a photograph of liberation at Dachau? I am referring to page 25.

A. Yes, I have.

Q. I now produce and show to you a book called, "Deliverance Day The Last Hours at Dachau". Would you examine that to see – I'd like to just file page 70 of the January 1947 edition of the National Geographic referable [sic] to the quarter of a million figure at Dachau. {3963|3964}

THE COURT: May I see the whole thing?

MR. CHRISTIE: Yes, sir. There's other things attached, but I didn't – unless Your Honour feels I should, I wasn't going to file them because they are somewhat unrelated.

Q. Do you find a photograph in that book pertaining to the book, "Did Six Million Really Die?"

A. Yes. The photograph is actually reproduced in smaller form in a different cropping on 216.

Q. What do you mean by a different cropping?

A. Just the segment of the photograph that the author in this book, the publisher, the author and his books chose. But I have numerous different crops or sections from this photographs [sic]. There's a very good one.

Q. Well, now, listen, please. Does this photograph on page 25 represent, or is it unrepresentative of the photographs you've seen?

A. No.

Q. Is there a cropping of a good part with people smiling as opposed to some other part?

A. This is a United States Army photograph taken on the day of liberation, and it shows smiling, happy, healthy faces, quite round.

Q. No. If you understand what I mean, is this cropping, the picture on page 25, is it unrepresentative of the whole scene that you have seen? {3964|3965}

A. No, it is not. It is a true representation. The reproduction isn't very good, but I have seen the actual photograph from the National Archives of the United States Army, and it shows that scene except in a larger frame.

Q. With more people in it?

A. With more people in it, but these people are definitely healthy.

Q. All right. You have the photograph there?

A. Yes, I do. On page 216.

MR. CHRISTIE: Could I file that, please?

THE COURT: The National Geographic, I think the whole thing should go in. 108.

— EXHIBIT NO. 108: Photocopied excerpts from "The National Geographic Magazine" January 1947.

THE COURT: Now, this is what?

MR. CHRISTIE: This is an excerpt of the book, "Deliverance Day The Last Hours at Dachau" by Michael Selzer, published by J.B. Lippincott Company, Philadelphia and New York, in 1978.

THE COURT: 109.

— EXHIBIT NO. 109: Photocopied excerpts from book, "Deliverance Day" by Michael Selzer.

THE COURT: Gentlemen, there will {3965|3966} be a short adjournment for ten minutes. The jury is excused.

— The jury retires. 10:35 a.m.

— The witness stands down.

— Short adjournment.

— Upon resuming.

— The jury returns. 10:40 a.m.

— The witness returns to the stand.

THE COURT: Go ahead, Mr. Christie.

MR. CHRISTIE: Thank you, Your Honour.

Q. Did you, prior to the time when you were aware of any charge against you, write to the Attorney General and ask for guidelines?

A. Yes, I did.

Q. I now produce and show to you a copy of a letter of November 10, 1983, to the US Honourable Roy McMurtry. Who wrote that letter?

A. I did.

Q. Why?

A. There was agitation, ongoing agitation in the media here in Canada, and it was based on statements made by Mr. McMurtry in Parliament here, in Ontario, and he had mentioned that senior staff members of his Ministry were looking at all my material.

Q. Well, never mind what he mentioned. {3966|3967} Please tell us why you wrote the letter and what the letter indicates.

A. It is pertinent to why I wrote it. I said, "If you are already looking at my material with six senior members of your staff, then have the common decency to inform me what the guidelines are that you gave those people. And if you share those with me and other members in the media, then we won't run afoul of the law. If you won't, it will be like a case of entrapment."

I never heard from Mr. McMurtry.

MR. CHRISTIE: I'd like the witness to read the letter as an indication of his attempt —

THE COURT: Have you seen the letter, Mr. Griffiths?

MR. GRIFFITHS: I have, Your Honour.

MR. CHRISTIE: Thank you.

Q. Please read the letter.

A. It is addressed to The Honourable Roy McMurtry.

*"Dear Mr. McMurtry: Re: Guidelines On 'Hate Literature'*

*It is dated 10 November, 1983:*

*"I have observed your recent moves in regard to so-labelled 'hate literature' by your appointment of Patrick Lawlor who is to investigate this matter in order to tighten up existing laws on thought-crime. Politically, you were astute in {3967|3968} assigning a former member of the opposition this unenviable, antidemocratic task, for it let you off the hook in regard to your own constituents, many of whom are, it seems, of the Jewish and/or Zionistic persuasions.*

*You have been quoted in the press and in Hansard in reference to your discussions with some five federal ministers of justice and your constant consultation with the committee of lawyers in your ministry regarding the content of my writings which your ministry has been assiduously studying for years. You have declared publicly that these ongoing studies of my publications are being conducted with the purpose of discovering grounds sufficient for the laying of criminal charges against me and against Samisdat Publishers Limited and you have unjustly and erroneously gone on to accuse me of being 'behind a lot of the very vicious material that has been disseminated', although you yourself admit that this is merely a belief on your part and that insufficient*



*proof exists with which to substantiate your allegations. {3968|3969} I have at my disposal a copy of The Criminal Code of Canada and I am quite familiar with the content of the so-called Hate Law or Thought-Crime Statutes of section 281 et al., but as I am not a lawyer, I may not be fully aware of certain implications which your own lawyers are using in their perusal of my writings.*

*Pending the outcome of Mr. Lawlor's investigation and report (the attached copies of news clippings refer), I would like to suggest and request that your committee of lawyers supply me with their guidelines and criteria on 'hate' content so that I may apply them to my writings in advance of publication. Similarly, these guidelines should be available to all writers, educators, media representatives, etc. so that everyone in the community can know exactly what the rules are in Ontario. I make this request solely in the interests of insuring greater community harmony, the lessening of inter-ethnic tensions and misunderstandings and for the relief of current anxieties and uncertainties on the subject of 'hate literature'.*

*If your motive is really the elimi- {3969|3970} nation of so-called 'hate literature' from our society and not actually the malicious persecution, entrapment and victimisation of Ernst Zundel and Samisdat, then I see no reason why you would be reluctant or embarrassed to provide me and the general public with information about your thought-crime guidelines; otherwise you are keeping us all in ignorance of the law as it is currently interpreted and enforced. I hope you do not think that this request for a look at your guidelines on 'hate' is impertinent or peculiar. The various ministries of revenue, for example, provide as a matter of course guidelines for businesses which advise them from time to time about items that are taxable or tax exempt and about tax accounting practices which are acceptable or unacceptable. Since your ministry's guidelines are already being applied internally within your ministry, the cost of making these guidelines public would be far less to the tax payer than would be the initiation and prosecution of a thought-crime trial against a hapless member of the public who has inadvertently [sic] {3970|3971} transgressed the guidelines out of ignorance, rather than malice. I know that Anglo-Saxon justice stipulates that 'ignorance of the law is no excuse', but for you, whose mandate is the interpretation and enforcement of the law, there can be no justification for keeping the reality of the law a secret. In view of your preference for private communication via the mass media, I shall reciprocate by making this communication available to representatives of the media."*

Signed, "Yours very truly, Ernst Zundel".

Q. Were you at that time aware that you were going to be charged?

A. No. I found out on a television programme, a debate with Sabina Citron, that I was going to be charged, some time later.

MR. CHRISTIE: Could I file that as an exhibit, please, Your Honour?

THE COURT: 110.

— EXHIBIT NO. 110: Photocopy of letter from Ernst Zundel to Mr. Roy McMurtry, 10 November, 1983.

Q. MR. CHRISTIE: Did you have communication with the Jewish author J.G. Burg? {3971|3972}

A. Frequently.

Q. In 1972 before this event arose?

A. I did.

Q. What were his remarks? You told us how many books he published.

A. Twelve.

Q. Could you read the letter that he sent you in 1982 about your work?

A. It's in German. I —

Q. Have you translated it?

A. I didn't. I had the translation.

Q. Is the translation attached?

A. Yes.

MR. GRIFFITHS: Excuse me, Mr. Christie, I wonder if I can ask what this letter goes to? If it's Mr. Burg's comment on Mr. Zundel's work, how is that relevant to the issue of either the truth of the material before the jury, or how is it relevant to Mr. Zundel's belief in the truth?

MR. CHRISTIE: In answer to the first question, J.G. Burg is an author who wrote extensively of which the accused is well aware on the sub-

ject of the Holocaust, and he was aware of Mr. Zundel's work and the publication in question. On the second question, the expressions in the letter with which I am well familiar express the approbation of the content of Mr. Zundel's work in such a way that it would be my argument, at least, that Mr. Zundel could assume that J.G. Burg, from this writing, was expressing approval. {3972|3973}

I think I could quite safely say that and it indicates support, understanding and approval, — this bears on racial and social tolerance, because it comes from a Talmud scholar and a Jewish author.

THE COURT: Has the Crown seen the letter?

MR. CHRISTIE: I'm afraid not, Your Honour.

THE COURT: Well, perhaps you could show it to the Crown and we will go on to something else after he sees it. He may change his mind, he may not. I don't know.

MR. GRIFFITHS: Thank you, Your Honour. Thank you, Mr. Christie.

Q. MR. CHRISTIE: In respect to the photograph we were discussing earlier, I now produce and show a photograph that purports to come from the National Archives. Are you familiar with this?

THE COURT: Which National Archives?

MR. CHRISTIE: I'm sorry. The United States National Archives. The address is on the back, the Depository, DAVA Centre.

Q. Could you give the address, please?

A. It is the Still Photographic Depository, Building 168, Anacostia Naval Station, Washington, D.C., zip code 20374.

Q. How was that obtained?

A. I sent a researcher there to get the original photograph that was in that book, "Did {3973|3974} Six Million Really Die?"

Q. And have you checked it?

A. I have.

Q. And have you compared it?

A. It's the identical photograph, except it is the complete photograph as it was taken, an eight by ten print, 1945.

MR. CHRISTIE: Could that be an exhibit, please?

THE COURT: Is that the one that shows the American flag?

MR. CHRISTIE: I think it is a white flag, Your Honour.

THE WITNESS: It is a white flag.

MR. CHRISTIE: Maybe I am mistaken.

THE COURT: The one I saw is an American flag in one of the exhibits, one of the early exhibits. It's liberation, isn't it?

MR. CHRISTIE: Yes, it is liberation.

THE COURT: What does the photograph show?

MR. CHRISTIE: Just the faces, Your Honour.

THE COURT: Mr. Christie, is that the whole photograph?

MR. CHRISTIE: It's all I have, Your Honour.

THE COURT: It's all you have. All right. Yes. That can be an exhibit. 111.

— EXHIBIT NO. 111: Photocopied photograph — liberation of Dachau. {3974|3975}

Q. MR. CHRISTIE: You've said some things about worship services, religious services in Dachau. I now produce and show to you a book entitled, "Christ in Dachau or Christ Victorious" by John Lenz. Are you familiar with that book?

A. Yes, I am.

Q. Where did you get that information?

A. I obtained it via Professor Dr. App, now deceased.

Q. Is that Austin App?

A. Austin App, yes

Q. What is the date of publication?

A. There is a stamp in here that says, "Georgetown University Libraries, July 5, 1972", I think.

Q. What does it indicate about the availability of religious services in Dachau?

A. It is by John M. Lenz. The whole booklet has eighty photographs in it and it shows camp life, especially religious life in the camp, since it's a religious publication. It shows large chapels, religious chapels with pianos or organs beside the altars, candles on the altars, lots of flowers and religious relics. It also contains that photograph again, the day of



liberation.

MR. CHRISTIE: Could I exhibit that, please?

THE COURT: 112.

— EXHIBIT NO. 112: Photocopied excerpt from Book, "Christ in Dachau or Christ Victorious" by John M. Lenz. {3975|3976}

Q. MR. CHRISTIE: I now show you the cover of "The Day Of The Americans" by Nerin E. Gun. Are you familiar with that booklet?

A. Yes, I am.

Q. First of all, what does it indicate about the photograph in "Did Six Million Really Die?"

A. The same photograph is on the cover of Mr. Gun's own book. Again, an enlarged section clearly showing the faces.

Q. Yes.

A. And it is the story of Mr. Gun, who was there at the time, and he was an eye witness to the events at Dachau. He describes it and he also was present when the German guards were murdered by the Americans.

Q. How many?

A. I have forgotten, but could be well over a hundred, two, three hundred.

Q. Do you know how they were dealt with?

A. They were machine-gunned to death.

Q. By whom?

A. By American soldiers. It also has the Brausebad photographs again and so on.

Q. What does it say about the gas chambers in Dachau; are you familiar with that?

A. It intimates that the Brausebad was, yeah, same photo, same everything.

Q. Have you studied this issue of the machine gunning of the guards at Dachau?

A. Extensively, yes. {3976|3977}

Q. Are there many sources?

A. There are sources in England. The one is already introduced into evidence called "Dachau" by the Historical Publication deals extensively with it, then the German writer Eric Kirmayer (ph) [Erich Kermayer] deals extensively with it, and Gun deals with it.

MR. CHRISTIE: May I file this, Your Honour?

THE COURT: 113.

— EXHIBIT NO. 113: Cover and photocopied excerpts from book, "The Day Of The Americans" by Nerin E. Gun.

Q. MR. CHRISTIE: I now show you a magazine entitled, Paris ..., February 1965. Are you familiar with that?

A. Yes, I am.

Q. What part is referable [sic] to the matter of dealing with the guards at Dachau?

A. It shows a famous double[-]spread photograph.

Q. Could you turn it towards His Honour, please?

A. That is also in the Gun book and in many other books, and it shows the S.S. as they have just been mowed down, and there is a machine gunner in the middle of the picture, others with their rifles at the ready, four Germans are still standing. Some have their hands raised and the others are dead.

Q. Do you know what Allied Army or {3977|3978} unit was responsible for that?

A. I believe it was the Rainbow Division.

Q. How does that relate to your understanding of the ability to defend the accusations at Nuremberg?

A. Well, within a few miles of Nuremberg here were — American troops cold bloodedly murdering prisoners who had surrendered within custody. Not one of these men, to my knowledge, who murdered these persons in the Eastern front, some of them on crutches and with bandages still, was ever charged or convicted against the crime that they have committed against these Germans. So there seems to be one set of — and one rule of laws applied to Germans and that is, that you kill whomever you can lay your hands on for transgressions like gassing people at Dachau when you didn't have a gas chamber, and you shoot

German prisoners without trial, with machine guns, without due process. I think it shows utter hypocrisy, lawlessness.

MR. CHRISTIE: May I exhibit that, please, Your Honour?

THE COURT: What language is it in?

THE WITNESS: In French, Your Honour.

MR. CHRISTIE: Yes. The captions are in French. The photographs are neutral, I guess.

THE WITNESS: The same photograph is in the Nerin Gun book.

MR. CHRISTIE: All right. I will withdraw that. {3978|3979}

Q. The Nerin Gunn [sic] book is in English.

A. Yes, it is.

Q. Do you read French?

A. Yes, I do.

Q. Did you obtain, through your research, a copy of "An American in Rome" by Michael Stern?

A. Yes, I did.

Q. How does that bear upon the issue of proof and legality in regards to the proceedings of the liberation at Dachau?

A. It has, a section in it, Chapter 5, "A Nightmare called Dachau", and also the liberation, and it describes in detail the murder of the East Germans, how they were beaten to death. Some of them were shot to death by the American liberators and by camp inmates.

MR. CHRISTIE: May I file that as an exhibit, please?

THE COURT: Yes.

— EXHIBIT NO. 114: Photocopied excerpt from book, "An American In Rome", by Michael Stern.

MR. CHRISTIE: My friend has had a chance to look at the letter and the translation, Your Honour. I think I am safe in saying that he does not object to its translation.

MR. GRIFFITHS: Yes, Your Honour. I concede that.

THE COURT: Yes. 115. {3979|3980}

— EXHIBIT NO. 115: Photocopy of German letter and English translation of letter to Mr. Zundel from Mr. Burg, dated 18.11.1982.

Q. MR. CHRISTIE: For the benefit of the jury, Mr. Zundel, I'd like to have you read those portions of the letter of Joseph Burg that pertain to your belief about your work as to its value. It is a short letter. Perhaps you can read it.

A. It says:

*"You are to be admired as a man struggling for truth and a sincere German-Jewish reconciliation — so much more as you have to overcome much trouble on that. It's a pity that we over here have not a single man of your kind, but notwithstanding your efficient capacity radiates even into our area, and we feel sure this will be helpful to enlighten some obscurities. The spokesmen of those alleged 6 million gassed Jews have no legitimation whatsoever and they do not keep to the command of the bible".*

And he quotes a Bible passage.

Q. Please quote it.

A. *"Leviticus 3, 19, 18: says clearly 'Thou shalt not avenge, nor bear any grudge against the children of {3980|3981} thy people; but thou shalt love thy neighbour as thy self.'*

*Also the Talmud says that 'every good Goi is a fellow-man' according to Tosefta ( Supplement) Sanhedrin 13-2:*

*'The righteous of all peoples will have to share the future world.'*

*Your untiring activity is much more but sheer righteousness, because of so much trouble you are forced to overcome.*

*We read in the Talmud chapter Joma 23a:*

*'He who forgives the faults of his fellow-men, will be forgiven, too.'*

*Please give pardon to those few Zionist-Nazis who molest you. If they would be correct Zionists they would work in Palestine. Ben Gurion, the Pope of Zionism, said that all Zionists living outside Israel are hypocrites acting to the detriment of Israel.*

*Go ahead — the future belongs to truth and justice.*

*With my very best wishes, Very Sincerely, Joseph Burg".*

MR. CHRISTIE: Could that be an exhibit, please?

THE COURT: It is already an exhibit. {3981|3982}

MR. CHRISTIE: Sorry.

Q. Now, in regard to the concentration camp of Mauthausen, have you undertaken a study of that?

A. Yes, I did.

Q. Did you obtain the literature pertaining to that camp?

A. Yes, I did.

Q. From the authorities that are administrating it?

A. Yes.

Q. And I now produce and show to you a book entitled, "Mauthausen", official guide. I'd like you to direct your attention to what it indicates about gas chambers in Mauthausen.

A. It says on page 6, paragraph 12, "The gas chamber" headline:

*"The gas chamber was camouflaged as bathrooms with showers and sluices. Cyclone B gas streamed into the gas chamber from the control room through a shaft (situated in the corner on the right: it was removed by the SS in April 1945).*

Q. I think that is the relevant portion. I now produce and show to you another booklet from the Mauthausen Concentration Camp Guide.

MR. CHRISTIE: Could this be an exhibit, please, Your Honour?

THE COURT: 116. {3982|3983}

— EXHIBIT NO. 116: Booklet "Mauthausen".

Q. MR. CHRISTIE: Just read the part referable [sic] to gas chambers.

A. It says, "Guide to the former concentration camp of Mauthausen", and it has a number of stations where the visitors are directed to, and it says, No. 9, "The gas-chamber"[:]

*"This was arranged for purposes of deception as a bath-room containing showers and sinks. It was connected with the room of the ss-henchmen by a tunnel and a window (which was adapted in the right corner). From – here they were able to watch the situation in the gas-chamber and to observe the effect of the poison-gas streaming through the tunnel into the gas-chamber. Before leaving the camp in May 1945 the SS-crew removed the gas installations and the window was walled up."*

MR. CHRISTIE: Could that be an exhibit, please, Your Honour?

THE COURT: 117.

— EXHIBIT NO. 117: Booklet, "Guide to the former concentration camp of Mauthausen".

Q. MR. CHRISTIE: I now produce and show to you Chapter 9 of Yehuda Bauer's book, {3983|3984} "History of the Holocaust". What does it say on gassings in Mauthausen?

A. On page 209 it says:

*"Although no gassings took place at Mauthausen many Jews, as well as non-Jews, died there in a process the Nazis called 'extermination through labour.'"*

Q. What impression does that common sense impression leave you about the issue of gas chambers in Mauthausen?

A. We have been told in this courtroom that Yehuda Bauer is one of the foremost historians of the Holocaust, and I believe he lives today in Israel and he says, in his own book, "The History of the Holocaust", that no gassings took place. Yet the officials of that camp, once again, are showing people gas chambers and talk about gas chambers. He says there were none.

Q. How does that affect your belief?

A. I think that a pattern begins to emerge, and I have to have my nose pointed at one fact only so many times before it even clicks with me that there is a lie being told to me.

MR. CHRISTIE: Can that be an exhibit, please?

THE COURT: 118.

— EXHIBIT NO. 118: Photocopied excerpt, page 209, from book "A History of the Holocaust" by Yehuda Bauer. {3984|3985}

Q. MR. CHRISTIE: Now, did you undertake the study of the documents at Nuremberg respecting the death rates at Mauthausen?

A. Yes, I did.

Q. I now produce and show to you the Staff Evidence Analysis of Document 499-PS. Where did you obtain this?

A. This comes from the National Archives in Washington.

Q. How did you get it?

A. By sending a researcher there who did that work for me.

Q. What does it indicate about the daily death rate in Mauthausen in the years up to and including 1945?

A. It has a complete breakdown of the death rate from 1939, 1940, '41, '42, '43, '44 and '45. And in 1939, the daily death rate average was 1.2 inmates. In 1940 it was 10.5. In 1941, 21.1. In 1942, 30.7. During the typhus epidemic, in 1943, 23.2. 1944 it was 39.4, and in 1945, during the collapse of Germany, it was 208.6 per day.

MR. CHRISTIE: Could that be an exhibit, please, Your Honour?

THE COURT: 119.

— EXHIBIT NO. 119: Photocopy of Staff Evidence Analysis of Document No. 499-PS.

MR. CHRISTIE: I now produce and show to you a letter from the Administrative Director, {3985|3986} City of Dachau. Are you familiar with this letter?

A. Yes, I am. His name is Rahm, and he is the managing director.

Q. And how did that letter – how did you get that letter?

A. I had someone write to Dachau and ask if there were gas chambers in Dachau, and if they had any documents either way, and the response was –

Q. Is there a translation provided?

A. Yes, there is a translation.

Q. How long is the letter?

A. One sentence.

Q. Would you like to see that?

MR. GRIFFITHS: Well, go ahead.

MR. CHRISTIE: Please read the one sentence translation.

A. "In response to your inquiry, I hereby inform you that no gassing of prisoners occurred in the former concentration camp of Dachau."

Signed, "Rahm, Administrative Director, City of Dachau".

MR. CHRISTIE: Could that be an exhibit, please, Your Honour?

THE COURT: 120.

—EXHIBIT NO. 120: Letter from Rahm, Administrative Director, City of Dachau {3986|3987}

Q. MR. CHRISTIE: Now, in your research on the subject of the Holocaust have you come across reasons for disbelief of it from literature of the established authors?

A. Yes, sir. I have.

Q. And what effect did that have upon your belief on the Holocaust?

A. Well, I certainly feel justified in looking at every alleged piece of evidence or new evidence or new book or publication that come forth with a critical eye.

Q. I now produce and show to you a book entitled, "Adolf Hitler" by John Toland and I ask you to look at the photograph on page ...

What do you now have in your hands?

A. Two books by John Toland, famous expert on European history, certainly Second World War. He has written five major works on Adolf Hitler and the Third Reich. I have seen him interviewed many times on television and heard him on radio, seen many articles by him and have his books.

Q. In respect to the issue of the Holocaust, is there a particular picture and a caption in that book that is relevant?

A. Yes. In the pocket book version, which is two volumes in one – the hard-cover version has two volumes – on page 1007 there is a picture of Adolf Hitler shaking hands with Heinrich Himmler above the usually skinny bodies and so on and skeletons photograph, and it is captioned:

*"On October 10, 1943, Hitler congratulates Himmler, who has privately revealed progress in implementing the Final Solution."*

The caption is important – October 10, 1943, and this particular book was issued in 1976; the hard-cover edition, it came also out in 1976 and under the same picture it has a different caption, and it says:

*"October 10, 1943, Hitler congratulates Himmler who has just revealed that six million Jews have been exterminated."*

At the end of it it says, "U.S. Army".

Q. What does that indicate to you that affects your belief?

A. Same author, same books, same photographs. It puts the death rate of the Jews already in 1943 on the 10th of October as having been completed, that six million Jews were already killed, which Dr. Vrba

and certainly Dr. Hilberg would dispute because they claim that the killing went on right up till liberation day. So it's false.

Q. I now produce and show to you an excerpt of the book entitled, "The Nazis" by George — can you read that title?

MR. CHRISTIE: Could these two books be exhibits, please, Your Honour?

THE COURT: 121.

— EXHIBIT No. 121: Soft-cover edition and hard-cover edition of "Adolf Hitler" by John J Toland. {3988|3989}

THE WITNESS: It's called, "The Nazis", by George Bruce. It is a kind of illustrated history book with photos, published in 1974, printed in Great Britain and by Butler & Tanner Ltd. And it has all kinds of photographs and it starts out under the headline, "Death Works Overtime". It shows a photograph of Auschwitz, the concentration camp enclosure, and it says — it has a caption, "Auschwitz Concentration camp was opened on 14 June 1940. By 1945, 300,000 people had lost their lives there." And on page 145 he quotes the sections from the Hoess interrogation where he was supposed to have said that it was Poland's turn; camps were established at Belzec, Treblinka and Wolzek.

Now, many experts believe that Hoess slipped that in to show that he was in dire straits. Anyway, Wolzek did not exist.

Q. Is it cited as not existing in the book?

A. No, it is not.

Q. How is it referred to?

A. "Camps were established at Belzec, Treblinka and Wolzek in the General Government area."

Q. So now he indicates the existence of a camp that doesn't exist?

A. Yes.

Q. Because of a repetition of Hoess' earlier —

A. That's right. And finally we have:

*"Rudolf Hoss, an ever-willing subor-dinate, learned the lesson well and Auschwitz became an especially notorious camp, if this was possible, in which, according to Gerald Reitlinger, the names of an estimated 363,000 people were registered on the books between February 1940 and January 1945. Of these 280,000 died, were murdered or killed themselves."*

Q. So what does that indicate in relation to the four million and 1.5 million, and 2.5. million of the various sources? What does it indicate to you?

A. It makes the claims by Dr. Hilberg vast exaggerations and makes Dr. Vrba certainly not reliable. He has exaggerated the figures by some five times.

Q. Is that a book or an authority that comes from anything like a revisionist school?

A. Absolutely not. It is available on book stands and kiosks. It is just a regular publisher.

Q. You've heard the figures referred to by Gerstein of seven to eight hundred people for twenty-five square meters.

A. Yes.

Q. You've heard Dr. Hilberg on that point.

A. Yes, I have. I believe he said it was amazing how many people one could squeeze into a space if one wanted. Maybe it was in the preliminary {3990|3991} hearing.

MR. CHRISTIE: Could this be an exhibit, please?

THE COURT: 122.

— EXHIBIT NO. 122: Photocopied excerpt from book, "The Nazis" by George Bruce.

Q. MR. CHRISTIE: I now produce and show to you the Israel Pocket Library "Holocaust" and ask you to refer to page 86 as to the figures of Gerstein. Could you just quote the portion of that book?

A. Yes. It says:

*"Those marked for Selektion and after it were forced to run to the 'showers' to the accompaniment of a band playing music. Between 700 — 800 men and women, elderly people, and children were crammed into a chamber measuring 25 square meters ..."*

And it goes on to describe the gassings.

Q. Have you tried to set up a room of twenty-five square meters?

A. Yes. I asked [sic] a number of friends to help me, but we did it on a reduced scale of one square meter, which would be about as big as my prisoner's box here, or the witness box, excuse me.

THE COURT: That is the witness box. {3991|3992}

THE WITNESS: Yes. Excuse me, Your Honour. I am unfamiliar with this term. So that means in this space I am standing right here, ending behind me, we would get nine or twelve people in, and that, to me, is ludicrous. Unless they were dissolved in, I don't think we could do it.

Q. MR. CHRISTIE: If you divide seven to eight hundred by twenty-five, what do you think you can get out of that? Is it twenty-eight to thirty-two?

A. Oh, yes. It was supposed to be that — twenty-eight to twenty-nine, depending on how fat the people were.

Q. In one square meter, then, how many people were supposed to be included in the Gerstein statement?

A. You got me confused.

Q. Never mind. It's a matter of argument, anyway.

I now produce and show to you one of the current popular magazines on the subject of the Holocaust.

MR. CHRISTIE: Could this be an exhibit, please?

THE COURT: 123.

— EXHIBIT NO. 123: Book, "Holocaust", Israel Pocket Library.

Q. MR. CHRISTIE: What does it say about the process of the burning of bodies that you {3992|3993} consider ridiculous?

A. This is a very recent magazine which was sold on the book stands and corner stores, variety stores in Toronto; April '84, and it's a complete rehash of every lie ever told about the Holocaust. And one section —

MR. GRIFFITHS: Excuse me. April of '84.

THE WITNESS: Oh, sorry.

MR. CHRISTIE: My apologies. That is after the charge.

THE WITNESS: Yes.

Q. MR. CHRISTIE: Have things changed, in your experience, as to the war stories told after the Holocaust?

A. I think that the stories are becoming wilder. As some of the old generation dies off, that could bring some semblance of truth to it. Young people are repeating lies which they have learned and been told, and it is like with every rumour, it becomes more colourful every time it is re-told. So I find that the stories get more unbelievable as we move into the twilight zone of the elder generation.

Q. Now, have you made a study to determine whether there was admissions made during the War of wartime propaganda referable [sic] to the Holocaust?

A. Yes.

Q. I now produce and show to you an excerpt of the book by Edward J. Rozek of the Department of Political Science at Boulder, Colorado, entitled, "Allied Wartime Diplomacy", and I would like to draw {3993|3994} your attention to page 209 and ask you what that has to do with your understanding of the Holocaust. First of all, we must establish when it was published. Can you do that, please?

A. Yes. It was copyrighted [sic] in 1958 by John Wiley & Sons Inc.

Q. Please proceed.

A. It is called, "Allied Wartime Diplomacy[?]", and the author is Edward J. Rozek. On page 209 it quotes a date:

*"On February 29, 1944 the British Ministry of Information [sic] sent the following note to the higher British clergy and to the BBC."*

And here is the letter:

*"Sir, I am directed by the Ministry to send you the following circular letter: It is often the duty of the good citizens and of the pious Christians to turn a blind eye on the peculiarities of those associated [sic] with us. But the time comes when such peculiarities, while still denied in public, must be taken into account when action by us is called for."*

And he continues on page 10 —

THE COURT: I don't mean to interrupt you. Is this a long letter?

THE WITNESS: No. Just a couple of {3994|3995} minutes.

*"We know the methods of rule employed by the Bolshevik dictator in Russia itself from, for example, the writing and speeches of the Prime*

Minister himself during the last twenty years. We know how the Red Army behaved in Poland in 1920 and in Finland, Estonia, Latvia, Galicia and Bessarabia only recently.

We must, therefore, take into account how the Red Army will certainly behave when it overruns Central Europe. Unless precautions are taken, the obviously inevitable horrors which will result will throw an undue strain on public opinion in this country.

We cannot reform the Bolsheviks but we can do our best to save them – and ourselves – from the consequences of their acts. The disclosures of the past quarter of a century will render mere denials unconvincing. The only alternative to denial is to distract public attention from the whole subject.

Experience has shown that the best distraction is atrocity propaganda directed against the enemy. Unfortunately – the public is no longer {3995|3996} so susceptible as in the days of the ‘Corpse Factory,’ the ‘Mutilated Belgian Babies,’ and the ‘Crucified Canadians.’

Your cooperation is therefore earnestly sought to distract public attention from the doings of the Red Army by your wholehearted support of various charges against the Germans and Japanese which have been and will be put into circulation by the Ministry. Your expression of belief in such may convince others.

I am, Sir, Your obedient servant, (Signed) H. Hewet, Assistant Secretary.

The Ministry can enter into no correspondence of any kind with regard to this communication which should only be disclosed to responsible persons.

It is unknown how many recipients of this communication complied with the above instructions.”

Q. How does that bear on your belief in relation to the atrocity propaganda in relation to Auschwitz?

A. I have spent many years researching atrocity propaganda, video films I have made on that topic, and I think that it is the cornerstone document that explains all these wild tales and charges against the {3996|3997} German people, and I believe it also gives a way out to every writer, reporter, publisher, film maker to cease and desist from spreading more propaganda because this was wartime. The War is over. We are no longer bound by these directives, hints or suggestions. Let’s recognize it for what it was. It was lies in the national interest in the War. It has nothing to do with truth.

MR. CHRISTIE: May that be an exhibit, please, Your Honour?

THE COURT: 124.

— EXHIBIT NO. 124: Photocopied excerpt from book, “Allied Wartime Diplomacy” by Edward J. Rozek.

Q. MR. CHRISTIE: Are documents from the War still classified, to your knowledge?

A. Many of them. For instance, the reason why Rudolf Hoess is still in Spandau and why he went to England in the first place is only going to be released in the year 2037, which is very unusual, even for England.

Q. Have some secrets been revealed since the War?

A. Many have, yes.

Q. I now produce and show to you an article on page A16, Sunday, January 2, 1972, from The Washington Post. How does this bear on your understanding of the Holocaust?

A. It’s headlined, “British Papers {3997|3998} Indicate FDR Sought War With Hitler”, and it is by Colin Cross, a well-known British writer who writes, on January 1st:

“President Franklin D. Roosevelt was so eager to get America into World War II in 1941 that he went out of his way to provoke ‘incidents’ which could be represented as German aggression against America, according to British documents now declassified. The documents show at least that this was what Roosevelt was telling British Prime Minister Winston Churchill in the summer and autumn of that year.

This is revealed in secret British wartime cabinet documents for 1941-45 – 35 volumes of them – which will be open to historians for the first time Monday at the public record, office in London.”

And the article goes on, to make it short:

“The President had said that he would wage war but not declare it, and

that he would become more and more provocative. If the Germans did not like it, they could attack the American forces.”

He quotes:

“‘Everything was to be done to force an ‘incident’ to justify hostilities,’ {3998|3999} the papers said.”

And one final quote:

“According to the records, the British cabinet discussed in advance what its attitude would be if Germany attacked Russia, and decided that Germany should be represented as an insatiable tyrant that had attacked Russia in order to obtain material for carrying on the war.”

End of the article.

Q. You heard Dr. Hilberg say the reason for the Second World War. What is your view in light of what you have studied?

A. From this article of my viewpoint on the Second World War and the attack on Russia?

Q. No. What does that article tell you in respect to —

A. It basically is a conspiracy by the President of the United States to, by hook or by crook, get into a war with Germany.

THE COURT: Exhibit 125.

— EXHIBIT NO. 125: Photocopied article in The Washington Post, January 2, 1972, by Colin Cross.

Q. MR. CHRISTIE: Are you familiar with the process of censorship from studying the matter? I now produce and show to you an article from Harpers Magazine of February 1946 on “How the Censors Rigged the {3999|4000} News”. Are you familiar with that article?

A. Yes, I am.

Q. How is it relevant to your understanding of the subject of the Holocaust?

A. The article is a very good summation of censorship, even in democratic countries, and what censorship can do to people and their perception of things, and I want to quote briefly from page 98:

“A dispatch by Stoneman, the correspondent, telling of destructive looting by American troops at Jena during the German collapse was held up till after the Nazis quit. In other words, the official censors have pretty well succeeded in putting over the legend that the war was won without a single mistake, by a command consisting exclusively of geniuses, who now have asked to be rewarded by being placed in control of all scientific thought and utterance.”

And on page 99 the author states:

“Last time we had the fables of the Kadaver-Fabrik and the crucified Canadians, and the Civil War produced the story of General Butler’s silver spoons, to mention only one.”

And he goes into a litany of what censors do, and he ends up saying:

“The magazine pointed that it could {4000|4001} appeal to the Bryon Price Office of Censorship (whose role throughout the whole censorship business was highly honourable) ...”

On page 101 he concludes by saying:

“‘You will be judged,’ a new Navy public relations officer was informed on taking over his post, not on what you get into the papers but on what you keep out of them – an instruction to maintain relations with the public by not having any.”

THE COURT: That will be the next exhibit.

— EXHIBIT NO. 126: Photocopied excerpt from Harper’s Magazine, February 1946.

Q. MR. CHRISTIE: How does that bear upon your understanding of the Holocaust?

A. Well, number one it proves to me that there was censorship in America, and certainly everywhere else where there was a war going on, and I think that the people who have now gone through the war and are at peace should begin to realize that every government in the world manipulates and manages news through censorship, and we owe it to ourselves to inform ourselves, and if people like myself are not allowed to ring alarm bells or expose unpopular facts, then we will be mental slaves, even after the War is over. I think we owe it to ourselves as people to tell the truth about {4001|4002} these things.

THE COURT: We will adjourn now.

Twenty minutes.

— The jury retires. 11:30 a.m.  
 — The witness stands down.  
 — Short adjournment.

— Upon resuming.  
 — The jury returns.  
 — The witness returns to the stand.  
 THE COURT: Go ahead, Mr. Christie.  
 MR. CHRISTIE: Thank you, Your Honour.

Q. In the course of your examination of the booklet, "Did Six Million Really Die?" before your publication were you aware of other language editions?

A. Yes, I was.

Q. I now produce and show you a series of language editions. Can you identify those?

A. Do I show it to the jury as well?

Q. If you can identify them.

A. One is by the Institute for Historic Review. One is a French edition, published in England. One is a German edition, again published in England. One is a Dutch edition published in England. One is a Spanish edition, and that one is published also in England.

Q. What effect did this have on your {4002|4003} understanding of the truth of the booklet?

A. I felt that since it was published in so many other countries and I had received numerous versions, that it was available for the general public and, therefore, I felt rather safe in publishing it.

MR. CHRISTIE: Could I file that as one exhibit, Your Honour?

THE COURT: Does it all say essentially the same thing?

THE WITNESS: Yes. The languages that I understand, Your Honour, English and French, it does.

MR. CHRISTIE: Maybe we had better not.

THE COURT: If it is published in English, you can file it.

THE WITNESS: No. German and French.

MR. CHRISTIE: I won't file them, Your Honor.

Q. In your research over the years have you kept track of things that happened in the news?

A. Yes.

Q. I now produce and show you an article from the Miami Herald of July 7, 1964. Can you tell me how this relates to your understanding of what happened in Auschwitz?

A. The story is headlined, "War Trials Testimony", and in an even bolder headline, "Ex-prisoner Admits: 'Lied about Nazis'", and the article {4003|4004} goes on to describe one of the former Auschwitz inmates apologized in court for making nasty accusations against his one-time Nazi masters, admitting that he had been drunk at the time when he made the accusations, and he basically apologized; but nevertheless, he admitted that he had lied under oath. He had called him, the German fellow, the Auschwitz inmate had called the German man a nasty — one of the worst killers and so on — the usual allegations that have been levelled against these Germans.

MR. CHRISTIE: Could I file that as an exhibit?

THE COURT: Exhibit 127.

— EXHIBIT NO. 127: Photocopied article from The Miami Herald, July 7, 1964.

Q. MR. CHRISTIE: We heard in this trial about the Posen speech and Himmler. Have you studied that subject?

A. Yes, I have. I have a large collection of original speeches which I bought from various archives around the world.

Q. Original speeches of who?

A. Winston Churchill, Franklin Theodore Roosevelt, Kaiser Wilhelm II.

Q. You have to tell us why you consider it relevant to the Posen speech.

A. Well, I have studied oratory. I have taken public speaking classes myself.

Q. How does that relate to the Posen {4004|4005} speech?

A. Because it helps me analyze quite a well-known public speaker at the time, Heinrich Himmler.

Q. What do you conclude about the Himmler speech?

A. I have numerous versions of the Himmler speech and numerous versions of the Posen speech.

Q. Do you believe it reveals anything significant?

A. One thing it reveals is that it is absolutely the worse in speech in quality that I have listened to by Heinrich Himmler which tends to make me suspicious.

Q. Why?

A. Because the quality of German radio at the time and of the German government was excellent, even by today's standards, and here we have one speech that is scratchy, crackling, sometimes inaudible, and I thought I just had gotten a bad copy. And so I contacted Udo Walendy who gave testimony earlier; he drove to Frankfurt to the Radio Archives and listened to the entire disc which is available which is allegedly the original disc.

Now, he is a political scientist and he said —

Q. Well, you can't say what he said.

A. Well, he came to the conclusion —

Q. Never mind what he said or his conclusion. Just give your evidence. Have you compared {4005|4006} other rhetorical speakers of the time to determine what value we can place upon the Posen speech?

A. It is unfortunately, in wartime, very often the case that perfectly rational and normal men seem to fall victim to their passions or their hates sometime created by propaganda where they say things in words, and possibly in the heat of battle or whatever, to address one issue or just under the emotional impact of something which they would never do in peacetime.

However, Allied leaders, I have listened to many speeches by Allied leaders, war speeches or warrior talk, if you want to call it that way, even if that speech was unedited or uncut, it would be very little difference from speeches by Allied leaders. And I mean, I refer especially to one George S. Patton who was rather colourful, and to the point in his speech ...

Q. I now produce and show to you a book entitled, "As He Saw It" by Elliott Roosevelt. How does that bear on the subject you have been discussing?

A. Himmler stands accused of some pretty loose and wild talk, rhetorical stuff, and at one of the meetings where Mr. Stalin and Churchill and Roosevelt were present there was talk, and toasts were made, and it's Elliott Roosevelt, the son of FDR, has written this book and he quotes here:

*"[I] propose a salute to the swiftest possible justice for all Germany's war criminals — justice before a firing squad. I drink to our unity {4006|4007} in dispatching them as fast as we capture them, all of them, and there must be at least fifty thousand of them."*

Now, Sir Winston Churchill[I] was quite upset by that, and the book goes on by saying —

MR. GRIFFITHS: Whose remarks were those?

THE WITNESS: These here? I believe they were Stalin's. And it says:

*"Quick as a flash Churchill was on his feet."*

And then Churchill replied that the British people will never stand for this, but the book goes on and says:

*"As usual, he said, 'it seems to be my function to mediate this dispute.'" — which was FDR.*

*"Clearly there must be some sort of compromise between your position, Mr. Stalin, and that of my good friend the Prime Minister. Perhaps we could say that, instead of summarily executing fifty thousand war criminals, we should settle on a smaller number. Shall we say forty nine thousand five hundred?" Americans and Russians laughed. The British, taking their cue from their Prime Minister's mounting fury, sat quiet and straight-faced."* {4007|4008}

Q. So what does that say to you about the Posen speech?

A. Some people are just loose talkers in the heat of passion, or maybe after a few drinks.

Q. Have you instructed your researchers to prepare an analysis from your library of the alleged daily death figures in the Holocaust literature of our time?

A. Yes, I did.

Q. Is this in your library at your home where you have reviewed it from time to time?

A. Yes.

THE COURT: Exhibit 128.

— EXHIBIT NO. 128: Book, "As He Saw It" by Elliott Roosevelt.

Q. MR. CHRISTIE: I now produce and show to you an analysis of the various death allegations in the Holocaust literature. Are you familiar with that?

A. Yes, I am.

Q. Are the excerpts in the text attached to the estimate in that file?

A. Yes, they are.

Q. Could you just briefly and quickly run through the author and the daily alleged death total in Auschwitz from the first to the last?

A. Yes. The Guinness Book of Records for 1966 claims six thousand per day. Then the author, J. Bezwinska, in his book, "Konzentrations-lager Auschwitz Seen by the SS" in 1984 quotes three different people, one called R. Dawidowski, that author says eight thousand {4008|4009} a day; H. Tauber says eight thousand a day; a Feinsilber says eight thousand a day. Then W. Michalak, the editor of Auschwitz, page 117, says eight thousand a day. Then comes the Polish Commission of Inquiry according to Reitlinger on his book on page 150 claims twelve thousand people a day. Dr. Nyiszli in his book on Auschwitz, page 48, claims twelve thousand nine hundred and sixty. Rudolf Hoess, according to Reitlinger on page 150 of the Reitlinger book, says sixteen thousand per day. Raul Hilberg in his book, "Destruction of European Jews" on page 629 says twenty thousand, over twenty thousand burned on some days. So it is not a flat rate. Then Nyiszli, according to Reitlinger, on page 150, says twenty thousand a day. Michalak again, in another part of his book, "Auschwitz", on page 117, claims twenty-four thousand a day. And Judge Sehn —

Q. That is Jan Sehn, is it?

A. Yes. Jan Sehn, in his book in the third edition, 1961, page 132, claims sixty thousand a day. And again W. Michalak, the editor of "Auschwitz" on page 117 says sixty thousand a day, also.

Q. Have you made any effort to calculate how much fuel would be required, how many trains would be required for those figures?

A. Well, we were talking about the fuel yesterday, and we haven't talked about the trains yet. I have informed myself from the Federal Archives in Nuremberg where the West German railroads are, about the size of trains and length of trains, and I have come to the conclusion that some wildly exaggerated claims were {4009|4010} made of trains taking ten thousand people to Auschwitz when, in effect, the absolute maximum of trains possible on a German railroad in the way they were constructed would allow the transport of about three thousand people, even if they were cramped in one transport; but frequently there is talk about many more prisoners being taken in one train into Auschwitz in these camps.

MR. CHRISTIE: Could I file that as an exhibit, please, Your Honour?

THE COURT: 129.

— EXHIBIT NO. 129: File folder concerning statistics of deaths per day.

Q. MR. CHRISTIE: Have you been aware of an article in a famous book review called "Books and Bookmen" in England?

A. Yes, I have.

Q. What is the 'book review about?

A. The publication is called, "Books and bookmen" and it is like a literary magazine where books are being reviewed.

Q. What is the year of this publication?

A. It is November 1974.

Q. Yes.

A. And there is a book review by Colin Wilson in there entitled, "The Fuehrer in perspective. 2", and specifically, on page 31, he discusses having purchased a booklet called, "The Myth of the Six Million", {4010|4011} which is, "Did Six Million Really Die?", I suppose. No. "The Myth of the Six Million" published by — excuse me, no. It's the booklet by Richard Harwood of the University of London, and it's called, "Did

Six Million Really Die?"

Q. And did you read that at the time, or since that time, prior to the publication you made of the —

A. Yes, I did. Yes.

Q. What was your conclusion from reading that?

A. Well, this book review certainly caused a controversy in these literary circles, and an animated correspondence and writing in to the editor and so on took place, and for a period of several months — famous people, famous authors wrote to "Books and Bookmen", one of them being none other than Richard Harwood, the author, and also Simon Wiesenthal, and they thrashed out, in the pages of this book review and literary magazine, the merits or lack of merits of the booklet, "Did Six Million Really Die?"

Q. What social value do you see to that process?

A. Well, I think that this is the way a problem like this should have been handled and should be handled in a civilized and in a democratic society. There should be room for debate, and it should begin with people who are knowledgeable on the subject, or pros and cons should be aired, and if there are errors, then the publisher of any magazine has a second chance to publish an errata sheet or even a second edition, as {4011|4012} Dr. Hilberg said he, himself is going to publish a second edition of his book, because he has new material and will make additions and so on.

Q. Mm-hmmm. And have you compiled also the correspondence that resulted from that article?

A. I have everyone of the letters that were sent back and forth to "Books and Bookmen" and published in the magazine.

THE COURT: 130.

— EXHIBIT NO. 130: Photocopied excerpt from Magazine "Books and Bookmen", November 1974.

Q. MR. CHRISTIE: Now have you conducted an in-depth study of the Nuremberg studies from the point of view of the article, "Did Six Million Really Die?"

A. Yes. I have gone to some length.

Q. How many years have you spent researching this field of the Nuremberg trials?

A. Beginning from the middle sixties on.

Q. Why?

A. Because to the Germans, especially in German history, it is possibly our darkest hour, and it's very important, it's a frequent topic of discussions, soul-searching by many German writers, thinkers, intellectuals, especially by people of my generation who were really too small to be personal eye witnesses to what happened, and we had to rely on the history as it was told to us, and many of us have serious questions, {4012|4013} and some of the best revisionist work on the Nuremberg War Crimes Trials is done by young men around the world.

Q. Are you familiar with The Journal of the National Archives on the topic called, "Prologue" dealing with the defence availability of documents at Nuremberg?

A. Yes, I am.

Q. And had you studied it prior to publishing, "Did Six Million Really Die?" What year is it published?

A. It is published in the winter of 1975. It is Volume 7, and I have to say it is by the National Archives in Washington, D.C.

Q. How is this pertinent to the defence at Nuremberg?

A. Well, it is by John Mendelsohn, who is today one of the directors of the National Archives. And he, in this article, admits quite freely for instance he says on page 227, called, "Trial by Document: The Problem of Due Process for War Criminals at Nuernberg":

*"Nevertheless, a number of the indicted, particularly members of the SS, found the procedures harsh and an impediment to their defence. Yet considering the crimes charged one wonders if there were many exonerating records at all."*

And he goes on — there is a photograph of Judge Wen[n]erstrum, for instance, in the article. On page 230 he says: {4013|4014}

*"On the other hand, the resources of the defense were considerably more limited than those of the prosecution. The charter of the IMT stat-*

ed only that a defendant should have the right to present evidence to the tribunal. As a result, the defense was compelled at first to engage in a long and often futile struggle to obtain the records it deemed necessary."

And he continues further on down in the article:

"Frequently the defense could not properly cite an item. At other times procuring a document might require more time than the defense had. The defense therefore had to obtain many documents from private sources."

And he continues on the next paragraph:

"Again, it is generally true that SS defendants received severe sentences, often the death penalty, and had greater difficulty in obtaining documents than other defendants."

And he continues:

"Only when the defense could show relevancy did the tribunal grant the documents. In the Ohlendorf case, {4014|4015} nearly half the documents asked for were denied when the prosecution objected. There were fewer objections and the defense obtained most of the documents it applied for in the Pohl and Greifelt cases. However, when Dr. Gawlik, counsel for defendants Bobermin and Volk in the Pohl case, applied for access to prosecution held files of the staff that controlled SS economic enterprises, the request was denied, although the defendants had worked on the staff and its files were essential to their case. The tribunal sustained a frequently used prosecution objection that the defense was engaged in a fishing expedition and that it had no right to private files of the prosecution."

And I think in the very end of the article on page 234 he says:

"The judges themselves were of considerable importance in evaluating these differences and assessing the degree of fairness to the defendants. Judges Robert M. Toms, from Michigan's third judicial district, Fitzroy D. Phillips, from North Carolina's thirteenth district, Michael A. Musmanno, from the court of common pleas in Pen[n]sylvania, and John J. {4015|4016} Speight, admitted to the bar of Alabama, adjudicated the Milch and Pohl cases. In addition, Judges Musmanno and Speight were on the bench in the Ohlendorf case. Their rulings and interpretations of document handling procedure were often more rigid and disadvantageous to the defendants than were those of other judges. Among the latter were Judges Wennerstrum, Shake, and William C. Christianson, from the Supreme Court of Minnesota, who presided over the Weizsaecker case. These three former state supreme court members interpreted document-handling procedures so liberally as to put the defense in a much more advantageous position."

And he continues:

"The policies regarding documents, as practiced by the tribunals in the SS and ministries cases, thus appear to belong to two different worlds. In the SS cases procedures were sometimes harsh on defendants whose counsel did not have the same free access to the holdings of the collection centers which the defense had in some other cases, particularly the Weizsaecker case. The defendants in the SS cases {4016|4017} were thus more dependent on the Defendants Information Center and on the documents the prosecution [sic] was willing to share with them, putting them at a distinct disadvantage."

Q. I think that is far enough.

A. There is one final and important paragraph:

"Although one might say then that this account of document-handling procedures at Nuernberg strongly suggests that, greater leniency in document procedures in the IMT and SS cases might have resulted in better defenses and less severe sentences, considering the crimes charged, there is no absolute assurance that even the most liberal procedure would have produced exonerating records. The prosecution's greater control of documents in the earlier cases, acting under rules similar to adversary proceedings, tainted the trials."

THE COURT: Exhibit 131.

— EXHIBIT NO. 131: Photocopy of excerpt from The Journal of the National Archives, Winter 1975.

Q. Are you familiar with the allegations of Streicher that were stricken from the {4017|4018} Tribunal proceedings?

A. Yes, I am.

Q. Where did you find that information, please?

A. I first came across it in a small booklet by a well-known English author called Belgion, and it is called, "Epithat [sic] Nuremberg". And then I tracked it down in the Times of London, Saturday, April 27, 1946.

Q. What do you have in your hand?

A. A copy of The Times, Saturday, April 27, 1946.

Q. What does it say about Streicher's testimony that wasn't at the testimony at Nuremberg?

A. It says, "Streicher Opens His Case", "Anti-Jewish Racial Law Defended", and then he speaks to the Tribunal.

Q. What did he say about torture?

A. He says:

"Raising his voice to a shrill cry, he declared that after he found himself in allied captivity he was kept for four days in a cell without clothes. 'I was made to kiss negroes' feet. I was whipped. I had to drink saliva', he declared. He paused for breath, and then screamed: 'My mouth was forced open with a piece of wood., and then I was spat on. When I asked for a drink of water I was taken to a latrine and told, 'Drink.' These are the sort of {4018|4019} things the Gestapo has been blamed for."

Q. If you search the record of the Nuremberg Trial do you find any reference to that?

A. No. It was expunged.

MR. CHRISTIE: May that be an exhibit?

THE COURT: 132.

— EXHIBIT NO. 132: Copy of article in The Times, London, Saturday, April 27, 1946.

Q. Are you familiar with any actions of Churchill in respect to the case of Manstein where he was accused of Einsatzgruppen activity?

A. Yes. I came across an interesting story that Sir Winston Churchill gave a \$100 donation to the defence fund for Field Marshall Manstein.

Q. And I now produce to you the Chicago Herald of July 17, 1949. Are you familiar with that?

A. Yes, I am.

Q. And is that the source of your information?

A. Yes, it is. It is headlined, "Churchill Gives \$100 for Nazi", "Fund to Aid at War Trial". And he goes on to describe what was happening.

MR. CHRISTIE: Could that be an exhibit?

THE COURT: 133.

— EXHIBIT NO. 133: Copy of Chicago Herald article, July, 1949. {4019|4020}

Q. MR. CHRISTIE: In respect to the issue of documents, have you studied the articles of the Charter of London that established the Nuremberg War Trials?

A. Yes, I have.

Q. Are you familiar with the issue of the London Agreement of August '45?

A. Yes, I am.

Q. Are you familiar with Article 21 and Article 9 thereof?

A. Yes, I am.

Q. Could you comment on Article 9? I now produce and show to you a photocopy of the London Agreement of August 8, 1945, from the International Military Tribunal records.

A. It reads, on page 12 of this document:

"Article 9. At the trial of any individual member of any group or organization the Tribunal may declare (in connection with any act of which the individual may be convicted) that the group or organization of which the individual was a member was a criminal organization."

And Article 21 reads, on page 15 of the document:

"The Tribunal shall not require proof of facts of common knowledge but shall take judicial notice thereof. It shall also take judicial notice {4020|4021} of official governmental documents and reports of the United Nations, including the acts and documents of the committees set up in the various allied countries for the investigation of war crimes, and the records and findings of military or other Tribunals of any of the United Nations."



Q. From your knowledge of the history of the time, from your reading of all that you have studied, what would you say of the common knowledge of the time?

THE COURT: The common knowledge of the ...

MR. CHRISTIE: The time referred to in the article. It says, it refers to common knowledge at the time as being —

THE COURT: Well, the common knowledge on the part of whom?

MR. CHRISTIE: Oh, that's a very good question.

THE WITNESS: It doesn't specify that, Your Honour.

THE COURT: Then if it doesn't specify, how can the witness answer the question? It could be the common knowledge of — it's got to be the common knowledge somewhere.

MR. CHRISTIE.: Yes, I appreciate that, Your Honour. If I may say, Article 9 ...

Q. Well, can you just give your opinion as a layman on what you considered about Article 9? {4021|4022}

A. Article 9 meant, in effect, that once the Tribunal had labelled an organization criminal, like a police force or the SS, for instance, that every stable boy, every truck driver, every mechanic, every medic in the SS automatically was charged as being a member of a criminal organization. And if you think that there were one and a half million men, I believe, at one time, in the Waffen SS, to put the stain on these men's careers and their reputation and their life and put them in serious jeopardy, they were, in effect, fair game because of this ruling. It was prejudicial to these people. And that stain has never worn off them.

Q. Do you know anybody personally who was incarcerated because he was a member of the Waffen SS?

A. I certainly do. I have interviewed quite a number of these men.

Q. And were they tried individually for any war crime?

A. They were not, no, but nevertheless they couldn't get jobs of a kind for many years. They couldn't get pensions for many years. Their lives was one of misery and terror.

Q. Do you know of any who were obliged to work without pay for any period of time?

A. Oh, yes, I do.

Q. Can you name anybody?

MR. GRIFFITHS: What —

MR. CHRISTIE: All right. I'm sorry. Let's move on.

Could we file the articles of the {4022|4023} London Agreement?

THE COURT: 134.

— EXHIBIT NO. 134: Photocopy of London Agreement, 8 August 1945.

Q. MR. CHRISTIE: I now produce and show to you Nuremberg Document PS-2223. Can you tell me what you consider as relevant to that, or how that is relevant to the judgment in regard to Nuremberg expressed in the book, "Did Six Million Really Die?"

A. It is a piece of paper that is called, "Staff Evidence Analysis".

Q. Yes.

A. And it talks about interrogation of a German by persons — it mentions persons implicated. The source is the original. Here is a document, when the question of the documents comes up frequently, this is an Allied document and this is how documents looked, especially military ones are very specific. And it says this is an extract copy. The date is of the 13th and 14th February, 1945. It gives a preamble. It gives the Unit number of the person typing this and name, and it says:

*"Two Polish deserters, both former members of the Polish Army, tell of their experiences in concentration camps Mauthausen and Gusen."*

And it goes on, part of the interrogation, the important part came in the bottom area where it says:

*"A Surmisal of the death rate can be {4023|4024} made by the presence of 3 crematoriums whose chimneys were smoking day and night. A gas chamber with a capacity of 200 took care of many other victims; many women, among them Czech patriots, suspected of sabotage and refusing to give information were gassed there. Beneath one of the crematoriums was a chamber called the 'Genickschusskammer'. This was a tiled room with slits in the walls behind which stands an SS man with a pistol. When the victim enters the chamber he is shot in the back*

*of the neck and a special water system washes the body away."*

Q. Where was this supposed to be?

A. This is Mauthausen. Mauthausen Gussen [sic].

Q. And what do your sources say about that?

A. That there were no gas chambers in Mauthausen.

Q. And this is the testimony of two eye witnesses?

A. That's right. Two eye witnesses.

Q. And from the number what do you perceive happened to that document?

A. I didn't understand you, Mr. Christie.

Q. Well — {4024|4025}

A. I was reading.

Q. Well, from its number, PS-2223 ...

A. Yeah. This is a Nuremberg document.

Q. It is a Nuremberg document.

THE COURT: May I see it, please? Just a moment, Mr. Christie.

Mr. Christie asked you whether this was testimony. Can you say whether it's testimony, or was it a statement?

THE WITNESS: Well, I misunderstood him, Your Honour. This is an interrogation report by Allied —

THE COURT: You didn't do anything wrong. It was Mr. Christie who suggested to you whether it was testimony.

MR. CHRISTIE: I must object. I didn't say it was testimony. I asked him what he understood it to be, and he said it was a Nuremberg document. I didn't suggest it was testimony.

THE COURT: Madam Reporter, please read that back.

THE REPORTER: "Q. And this is the testimony of two eye witnesses?"

A. That's right. Two eye witnesses.

Q. And from the number what do you perceive happened to that document?

A. I didn't understand you, Mr. Christie.

Q. Well —

A. I was reading. Well, from its number, PS-2223 ... {4025|4026}

A. Yeah. This is a Nuremberg document.

Q. It is a Nuremberg document."

THE COURT: What do you say to that, Mr. Christie?

MR. CHRISTIE: I asked from the number what do you perceive happened to that document.

THE COURT: I see what you mean. It is not testimony.

MR. CHRISTIE: It is testimony of a sort. I don't know whether it was testimony received at Nuremberg. I asked if it was testimony.

THE COURT: All right. Proceed. I'm sorry if there was a misunderstanding.

THE WITNESS: The document, at the very end of it, called "Partial Translation of Document No. 2223-PS," ends up by saying that in Auschwitz:

*"Their bodies were then loaded on the little carts which brought them right into the cremation building. In this manner 6,000 Jews were killed within 3 days in 1938 after the VON [vom] RATH assassination."*

Now, the significant thing here is that these men who were being interrogated say that the Germans, who were not even anywhere near Auschwitz or in Auschwitz or Poland in 1938, already killed six thousand Jews within three days of the 1983 assassination of Von Rath.

THE COURT: 135. {4026|4027}

— EXHIBIT NO. 135: Document — Staff Evidence Analysis of Document No. 2223 PS.

Q. MR. CHRISTIE: I now produce and show to you an article from the Chicago Tribune of Monday, February 23, 1948. Does that have any bearing on your view at the Nuremberg Trial?

A. Yes, it has, because it is the entire article published in the Chicago Tribune.

Q. By whom?

A. It's an interview that Judge Wennerstrum gave to a Chicago reporter which was intercepted by the United States Army.

Q. What was the name of the reporter, if you recall?

A. Foust. He lives today in California.

Q. What does that story indicate?



A. Well, without reading the whole article, it says:

*"If I had known seven months ago what I know today, he told friends as he packed to leave for America, I would never have come here."*

And he goes on about the personnel being of recently naturalized Americans, and he says:

*"The entire atmosphere here is un-wholesome. Linguists were needed. The Americans are notably poor linguists. Lawyers, clerks, inter-[4027] 4028}prefers, and researchers were employed who became Americans only in recent years, whose backgrounds were imbedded in Europe's hatreds and prejudices.*

*The trials were to have convinced the Germans of the guilt of their leaders. They convinced the Germans merely that their leaders lost the war to tough conquerors. Most of the evidence in the trials was documentary, selected from the large tonnage of captured records. The selection was made by the prosecution. The defense had access only to those documents which the prosecution considered material to the case.*

*Our tribunal introduced a rule of procedure that when the prosecution introduced an excerpt from a document, the entire document should be made available to the defense for presentation as evidence. The prosecution protested vigorously."*

And the last headline reads, "Justice Denied":

*"Gen. Taylor (Brig. Gen. Telford Taylor, chief of the prosecution) tried out of court to call a meeting of the presiding judges to rescind [4028]4029} this order. It was not the attitude of any conscientious officer of the court seeking full justice.*

*Also abhorrent to the American sense of justice is the prosecution's reliance upon self-incriminating statements made by the defendants while prisoners for more than 2 1/2 years, and repeated interrogations without presence of counsel. Two and one-half years of confinement is a form of duress in itself.'*

*'Although you and your associates were conspicuous in Nuernberg for your efforts to give the defendants a fair trial,' said a reporter, do you think it wrong that there is no appeal from your judgment?' 'The lack of appeal,' replied the judge, leaves me with a feeling that justice has been denied.'"*

MR. CHRISTIE: Could that be an exhibit, please, Your Honour?

THE COURT: Exhibit 136.

— EXHIBIT NO. 136: Photocopied article from Chicago Tribune, 23 February, 1948.

Q. MR. CHRISTIE: Are you aware of whether the accused at Nuremberg could communicate with the Press? {4029}4030}

A. Many of them were in custody, so I don't think so.

Q. I now produce and show you a transcript of the Nuremberg proceedings of Monday, 17 December, 1945. Are you familiar with the judgment of the trial?

A. "Monday, 17 December 1945 Morning Session", The President Lord Justice Sir Geoffrey Lawrence:

*"The first announcement is this: The attention of the Tribunal has been drawn to publications in the press of what appear to have been interviews with some of the defendants in this case, given through the agency of their counsel. The Tribunal considers it necessary to state with the greatest emphasis that this is a procedure which cannot and will not be countenanced. Therefore, counsel are warned that they should observe the highest professional standards in such matters and should not use the opportunity afforded to them of conferring freely with their clients to act in any way as intermediaries between the defendants and the press, and they must exercise the greatest professional discretion in making any statement on their own behalf."* {4030}4031}

And it ends:

*"The press of the world is rendering a very great service in giving publicity to the proceedings of the Tribunal, and the Tribunal feels that it may properly ask for the co-operation of all concerned to avoid anything which might conflict with the impartial administration of justice."*

Q. Was there a jury involved, to your knowledge, at Nuremberg?

A. No. There were judges.

MR. CHRISTIE: May I exhibit that, Your Honour?

MR. GRIFFITHS: Excuse me —

MR. CHRISTIE: There is some writing on it. I suppose that might affect it. I could, maybe, cut that off.

MR. GRIFFITHS: Well, this goes to interviews that counsel were giving, not interviews —

THE COURT: Sir Geoffrey Lawrence telling the lawyers not to talk to the press.

MR. GRIFFITHS: Sort of like the Law Society today, Your Honour.

THE COURT: If you want it as an exhibit, Mr. Christie, you are welcome. 137.

MR. CHRISTIE: Well, my friend is aware there is some writing attached. Does he wish me to delete that?

MR. GRIFFITHS: I think the writing {4031}4032} attached should be deleted in light of what it says in reference to what is in the article.

MR. CHRISTIE: That can be done.

— EXHIBIT NO. 137: Photocopied excerpt from Nuremberg Trials proceedings, 17 December, 1945.

Q. MR. CHRISTIE: Are you aware of the plea of some of the defendants in regards to these trials of the plea of the use of the British and American Rules of Land Warfare?

A. Yes, am.

Q. Are you aware of the judgment in respect to those matters?

A. Yes, I am.

Q. I now produce and show to you the judgement, pages 1236, 1237 in, I believe, the Hostages Case.

THE COURT: Is this Nuremberg or another matter?

MR. CHRISTIE: No. The IMT, but it is at Nuremberg, too, respecting the Hostages Case. The NMT, of course, in the forty-two volumes, is the Major War Criminals Case.

Q. I would just like to draw your attention and ask you to point out the judgment respecting that particular plea that's highlighted on that particular page.

A. It says:

*"The fact that the British and American {4032}4033} Armies may have adopted it for the regulations of its own armies as matter of policy does not have the effect of enthroneing it as a rule of international law. We point out that army regulations are not a competent source of international law. They are neither legislative nor judicial pronouncements."*

Q. What does that mean to you in your understanding of the fairness of those proceedings?

A. We are talking about hostages, shooting of hostages?

Q. No. That judgment and that paragraph, what does it mean to you in relation to the fairness of those proceedings?

A. It is patently unfair, because German military men are on trial. for having allegedly shot hostages, and it says here that the fact that the British and American Armies may have adopted this kind of of [sic] hostage in their regulation is immaterial.

THE COURT: Did you say "hostage"?

THE WITNESS: Yes, hostages, Your Honour.

MR. CHRISTIE: May I introduce, this, Your Honour, as an exhibit?

THE COURT: Exhibit 138.

— EXHIBIT NO. 138: Photocopied excerpt, pgs. 1236, 1237 from IMT.

Q. Were you aware of the Simpson van {4033}4034} Roeden [Roden] Commission which we discussed yesterday?

A. Yes.

Q. Why do you consider that of some significance in relation to the rest of the Nuremberg Trials?

MR. GRIFFITHS: We have already established that it wasn't about a Nuremberg trial, Your Honour. I think the question is improper.

THE COURT: What do you say to that, Mr. Christie?

MR. CHRISTIE: I said in relation to the rest of the Nuremberg Trials. I don't think that is to say that it was a Nuremberg Trial. The Dachau part is what was investigated by Simpson van Roeden [sic], and perhaps the Malmedy case is in a different category, but it is in the pamphlet. I assume I am entitled to ask him that.

THE COURT: Yes. Go ahead.

Q. MR. CHRISTIE: What relationship, if any, do you see between the

inquiries of the Simpson van Roeden [sic] Commission and the rest of the Nuremberg Trials – and I mean by that not that Malmady was a Nuremberg Trial in the sense of that it was being held at Nuremberg, but otherwise. Do you see any relationship?

A. Yes, I do.

Q. Why?

A. Because it gave official recognition to the fact that there was torture used against these defendants in order to get confessions, and it details what kind of hooding, beating, posing as false priests {4034|4035} and so on was used in order to get confessions. And Streicher, whose complaint was deleted from the Nuremberg record, deletes it altogether. Just because there is no record at Nuremberg doesn't mean that it didn't go on. It was stricken from the record.

Q. And how much have you read in Nuremberg about your studies over the years?

A. Sometimes it seems more than I care to remember. It's a sad subject. It's dry. It is nothing but human – recounting of human misery and human unfairness and human debasement of man against man. People in authority riding roughshod over people who are their prisoners and so on. It's not my favourite chapter in history.

Q. Did you keep track of what happened by your study of the newspapers of the day, what happened to those who were found by the Simpson van Roeden [sic] Commission to have been tortured?

A. Yes. They were hauled in front of the investigative committee. They gave their stories, some of them incredible stories, and to my knowledge they were never punished.

Q. Who was never punished?

A. The people who had done these tortures in American uniform.

Q. And what happened to the people who had been tortured?

A. Many of whom were found guilty and executed.

Q. Have you followed the controversy of that matter in various books and records? {4035|4036}

A. Yes, I have. There is a large body of literature on this, especially, naturally, German press dating back to the middle fifties. One of the most famous lawyers involved in writing about these stories is a man called Rudolf A[s]chenauer who is an attorney in the appeal cases later on in the fifties, and I have studied his material extensively.

Senator McCarthy, for instance, whatever one might think of his policies, has produced in the Congressional Record long excerpts of A[s]chenauer material, so has Senator Langner (ph).

Q. I now produce and show to you a copy of an article called, "The Progressive", which I believe is referred to at one point in "Did Six Million Really Die?" Are you familiar with that?

A. I am familiar with his article, yes.

Q. Why? What has that got to do with the subject of torture?

A. It's an article that came out in February 1949, which is pretty immediate and topical for that time. It's headlined, "American Atrocities in Germany", and it's by Judge Edward van Roeden [sic]. And it is quite lengthy, in which he recounts what he found.

Q. Does it deal with the torture aspect?

A. Yes. Yes, it does. It talks about mock trials, knocking out teeth, breaking jaws, beatings and brutal kickings, [in]voluntary confinements, posing as priests, spiritual deprivation, very little rations, promises of acquittal and so on. {4036|4037}

THE COURT: That will be an exhibit.

MR. GRIFFITHS: I think that is already an exhibit in the box that you provided.

MR. CHRISTIE: Maybe it is. I am not sure.

THE COURT: We shouldn't have two exhibits.

MR. CHRISTIE: No. All right. I won't proceed with it.

Q. Did you also study a book called, "The High Cost of Vengeance" by Freda Utley?

A. Yes, I did.

Q. I show you what appears to be a photocopy of that book. Are you familiar with it?

THE COURT: What is the date?

MR. CHRISTIE: 1949, Your Honour. Published in 1949.

Q. What did you derive from her writing?

A. She has a whole section, two different sections, one called the Nuremberg judgment, and our crimes against humanity, on page 162 and page 182. They are rather lengthy, and it talks about her viewpoint and her research about what went on in Nuremberg and behind the scenes in Nuremberg. Also the Allied crimes against humanity during the War.

Q. Did you instruct your researchers to conduct an inquiry into who Freda Utley was?

A. Yes, I did.

Q. And as a result of that did you obtain – could I file the book, Your Honour? {4037|4038}

THE COURT: We can make it all one and the same exhibit.

MR. CHRISTIE: Yes, Your Honour.

Q. Did you inquire as to who she was and what she wrote?

A. Yes.

THE COURT: I thought the Simpson van Roeden [sic] Commission document was Exhibit 139.

MR. CHRISTIE: My friend said he thought I had filed it.

THE COURT: I appreciate that. I am looking at my own numbers. Sorry. That will be exhibit 139.

— EXHIBIT NO. 139: Photocopy of book, "The High Cost of Vengeance" by Freda Utley.

Q. Could you tell us what sources you researched in order to find out who Freda Utley was?

A. "Who Was Who in America with World Notables" from 1977 to 1981, and it has quite a lengthy background on Freda Utley. She is an author, lecturer. She has written many books, many articles.

Q. Other sources you've checked to find out who she was?

A. Yes. "Current biography Yearbook" 1958, published by Wilson Company, and it has even a photograph of her in that, and it again has almost one and a half pages devoted to her creative production what she has done in her life. {4038|4039}

THE COURT: We will adjourn now till two fifteen.

— The jury retires. 1:00 p.m.

— The witness stands down.

THE COURT: Mr. Christie, as you indicated last week, you thought you would be finished by this time. You are not finished, and it would appear to be far from it. I am in no way hurrying you along in the defence. All I am saying is that by reason of the backlog of cases in this courthouse I am putting everyone on notice that we maybe forced to sit this coming Saturday and we may be forced to extend our hours from nine o'clock until six o'clock until such time as the evidence is all in. If I hear anything different at two fifteen, I will change my mind.

— Luncheon adjournment.

— Upon resuming.

— The jury enters. 2:20 p.m.

— The witness returns to the stand.

THE COURT: Go ahead, Mr. Christie.

MR. CHRISTIE: Thank you.

Q. Are you familiar with the name Harlan Fiske Stone? {4039|4040}

A. Yes, I am.

Q. Who is he?

A. He was the Chief Justice of the United States Supreme Court.

Q. When?

A. 1945.

Q. Are you aware of his views in regard to the Nuremberg trial?

A. Yes, I am.

Q. Do they support or have something to do with "Did Six Million Really Die?"

A. They support the thesis of "Did Six Million Really Die?"

Q. I now produce and show to you a biography of Harlan Fiske Stone, "Pillar of the Law" by Alpheus Thomas Mason, published in 1956 by the Viking Press, New York. I'd like to direct you to page 715 and 716 pertaining to his remarks about the Nuremberg Trials to indicate what they were.

A. On page 715 it says:

"I did not wish," he explained, "to appear, even in that remote way, to give my blessing or that of the Court on the proposed Nuremberg trials."

"For your information, but not for publication as coming from me, I would like to advise you that the Supreme Court had nothing to do, either directly or indirectly, with the Nuremberg Trials, or the government's action which authorized them. I was not advised of Justice Jackson's participation until his appointment by the Executive was announced in the newspapers. So far as the Nuremberg trial is an attempt to justify the application of the power of the victor to the vanquished because the vanquished made aggressive war," he explained, "I dislike extremely to see it dressed up with a false facade of legality. The best that can be said for it is that it is a political act of the victorious States which may be morally right, as was the sequestration of Napoleon about 1815. But the allies in that day did not feel it necessary to justify it by an appeal to nonexistent legal principles."

On page 716 he continues:

"It would not disturb me greatly," he wrote, "if that power were openly and frankly used to punish the German leaders for being a bad lot, but it disturbs me some to have it dressed up in the habiliments of the common law and the Constitutional safeguards to those charged with crime. It looks as though we were committing ourselves to the proposition that the outcome of every war must be that the leaders of the vanquished are to be executed by the victors." Just how, he wondered, is this new rule of law to be applied between the Russians and Finns, or the Russians and the Japanese, the Russians having entered the Japanese war in violation of the treaty of non-aggression? "Fortunately," he said, "I do not have to settle these questions."

And one final paragraph:

"Jackson is away conducting his high-grade lynching party in Nuremberg," he remarked. "I don't mind what he does to the Nazis, but I hate to see the pretense that he is running a court and proceeding according to common law. This is a little too sanctimonious a fraud to meet my old-fashioned ideas."

Q. Was this a basis for your belief?

A. Yes.

Q. Thank you.

MR. CHRISTIE: Could I exhibit that, please, Your Honour?

THE COURT: 140.

— EXHIBIT NO. 140: Photocopied excerpt from book, "Harlan Fiske Stone Pillar of the Law" by A.T. Mason. {4042|4043}

Q. MR. CHRISTIE: Do you know who Mr. Forrestal was?

A. Yes, I do.

Q. Who was he?

A. Secretary of the Navy of the United States at that time.

Q. At what time?

A. End of the War, I believe, 1946-47.

Q. And did he publish some diaries dealing with diplomatic affairs at the time?

A. Yes. He published "The Forrestal Diaries".

Q. Did you refer to that in your research?

A. Yes, I did.

Q. I now produce and show you a document known as "The Forrestal Diaries". What has it to do with the views of the Americans in the world just in relation to World War II?

A. In Mr. Forrestal's diaries there is an entry on the 27th December, 1945, in which he quotes Joe Kennedy, the father of the late President Kennedy, and it reads:

"Played golf today with Joe Kennedy Joseph P. Kennedy, who was Roosevelt's Ambassador to Great Britain in the years immediately before the war. I asked him about his conversations with Roosevelt and Neville Chamberlain from 1938 on. He said Chamberlain's position in 1938 was that England {4043|4044} had nothing with which to fight and that she could not risk going to war with Hitler. Kennedy's view: That Hitler would have fought Russia without any later conflict with England if it had not been for Bullitt's (William C. Bullitt, then Ambassador to France) urging on Roosevelt in the summer of 1939 that the Germans

must be faced down about Poland; neither the French nor the British would have made Poland a cause of war if it had not been for the constant needling from Washington. Bullitt, he said, kept telling Roosevelt that the Germans wouldn't fight, Kennedy that they would, and that they would overrun Europe. Chamberlain, he says, stated that America and the world Jews had forced England into the war."

Q. Was that paragraph relevant to your opinion in "Did Six Million Really Die?"

A. Yes, it was.

Q. Do you wish to file the book? What page was that?

A. Page 121 and 122.

MR. CHRISTIE: We will file the book, I think. Could that be exhibited, please, Your Honour?

THE COURT: Exhibit 141. {4044|4045}

— EXHIBIT NO. 141: Book, "The Forrestal Diaries".

THE COURT [MR. CHRISTIE]: Your Honour, there was the book of Freda Uteley and the "Who was Who". I made a mistake. Apparently it has been given a number, 139.

THE COURT: Perhaps that is where I became one out. What is the name of the book?

MR. CHRISTIE: "The High Cost of Vengeance" by Freda Uteley.

THE COURT: It is already 139.

Q. MR. CHRISTIE: Are you familiar with the position of Senator Robert Taft in respect to Nuremberg?

A. Yes, I am.

Q. Are you familiar with the work of John F. Kennedy entitled, "Profiles in Courage"?

A. Yes, I am.

Q. How are the two related?

A. Senator Kennedy wrote that book and it was a kind of a cross-section of people he admired, and he mentioned that he admired Senator Taft for his stand regarding the Nuremberg Trials.

Q. I now produce and show you an excerpt of the book, "Profiles in Courage" by John F. Kennedy. I direct your attention, if I may, to page 183 and ask you how that relates to your views on the Nuremberg Trials.

A. On page 183 Senator Kennedy says:

"But Senator Taft was disturbed — {4045|4046} and when he was disturbed it was his habit to speak out. He was disturbed by the War Crimes Trials of Axis leaders, then concluding in Germany and about to commence in Japan. The Nuremberg Trials, in which eleven notorious Nazis had been found guilty under an impressively documented indictment for 'waging an aggressive war,' had been popular throughout the world and particularly in the United States. Equally popular was the sentence already announced by the high tribunal: death.

But what kind of trial was this? 'No matter how many books are written or briefs filed,' Supreme Court Justice William O. Douglas has recently written, 'no matter how finely the lawyers analyzed it, the crime for which the Nazis were tried had never been formalized as a crime with the definiteness required by our legal standards, nor outlawed with a death penalty by the international community. By our standards that crime arose under an ex post facto law. Goering et al. deserved severe punishment. But their guilt did not justify us in substituting power for principle.' {4046|4047}

These conclusions are shared, I believe, by a substantial number of American citizens today. And they were shared, at least privately, by a goodly number in 1946. But no politician of consequence would speak out — certainly not after the verdict had already been announced and preparations for the executions were already under way — none, that is, but Senator Taft."

I continue on page 185:

"The trial of the vanquished by the victors," he told an attentive if somewhat astonished audience, cannot be impartial no matter how it is hedged about with the forms of justice.

I question whether the hanging of those who, however despicable, were the leaders of the German people, will ever discourage the making of aggressive war, for no one makes aggressive war unless he

*expects to win. About this whole judgment there is the spirit of vengeance, and vengeance is seldom justice. The hanging of the eleven men convicted will be a blot on the American record which we shall long regret.*

*In these trials we have accepted the {4047|4048} Russian idea of the purpose of trials – government policy and not justice – with little relation to Anglo Saxon heritage. By clothing policy in the forms of legal procedure, we may discredit the whole idea of justice in Europe for years to come. In the last analysis, even at the end of a frightful war, we should view the future with more hope if even our enemies believed that we had treated them justly in our English speaking concept of law, in the provision of relief and in the final disposal of territory.”*

And he concludes:

*“But even more deplorable, he said, were the trials themselves, which ‘violate the fundamental principle of American law that a man cannot be tried under an ex post facto statute.’ Nuremberg, the Ohio Senator insisted, was a blot on American Constitutional history, and a serious departure from our Anglo Saxon heritage of fair and equal treatment, a heritage which had rightly made this country respected throughout the world. ‘We can’t even teach our own people the sound principles of liberty and justice,’ {4048|4049} he concluded. ‘We cannot teach them government in Germany by suppressing liberty and justice. As I see it, the English-speaking peoples have one great responsibility. That is to restore to the minds of men a devotion to equal justice under law.’”*

Q. Is that a part of your opinion in respect to “Did Six Million Really Die?”

MR. GRIFFITHS: With great respect, Your Honour, the Taft article, all we heard was the count on aggressive war. It is the same thing with Chief Justice Stone, the count on aggressive war, not war crimes, which is what is being referred to in “Did Six Million Really Die?”. A completely different count altogether. I can’t see how, even under the rubric of honest belief, this would have anything to do with the matter before us.

THE COURT: It may or it may not, Mr. Griffiths. I am going to permit it in. That will be something that you can argue to the jury at the time, and the jury will make what it will of all of this.

MR. GRIFFITHS: Thank you, Your Honour.

MR. CHRISTIE: Thank you.

THE COURT: 142.

— EXHIBIT NO. 142: Photocopied excerpt from “Profiles in Courage” by John F. Kennedy. {4049|4050}

Q. MR. CHRISTIE: Have you researched a number of other sources pertaining to the justification for the Nuremberg trials?

A. Yes, I have.

Q. Some Jewish as well as other sources?

A. Yes.

Q. You’ve mentioned Nahum Goldman’s reference to the Nuremberg Trials. What reference is that?

A. It is contained in Nahum Goldman’s own book called “The Jewish Paradox”, and it is really the basis, the origin, the very idea behind having these trials mentioned as to being a Jewish idea.

Q. I now produce and show you an excerpt from the book, “A Jewish Paradox” by Nahum Goldman., and I ask you to identify what part of that —

MR. GRIFFITHS: That has already gone in. The whole book is already in evidence.

MR. CHRISTIE: If that is the case, I am apologizing to Your Honour and anybody else if I wasted any time at all.

Now, it seems to me there are a number of lettered exhibits, Your Honour, which have not yet gone in, and I wonder if I may produce Exhibit A.

THE COURT: Members of the jury, will you please excuse us? This will take some time and I will make decisions in your absence.

— The jury retires. 2:35 p.m. {4050|4051}

THE COURT: Gentlemen, are there any lettered exhibits that you are both aware that will not be the subject matter of contest?

MR. GRIFFITHS: Your Honour, my apologies, but if I could just have a

moment or two to look at this list; Mr. Christie, do you want to join me here?

MR. CHRISTIE: I have a list of my own. I will check it with yours.

MR. GRIFFITHS: I think we can agree to most of these matters, Your Honour.

THE COURT: Which ones, please?

MR. GRIFFITHS: It is not materially different from the other matters that have gone in.

If I can perhaps pass this list up to Your Honour, we can run through it that way.

Mr. Walendy’s book, Exhibit “A”, is no different from the other matters that have gone in. My friend is seeking the Masonic medal. Fine.

THE COURT: That’s “C”?

MR. GRIFFITHS: Yes, sir. “C”.

MR. CHRISTIE: “E” is already in, I think. {4051|4052}

MR. GRIFFITHS: “F” is already in in [sic] another form. The Stroop Report is in German. “G” is in German, so that cannot go in. “H” is already in. “I” is in German so that cannot go in. “J”, “Hitler’s Table Talk”, fine.

THE COURT: Translation from Picker?

MR. GRIFFITHS: I am not sure. Yes. This is German with an English translation, Your Honour, of one page out of a book.

THE COURT: That’s in. With some French commentary.

MR. GRIFFITHS: “J” is all right. “K”, the Rudolf Hoess statement, that’s fine. I believe the entries of the German dictionary are already in.

THE COURT: They are in.

MR. GRIFFITHS: The two photos – perhaps we will discuss all photos at the same time, Your Honour. Photo map of Maidanek Concentration Camp I have no objection. The Red Cross —

THE COURT: That’s already in, I see.

MR. GRIFFITHS: . No, sir. I think we just read that in. That should not go in. It has {4052|4053} matters that are ruled inadmissible on it.

“P” we are not seeking. “Q” is not appropriate either. The curriculum vitae, Faurisson’s paper is fine. There has already been reference to that. — The slides we will discuss, perhaps, in a moment. The curriculum vitae of Dr. Russell, it is not appropriate. The article by Dr. Barton is fine, on consent, Your Honour. The reference book is already in.

MR. CHRISTIE: The History of Joel Brandt.

MR. GRIFFITHS: It is already in led the group of exhibits. And that’s it.

THE COURT: What do you propose now, Mr. Christie and Mr. Griffiths?

MR. CHRISTIE: I would just like to put those which are not objected to to the witness and ask him if it forms a part of his research.

THE COURT: Do you want to put each one individually, or do you propose that you might put them all en bloc and then in any order that you wish?

MR. CHRISTIE: I would think, Your Honour — {3600|3601}

THE COURT: Whatever way you want to do it.

MR. CHRISTIE: I would like to deal with some of them by putting it to him. I don’t intend to try to put them all in. Just a few that are now agreed to that I will want to put in.

THE COURT: Is that satisfactory to the Crown?

MR. GRIFFITHS: Certainly, Your Honour.

THE COURT: Done. Do you want the jury back in now? They might have to go out in ten minutes if you are going to argue photos at some point. Do you want to do it now?

MR. CHRISTIE: Well, perhaps you could do that.

THE COURT: It is your case. If you want to do it now, you may.

MR. CHRISTIE: There are some enlarged photographs and slides which we might be able to show. The slides we’ve discussed a number of times. The witness has now said that he relied upon them to a large extent on his research. {4054|4055}

THE COURT: He has said that, yes. Are these the slides taken by ...

MR. CHRISTIE: Felderer.

THE COURT: Felderer, yes.

MR. CHRISTIE: There’s about eighty of them, and Felderer has been brought back to be available to show them or, in the alternative, he has

prepared for my client a typed description of each frame, a list of those, and he has delivered it to my client. That's all available at any time, and it could be done tomorrow.

There are a number of things that I think could be done today, if I may, to finish my examination. Then the other thing is that there are some enlarged photographs which were used by my client to analyze the situation in Auschwitz from enlargements of aerial photographs, enlargements of other photographs that we have made, from those that Faurisson has provided. For example, the mechanisms associated with the American gas chamber, and also photographs from the Auschwitz Album. They were enlarged for the purpose of viewing the situation that existed there. {4055|4056}

THE COURT: Yes.

MR. CHRISTIE: Particularly the aerial photographs, and photographs of the alleged gas chamber in Krema I and Auschwitz I, which I would like to be able to show you.

THE COURT: Taken by – the original photographs taken by ...

MR. CHRISTIE: The original photographs I believe were taken by Faurisson in the case of Auschwitz I, Krema I, and also in the case of the American gas chamber.

THE COURT: Do you want Mr. Zundel to stand here while we discuss this, or may he leave the box temporarily? It is fine with me if it is fine with you.

MR. CHRISTIE: It could be very useful if he could assist me in relation to that matter, Your Honour.

THE COURT: Return to the box, Mr. Zundel.

— The witness stands down.

MR. CHRISTIE: There are basically {4056|4057} three or four that I wanted to put in, Your Honour, that were made by the accused in the course of his research, and he can identify where they came from and why he relied on them and where they are.

I have now sorted through them. If it was of assistance, I would be prepared to have my client explain why they were useful to him in his research, where he got them and what they signified to him in the voir dire form, and then, if there was a question about it, my friend could deal with in in that way.

THE COURT: Well, I will hear submissions from the Crown. If you wish to call reply, you certainly may.

MR. CHRISTIE: Yes, sir. If I could, I will do that.

### **ERNST ZÜNDEL, sworn on voir dire**

#### **EXAMINATION-IN-CHIEF BY MR. CHRISTIE:**

Q. Mr. Zundel, in reference to these enlarged photographs, I would like to show you the photograph that purports to be an aerial photograph [sic] of {4057|4058} Auschwitz-Birkenau extermination camp in Poland 1944. Do you recognize that photograph?

A. Yes, I do.

Q. And how is it enlarged in that fashion?

A. It is a copy negative. We made a copy negative and an enlarged print from a publication called "Holocaust Revisited", which is a publication of the C.I.A.

THE COURT: You made a copy of a negative?

THE WITNESS: Copy negative, Your Honour, and from that copy negative I made an enlargement.

MR. CHRISTIE: That is, I believe, Your Honour, the exhibits that is in evidence, the C.I.A. photographs we referred to.

THE COURT: It came from a book.

THE WITNESS: Yes. From a report from the C.I.A.

THE COURT: All right. Thank you. Go ahead.

Q. MR. CHRISTIE: I now produce and show to you another photograph that's been enlarged.

THE COURT: That will be Exhibit A on the voir dire.

MR. CHRISTIE: Thank you, Your Honour.

— EXHIBIT "A" (Voir Dire): Enlarged photo from CIA publication. {4058|4059}

Q. MR. CHRISTIE: us where you got that from and what Can you tell it

signifies?

A. I believe it is from the Auschwitz Album, which is also in evidence, if I am not mistaken. It was done in the same way, copy negative and enlarged print. It shows twins being liberated from Birkenau, 27 January, 1945.

Q. And what is the significance of that photograph in terms of your defence?

A. In that it shows there were children very much alive at the time of liberation, and that they looked quite healthy, quite round-faced.

Q. I now produce and show to you another photograph —

THE COURT: Exhibit "B".

MR. CHRISTIE: Thank you, Your Honour.

— EXHIBIT "B" (Voir Dire): Enlarged photo from Auschwitz Album.

Q. MR. CHRISTIE: Can you tell us where that comes from, how it was made and what it signifies?

A. It is a copy negative made from page 113 in the Auschwitz Album, and it shows inmates with their heads shaven but round-faced and healthy.

THE COURT: EXHIBIT "C"

— Exhibit "C" (Voir Dire): Photograph from "Auschwitz Album, page 113. {4059|4060}

Q. MR. CHRISTIE: I now produce and show to you another aerial photograph from the same survey from the C.I.A. What does that signify?

A. It's an aerial photograph, a copy of it, with a copy negative and a print made of Birkenau extermination camp on the 21st December, 1944.

Q. And I now produce and show to you the photograph that purports to be of —

THE COURT: Exhibit "D".

— EXHIBIT "D" (Voir Dire): Aerial photograph from CIA survey.

THE WITNESS: It is the exterior of Auschwitz I.

Q. Are you familiar with the interior of a gas chamber?

A. Yes, I am.

Q. Where did it come from?

A. It came from a photograph from Dr. Faurisson.

Q. And what does it signify in terms of your defence in this matter?

A. It shows the gas chamber on display in Auschwitz today, and it shows the doors and so on, and it also shows the lack of Zyklon-B stains.

THE COURT: Exhibit "E"

— EXHIBIT "E" (Voir Dire): Photograph made by Dr. Faurisson re Auschwitz I and gas chamber. {4060|4061}

Q. MR. CHRISTIE: I now produce and show to you another photograph which appears to be of the same building. Do you recognize that?

A. Yes. It is the same building, except it shows the rear entrance, I believe.

Q. And what is the significance in terms of your defence of that photograph?

A. It shows the flimsy door leading into the gas chamber opening into the gas chamber, and it shows the construction of the alleged gas chamber.

THE COURT: Exhibit "F".

— EXHIBIT "F" (Voir Dire): Photograph of Auschwitz gas chamber.

Q. MR. CHRISTIE: I now produce and show to you a photograph of what purports to be – well, do you recognize that photograph?

A. Yes, I do.

Q. Where did it come from?

A. It came from Dr. Faurisson.

Q. And what does it signify?

A. It is an enlargement of a photograph he took in Baltimore of the American gas chamber.

Q. What is the significance of that in relation to "Did Six Million Really Die?"

A. It shows the need for quite modern and very solid construction of fumigation, of gas chamber doors.

THE COURT: Exhibit "G". {4061|4062}

— EXHIBIT "G" (Voir Dire): Photo from Dr. Faurisson, enlargement –

American gas chamber.

Q. MR. CHRISTIE: Can you recognize what this is?

A. This is a photograph of a fumigation chamber in Birkenau where clothes were fumigated, and it shows the quite modern and very strong build of the door and door mechanism of the fumigation chamber.

Q. How is that relevant to the theory of your understanding of the gas chamber question?

A. Because it relates to the look of an American gas chamber that was used for killing people, and it shows the difference in construction to the alleged gas chamber in Auschwitz I.

Q. Thank you.

THE COURT: Exhibit "H".

— EXHIBIT "H" (Voir Dire): Photograph of fumigation chamber in Birkenau.

THE WITNESS: This is a different angling of a fumigation chamber in Birkenau showing the door and the way it is set into the walls together with a rack where clothing would be hanged on.

THE COURT: Exhibit "I".

EXHIBIT "I" (Voir Dire): Photograph of fumigation chamber, Birkenau. {4062|4063}

Q. MR. CHRISTIE: And a final photograph. Could you identify that in relation to the series of tests —

A. It's a close-up photograph of the hinges, the massive hinges and airtight seal on the gas chamber they used to kill people in Baltimore.

Q. And where did those photographs come from?

A. They came from Dr. Faurisson as well.

THE COURT: Exhibit "J".

— EXHIBIT "J" (Voir Dire): Photograph — close-up of door hinges and seal in Baltimore gas chamber.

Q. MR. CHRISTIE: All right. What is the purpose in comparison of those items?

A. Because it shows the tremendous care that needs to be taken in the construction and the very strong build of these doors that go to gas chambers that are used to kill people, and it becomes apparent that no such doors were installed in what are today being shown in gas chambers in Auschwitz I that are allegedly used to kill people.

MR. CHRISTIE: Okay. Those are my questions on those issues. Will you answer questions from my learned friend?

THE COURT: Are there other slides?

MR. CHRISTIE: Yes, Your Honour. {4063|4064}

THE COURT: Do you want to do this separately?

MR. CHRISTIE: Perhaps, Your Honour. I have difficulty producing them at the moment. I have someone waiting to show them, sir, but I think it would be a little time to set up. Perhaps we can deal with these things one at a time.

THE COURT: Go ahead, Mr. Griffiths.

CROSS-EXAMINATION BY MR. GRIFFITHS (Voir Dire):

Q. The aerial photographs, enlargements of the aerial photographs are taken from, I gather, Exhibit 27, C.I.A Report?

A. Mm-hmmm.

Q. And can you tell us when you made those enlargements?

A. The enlargements were made for the trial, Mr. Griffiths.

Q. Okay. And that would be both aerial photographs ...

MR. GRIFFITHS: That's "A", Your Honour, and "D". I think that's it.

Q. Is that right?

A. Yes, Mr. Griffiths.

Q. And the photographs of inmates on liberation, Exhibits "B" and "C", when were those enlargements made? {4064|4065}

A. They were made at the same time.

Q. And what is the source of — at the same time of preparation for trial?

A. Yes.

Q. And what is the source of those photographs?

A. I believe it came out of the Auschwitz Album, but I am not quite sure. The one with the twins.

Q. Auschwitz Album. And that is already an exhibit.

A. Yes, it is.

MR. CHRISTIE: A lettered exhibit, I think.

MR. GRIFFITHS: No. A numbered exhibit no. Exhibit No. 29.

Q. And what about the other one of the shaven heads, round-faced prisoners, Exhibit "C"?

A. That came from the same album at the same time, Mr. Griffiths.

Q. Offhand — I don't see it in here — is it the "KL Auschwitz"? There are a number of different Auschwitz albums.

A. No. That would be the brown one that I referred to there, Auschwitz Album. I don't know if this is the French edition or the English edition. I am not sure which one was used.

Q. I had understood that the Auschwitz Album was around August of '44 one day when an SS officer photographer took some pictures of the selection process and what-have-you, that it wasn't liberation pictures. {4065|4066}

A. On page 113 there is one photograph with a man in a striped suit, sir.

Q. All right. Page 113 is a photograph.

A. Page No. 129.

Q. All right. Well, that's not liberation day.

A. It could come from the French edition, Mr. Griffiths. I don't know. It is not in this book.

Q. It seems to me we had a French edition here as well, a lettered exhibit. It wasn't admitted because it was in French.

THE COURT: Not "J"?

MR. GRIFFITHS: No, sir. We don't have it here, Your Honour.

Q. All right. So you are not sure of the source of that one.

A. No, I am not, Your Honour.

Q. All right. And the photographs of the inside of Auschwitz gas chamber, those are taken by Dr. Faurisson, and your information about them comes from Dr. Faurisson.

A. That's right. I was first shown those in 1949 [1979], during his lecture.

Q. And they are blown up in preparation for the trial.

A. Yes. I had only eight-by-ten photographs, and I thought they were not big enough to show to the jury.

Q. Okay. And Dr. Faurisson's American {4066|4067} gas chamber, that's "G", and that was also given to you in 1979?

A. No. He mailed those to me subsequently, eight-by-ten photographs again, and I enlarged them for the trial.

Q. Can you tell us when you would have gotten those?

A. About 1982, '83.

Q. Was it before or after this charge was laid, Mr. Zundel?

A. It would be, I believe, before, Mr. Griffiths.

Q. And the fumigation chamber in Birkenau, that's "H", and "I". Those, I believe, were from Dr. Faurisson?

A. That's right. Yes.

Q. And when would you have seen those?

A. At the same time. I received them in one batch.

Q. At the same time as —

A. As the doors for the gas chamber, you know.

Q. '82, '83?

A. '82, '83, yes.

Q. All right. And "J" was another American gas chamber. Right? And if I have you right, the Faurisson pictures of the American gas chamber and of the fumigation chamber in Birkenau are important because of the difference in the construction of the doors shown there and the construction of the doors in Exhibits "E" and "F", which are the Auschwitz I gas {4067|4068} chamber, and that's the only importance of those photographs.

A. It's a very big importance, Mr. Griffiths, yes.

Q. Okay.

A. Because the other ones are wooden doors, square, rather flimsy regular house doors, whereas these —

Q. Are they the doors that Mr. Felderer referred to in Exhibit 44 who you also rely on as being different outside doors, gas chambers? It is in paragraph 4, a letter headed, "Dear Friend".

A. No. These are not outside doors, Mr. Griffiths. They are inside doors. The models I have made will reveal that.

Q. I am not as interested in your models as I am in the photograph.

A. No. These are – I can explain it to you. If this is the room, the gas chamber, this particular photograph here, for instance, this one, and this wall here, there is like a little vestibule which is a schrapnel captured [sic] during the time when this was used as a field hospital. So you are not looking at the inside. There is a vestibule. In other words, they are not going outside doors. And you see, this is a square building like that.

Q. Where the sun is coming in through those doors?

A. No. This is going through the crematorium. You see, this is the same. This is going {4068|4069} through the crematorium.

Q. And a door with a glass window?

A. There is an adjacent room to that.

Q. I see. And these pictures were made, as well, in preparation of the trial?

A. Yes, they were.

MR. GRIFFITHS: Okay. No further questions, Your Honour.

THE COURT: Any re-examination, Mr. Christie?

MR. CHRISTIE: No. Thank you, Your Honour.

THE COURT: Yes. Any further evidence?

MR. CHRISTIE: I have just a brief submission, that they exemplify the basis for his belief on the information that he received.

I suppose it's true that they are enlargements at the time when he was preparing for trial, but the photographs themselves were received probably well before the time when he was charged.

Thank you.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Exhibits "A", "C", {4069|4070} "D" are already in evidence.

THE COURT: Yes.

MR. GRIFFITHS: And I don't think we need two copies. Exhibit "B" is from an unidentified source.

THE COURT: Which is that?

MR. GRIFFITHS: Twins liberated, Your Honour.

THE COURT: Yes.

MR. GRIFFITHS: "E" and "F" are, I would say, Your Honour, the remaining photographs that are before the Court here, are enlargements and not the matters on which Mr. Zundel based his belief, and if they are not matters on which he is basing his belief, then they really shouldn't be shown to the jury because if they are, then they are going to matters of truth, and Your Honour has ruled that this evidence does not go to the truth of the matter but only goes to Mr. Zundel's belief in it.

If it is to go to his belief, then it should be the material he examined for his belief and no other material. And that would be my comment, Your Honour, on those. There are some uncertainties in Mr. {4070|4071} Zundel as to when he received Exhibits "F" through "J" from Dr. Faurisson.

THE COURT: When were all these pictures taken, the photograph of the gas chambers?

THE WITNESS: When were they taken?

THE COURT: Just a moment, Mr. Zundel. You had better follow your lawyer here. I am interested in knowing when the American gas chamber photographs were taken and when the Faurisson and Felderer photographs were taken.

I have some evidence from Felderer as to when the photographs were taken, but I am unsure of precisely when.

MR. GRIFFITHS: The precise dates, Your Honour, really we don't have.

MR. CHRISTIE: I think it was on the voir dire of Faurisson, Your Honour.

THE COURT: Yes, it was, but not on this one.

MR. GRIFFITHS: My recollection, Your Honour, which may well be faulty, is that Dr. Faurisson indicated that he wrote a paper based on

his comparison of the gas chamber systems in Maryland and {4071|4072} Germany, and he presented that paper in 1979.

I drew inference from that which may or may not have been correct.

That, Your Honour, would really be my submissions on the admission of these particular photos that are before you, and I should say that I think that now or at some future time, that it should be made clear to the jury that if the evidence is admitted, that it does not go to the truth of the matters contained therein Your Honour.

THE COURT: Mr. Christie.

MR. CHRISTIE: I have nothing to add, sir.

—— {4072|4073}

#### REASONS FOR RULING

THE COURT: In the absence of the jury and by way of *voir dire*, counsel for the accused seeks to introduce into the record before the jury, on this trial, a number of photographs. I have, for the purposes of the *voir dire*, numbered the photographs "A" through to "J" inclusively.

The photographs are, to some extent, already in evidence in a smaller form. Some of the photographs are enlargements of smaller photos. These smaller photos in one form or another are either in evidence or, in the alternative, have been referred to by other witnesses in this trial.

The photographs Exhibits "A" and "C" are now exhibits in the trial. They will not be admitted for that reason. I agree with counsel for the Crown that "B", the photograph of the twins leaving a prison camp, is a photograph the source of which is certainly unknown to me on the evidence I have heard. There are photographs of gas chambers that, it is said, are used in the United States of America to execute people convicted of a crime deserving that punishment. There is no evidence on this *voir dire* {4073|4074} as to when those photographs were taken.

The purpose that counsel for the accused seeks to lead the American gas chamber photographs, if I can refer to them in that way, is to compare or contrast the construction of those chambers with what it is said by other evidence led in this trial to have existed forty years ago in Europe at the end of World War II in various prison camps or even several years before that.

The balance of the exhibits are enlargements of other photographs that have been in the possession of the accused, Mr. Zundel. Those enlargements were made in preparation for this trial.

The evidence led by counsel for the accused through his client, the accused, has consisted of essentially Mr. Zundel's alleged belief. I say that in the kindest sense, that what he admits having published in the form of Exhibit 1 is an honest belief.

In that regard, somewhere between fifty and a hundred sources of reading material of various kinds, photographs and other documents, have all been submitted to the jury as exhibits in support or to buttress the belief that Mr. Zundel said he had as to {4074|4075} the contents of Exhibit 1, "Did Six Million Really Die?", when he published it.

The jury will be told in due course that all of that evidence was submitted not for the purpose of proof of the truth of the contents thereof; that evidence was submitted to permit the jury to better assess the weight of anything that it will attach to the evidence of this witness insofar as the honesty of his belief is concerned.

The jury will also be told in due course that it is not up to Mr. Zundel to prove anything. It is up to the Crown to discharge the burden of proof cast upon it beyond a reasonable doubt.

Any enlargements that are now sought to be reproduced and shown to the jury could hardly be said to constitute evidence insofar as the honesty of the belief the accused said he has in the contents of the publication. It is the belief he had when he published, not when he was preparing for trial.

For the reasons I have given, none of the exhibits "A" through "J" will be admitted.

—— {4075|4076}

— Short adjournment.

— Upon resuming.

— The jury returns. 3:45 p.m.

— The witness returns to the stand.



## CONTINUED EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. Mr. Zundel, did you make a study of the soap story allegation coming from the Second World War and the story coming out of concentration camps?

A. Yes, I did.

Q. Why did you do that? How is that relevant to the Holocaust story itself?

A. An integral part of the concentration camp propaganda mentioned here.

Q. And did you mention it in Dr. Hilberg's work that he mentioned it as a rumour?

A. Yes. He has frequent mentions in his book as to the soap story.

Q. Could you specify where, in the book, "The Destruction of the European Jews" it is referred to?

A. It's on page 470, 614, 623 and 624.

Q. And is it referred to as just a rumour?

A. It is extensively discussed, and might say with some relish, all kinds of details are {4076|4077} referred to.

Q. Was it taken seriously at Nuremberg?

A. Yes, it was. It is mentioned in the Blue Series.

Q. I now produce and show to you Volumes 19 and 7 of the Trials of Major War Criminals International Military Tribunal. Could you identify where in those volumes it is referred to?

A. In volume 7 of the Blue Series on page 597. It is referred to in great detail, and if I may quote:

*"[I]n the Danzig anatomic institute several experiments from soap from human bodies and the tanning of human skin for purposes ... were carried out. I submit to the Tribunal as Exhibit Document No. USSR-197 (the testimony of one of the direct participants in the production of soap from human fat.)"*

It is the testimony of Sigmund Mazur who was a laboratory assistant at the Danzig Anatomical Institute. I omit two pages, and turn to page —

Q. Rather than go on about it, do you believe those allegations today?

A. Not even Dr. Hilberg believes it so I am safe not to believe it myself.

Q. Was there any suggestion that they were just rumours in that evidence that you could see?

A. In this one here it is treated {4077|4078} with the utmost seriousness and it gives chemical formulas of ...

Q. Well, never mind going into detail, but is there any other reference to the soap story that takes it seriously at Nuremberg?

A. Well, this one on page 597, and page 598 certainly does, and it carries over on page 599, and then in the second series again, volume 19. It says on page 506, and I quote:

*"[M]eanwhile the mass murder of Jews at Auschwitz and the other extermination centres was becoming a state by-product; bales of hair some of it as you will remember still plaited as it had been shorn off the girls' heads, tons of clothing, toys, spectacles and other articles went back to the Reich to stuff the chairs and clothe the people of the Nazi State. The gold from their victims' teeth, seventy-two transports full were to fill the coffers of the Reichsbank. On occasion even the bodies of their victims were used to make good the wartime shortage of soap. Document No. USSR-272."*

Q. So, what does this serious regard to the allegation of making soap indicate to you about the rest of the Holocaust literature and allegations?

A. It's just one facet of this World War II propaganda, and it comes up every time that one hears {4078|4079} it on a radio programme. Invariably people troop out this propaganda lie.

Q. Have you conducted extensive research over the years into this story of the soap story?

A. Yes, I have.

Q. Did you have a file on it?

A. Yes, I do.

Q. Is it now in your hands?

A. Yes, it is.

Q. Just without going into detail, what are the sources that you sought out to find about this allegation?

A. Many of these people are quite serious authors like, for example, Walter Lacqueur who published a book called, "The Terrible Secret". He talks about the Jewish corpses for the manufacture of soap, glue and lubricants.

Q. Was the soap story originating only after the Second World War, or is there any other such story?

A. It was a hang-over, a warmed-up version of the corpse or cadaver factory of the First World War.

Q. What other authors took it seriously and portrayed it seriously in the literature?

A. Robert Ross discusses it in, "So it was True", a book that was published in 1980. And then another book called, "While Six Million Died", a chronicle of Americana by Arthur Morse. It claims that there are at least two factories processing corpses {4079|4080} for the manufacture of soap, glue and lubricants. And then the German book of the "Macht Ohne Moral", which has been mentioned here before. Then there is, of course, Gitta Sereny's book, "Into the Darkness". There are, in the footnotes of this referred to: A few corpses from concentration camps proved impractical. The idea was apparently abandoned.

It is apparently the idea of Dr. Hilberg, but they do claim that these productions of soap took place.

Q. So what is your conclusion about the soap stories?

A. Well, I have a cross-section here of French, German and English books, magazines and so on, all in fairly similar wording, regurgitating what came out of the Nuremberg War Crimes Trials.

So it seems when the Russians introduced this allegation, many writers took it for reality and for truth, and even in 1983 and '81 and '80 are regurgitating what even Dr. Hilberg admits today were nothing but rumours which he could find no substantiation.

Q. Thank you. I now produce and show to you an article from "The Canadian Jewish News, December 11, 1981. What does that signify in relation to your understanding of the Holocaust?

A. This is a condensed article that appeared in the Canadian Jewish News, and it discusses reparations or wiedergutmachung which Germany paid to Jews all over the world, and it lists, and I quote just the section of the news item: {4080|4081}

*"According to data supplied by the German Information Centre in New York, 99.8% of all claims had been settled by Jan. 1981."*

The news item is dated December 11, 1981.

*"Payments have reached 50.18 billion German marks. About 40% of the victims live in Israel; 20% in West Germany, and 40% elsewhere."*

Q. How does that relate to the figure you gave before of a hundred billion marks?

A. No. This was — excuse me. There is, again, a difference in numbers if one counts payments to individual recipients and does not add on payments to Jewish organizations, to the State of Israel itself. If there were material reparations, if one calculates these such as ships, even arms, pipelines, railroads — when I was in Israel, there was a youth hostel that was built with money like that, and every fixture in that place had, "Made in Germany" on it.

Q. Does that play a part in your understanding of the Holocaust?

A. Yes, it does.

Q. Why?

A. Because it has certainly generated a tremendous windfall, especially for the State of Israel and for certain individuals and organizations which they would not have without the Holocaust {4081|4082} propaganda.

Q. I now produce and show to you an item of the New York Times of August 7 —

MR. CHRISTIE: Could I exhibit this, please, Your Honour?

THE COURT: Is that one of the lettered exhibits that you ask go in?

MR. GRIFFITHS: I don't believe so, sir.

THE COURT: All right. 143.

— EXHIBIT NO. 143 : Photocopied excerpt from The Canadian Jewish News, December 11, 1981.

Q. MR. CHRISTIE: Are you familiar with this speech?

A. Yes. It is a microfilm print-out from The New York Times, Monday,



August 7, 1933.

Q. Who obtained it?

A. I obtained this thing a long time ago.

Q. And what's it signify to you in relation to your understanding of the Holocaust?

A. Well, it is the first declaration of War that I am aware of on Germany by an internationally famous and powerful Jewish organization and its leader, and it calls for a global war against Germany.

Q. It calls for a global war against Germany. Why?

A. Economic boycott. Total. It was broadcast over many United States radio stations and {4082|4083} the first address of the speech was given in Amsterdam, Holland.

Q. What effect did this have on the German Government of the day?

A. Near panic. It is now a documented fact, since we have a book by this fellow, Black, called "The Transfer Agreement" which came recently on the market, and the boycott took hold, was effective and nearly toppled the German Government. It caused tremendous unemployment, because German exports to the United States, especially, took a nosedive.

Q. So how does that relate to the Holocaust?

MR. GRIFFITHS: That is the book that was written in 1984, Edwin Black's book, I believe?

THE WITNESS: I believe it is, Mr. Griffiths.

MR. CHRISTIE: I don't think it's in evidence, but unfortunately it's been referred to, so ...

THE WITNESS: I apologize, Your Honour.

THE COURT: Go ahead.

Q. MR. CHRISTIE: What does that have to do with your understanding of the Holocaust?

A. Well, it certainly does explain that there were two protagonists in the struggle that preceded the Second World War, and if there were hard feelings in Germany and if there were harsh measures by the German Government – {4083|4084}

Q. In regard to who?

A. I am referring to the reaction of the German Government to this particular type of propaganda and international boycott. Some of the anti-Jewish measures undertaken were a direct result of this kind of agitation outside Germany. It's a matter of asking what came first, the chicken or the egg.

MR. CHRISTIE: Could that be an exhibit, please, Your Honour?

THE COURT: Yes. What is it?

MR. CHRISTIE: It's —

THE COURT: New York Times 1933 speech by who?

MR. CHRISTIE: Samuel Untermyer, Your Honour.

THE COURT: Exhibit 144.

— EXHIBIT NO. 144: Microfilm copy of Untermyer's Speech in The New York Times, August 7, 1933.

Q. MR. CHRISTIE: I now produce and show to you the book of Udo Walendy called, "War Crimes Malign the German Nation" Are you familiar with that book?

A. Yes, I am.

Q. Are you familiar with it being referred to in "Did Six Million Really Die?"

A. Yes.

Q. Have you read it yourself? {4084|4085}

A. Yes.

Q. What do you think of it?

A. It shows numerous photo montages, and it shows on page 74 the photograph of a photo montage with background retouched which appears in Exhibit No. 1, "Did Six Million Really Die?", this photograph here.

MR. CHRISTIE: Could that be an exhibit, please, Your Honour?

THE COURT: 145.

— EXHIBIT NO. 145: Book, "Forged War Crimes malign the German Nation" by Udo Walendy.

Q. MR. CHRISTIE: I now produce and show to you what has been entered as Exhibit "C". Do you recognize that?

A. Yes, I do.

Q. What is it?

A. It's a medal called "Victoria No. 205" of the Royal Arch Masons, and it shows a Star of David in a circle together with some other masonic signs.

Q. Why is that relevant to your publication or writing, rather, of "The West, War and Islam"?

A. Because it reveals, certainly in the graphics, a strong influence of Jewish influence.

MR. CHRISTIE: Could I file that, please, Your Honour?

THE COURT: 146. {4085|4086}

— EXHIBIT NO. 146: Royal Arch Masons Medal.

Q. MR. CHRISTIE: Now, in the earlier stage of these proceedings Exhibit "J", for identification, was introduced, a translation of the table talk of Adolf Hitler. Could you give the year, please?

A. It's by Henry Picker, 1941-1942, and was published by Percy Ernst Schramm, Stuttgart, Seewald publishers, 1963.

Q. And what does that signify to you in relation to the subject of exterminationists' thesis?

A. It was a talk that Hitler had during supper and in which he discusses the Jewish question, and he mentions his attitude towards it, and he says "[:]

*"In this 11nd [sic] world war which is a struggle for life and death it must never be forgotten that after the declaration of war on the part of the World Zionist Congress and its leader Chaim Weizmann (in his message to Britain's Prime Minister Chamberlain). World Jewry, the most relentless adversary of National Socialism is the Enemy No. 1. When doing business, Jewry is looking for Europe, but Europe must reject this already for sacro-egoistic reasons, since Jewry is harder in terms of {4086|4087} race. After the war he would be rigorously hold the point of view that he would destroy one town after the other, unless the 'Drecksjuden' (filthy Jews) get out or wander off to Madagascar (2) or some other Jewish national state, (Hitler said)."*

Q. Do you know when that conversation was supposed to have taken place?

A. 24th of July, 1942, evening.

MR. CHRISTIE: Could that be an exhibit, please, Your Honour?

THE COURT: 147.

— EXHIBIT NO. 147: Copy of Picker's English translation of Hitler's Table Talk – excerpt.

Q. Now, early on in these proceedings there was a quote from Benjamin D'Israeli's speech which we undertook to prove. I now show you a book in the German language. Have you undertaken a translation of that book?

A. Yes, there is.

Q. Can you identify the book, the author, year of publication and the portion referable [sic] to the quote that mentions D'Israeli?

A. The author of the book is Heinrich Blume. The title of the book is "Das Politische Geficht [Gesicht] der Freimaurerei". It's "The Political Face of Freemasonry", published 1937.

Q. What is the portion of the book on {4087|4088} page 5 that refers to the banishment of D'Israeli?

A. I read:

*"Contemporary European history can only be written by one (who is) aware of the secrets of the secret societies ... This century's statesmen deal not only with governments, emperors, kings and ministers, but also with the secret societies. These societies can conclusively nullify all political arrangements, they have agents everywhere, unscrupulous agents who instigate murder, and they can cause a bloodbath if they deem such to be a means to their ends."*

It comes from D' Israeli's speech at Aylesbury, 20th September, 1876.

MR. CHRISTIE: I'd like to file that, Your Honour, if I may.

— EXHIBIT NO 148: German book by Heinrich Blume with English translation of excerpt from page 5.

Q. MR. CHRISTIE: What was the circumstance in which you wrote the book or the item, "The West, War and Islam"? Why did you do that?

A. There were two reasons. One, I saw an advertisement in a German

newspaper. I believe it was "Die Welt".

Q. What does that mean? {4088|4089}

A. It is in German. "The World". A German newspaper. And it shows a picture of Hitler – I don't have "The West, War and Islam" in front of me – Daladier, von Ribbentrop and Arafat, I believe, in the advertisement.

Q. Why did that upset you?

A. It's the juxtaposition of Hitler with these statesmen, and also Arafat, and especially the caption, the text that was put with it, and especially those who paid for the advertisement.

Q. Well, tell us about the ad. Who paid for it? Why did that upset you, if you wouldn't mind?

A. If I may have Exhibit 1 then I can be more specific. I mean Exhibit 2.

Q. Well, perhaps I could show you what is a photocopy of the ad. I now produce and show to you what appears to be a photocopy of an advertisement. Do you recognize that?

A. Yes, I do.

Q. What upset you about that ad? Have you provided a translation in handwriting of the ad?

A. Yes, I did.

Q. What's the ad all about?

A. Oh, Chamberlain also appears, excuse me, in the picture as well. The ad, basically, says that political appeasement in the year 1938 helped Hitler destroy Czechoslovakia and led to World War II, to the death of six million Jews and to fifty million war casualties. Political appeasement in the year 1980 would help the PLO, would threaten three million Israelis {4089|4090} with death and would make a Third World War more likely.

*"We, the undersigned, belong to the few survivors of the concentration camp hells and we appeal to the European community not to encourage violent forces, injustice and destruction, to not force Israel into an untenable position, prevent a new tragedy, learn from the ignoble past, recognize the similarity of the mistakes and their threatening results."*

And in a smaller part of the text it says:

*"We appeal to the nations of the European community to assist us in our wrestling for endeavour for peace, justice and human rights. Never again war. Never again Auschwitz. Never again Holocaust. We defend ourselves against the new deadly threat in the name of the Israeli people ..."*

And the German name for it was "folk".

*"... and the Jews the world over. We appeal for a free Europe. Do not let us face these dangers again alone."*

And then it gives the name of the individuals:

G. Albeck, (Buchenwald), S. Borenstein, (Auschwitz), W. Schulz (Auschwitz), and M. Zuckermann (Mauthausen).

And then it states:

*"Responsible for the content of this {4090|4091} advertisement is the Janusz-Korczak Loge, Berlin, of whom the four signatories are members."*

Q. What do you mean, Janusz-Korczak Loge? Who is that?

A. These are former survivors of Buchenwald, Auschwitz, Mauthausen who are Freemasons, German Freemasons belonging to the Janusz-Korczak Lodge and who pay for a series of ads in the major newspapers in Germany, "Die Welt" and the Frankfurt ...

Q. What do you consider is wrong with that, if anything?

A. It had to be seen in the context of the time, because there was tremendous agitation for war in the world in that the Iranian crisis had just passed, and there was virtually daily talk about possible war in the Middle East, the invasion of Iran, maybe, by the Americans. The Americans were organizing a strike force in a rapid deployment force, and so on, and I felt, number one, that it was an unfair comparison of the political situation to compare Arafat and Hitler in the context of this particular ad, and I felt that this was almost like a call for war that would drag Europe, and possibly the world, into a Middle East war.

And so this thing that I put out, "The West, War and Islam", basically, as will be quite apparent from the text, was an attempt to prevent war. That's why I appealed to support us financially, that we could buy pamphlets, make films, publish books; in other words, prevent war through

information rather than the purchasing of guns and so on. {4091|4092}

Q. Why did you, in the article, write about Masons in "The West, War and Islam"?

A. Because it was Masons, certainly those four German Masons who, quite proudly, said that they paid for these ads.

Q. Did their lodge have anything to do with that ad?

A. Well, I didn't contact the Janusz-Korczak Lodge in Berlin. I assume when men of calibre mention the name of the organization, that they belong to that, it must be okay or certainly checked out that they would have some kind of sanction.

Q. What research have you done into the whole subject of Freemasonry?

A. I have done some research into it. It's a peripheral thing that I am interested in. It is almost like my flying saucer hobby, maybe a little more serious.

Q. Have you had occasion to check the New Catholic Encyclopedia on the subject of Masonry?

A. Yes, I did.

Q. What does it have to do with your views?

MR. CHRISTIE: Could I file this ad, Your Honour?

THE COURT: Yes.

THE WITNESS: The translation is in handwriting.

THE COURT: Yes. Is it in English?

MR. CHRISTIE: Yes. It is in hand writing, though. {4092|4093}

THE COURT: That's all right. As long as it is in the English language, that's fine. 149.

— EXHIBIT NO. 149: Photocopy of advertisement in German in "Die Welt" with handwritten English translation.

Q. MR. CHRISTIE: What does that reflect in respect to Masonry?

A. It gives a chart, number one, an organizational chart of how Freemasonry is structured, various degrees of the Scottish Rite, the York Rite, Shriners, their organizational graphics, for instance, and it discusses, from a Catholic viewpoint, the Catholics' relationship or history of the Catholic Church towards Masonry. It is a very condensed thing.

Q. And prior to the date of this charge was there a statement by the Catholic Church from Cardinal Ratzinger?

A. Yes, there was.

Q. Is that attached to that?

A. Yes. On November 26, 1983, there was a declaration on Catholic membership in the Masons by the Vatican's Doctrinal Congregation, and the gist of it is:

*"The authority to make a different judgment and to decide that the case is otherwise is explicitly reserved to the Congregation for the Doctrine of the Faith. This congregation {4093|4094} has to examine whatever evidence is presented for a more lenient discipline."*

It gives the whole reasoning. It is quite a long thing about Masonry.

Q. Were you aware of that position in respect to Masons at the time you published?

A. Yes. The relation of the Catholic Church towards Masonry has been a very long one, and there are many sources that I have in my library and magazines and newspaper articles that Catholics cannot be Masons, and there is a book which I have called, "Christianity and Freemasonry" where it expressly forbids Catholics to be Masons and mentions that one Catholic Priest had been a Mason and was asked by the Church to leave the Rotary Club, I believe it was, because he was the Canadian head of the Rotary Club. And the Catholic Church did not look kindly on even the Rotary Club. It is in a book called, "Christianity and Freemasonry." It could be that I have it in my books here.

MR. GRIFFITHS: Your Honour, the indictment says 1981 for "The West, War and Islam", which is consistent with what Mr. Zundel had said at the time of the advertisement that he saw; but November of '83 is hardly the same timeframe.

THE COURT: I think that Mr. Christie might agree with that.

Q. MR. CHRISTIE: How many years have you spent, how much research have you done in the subject of Masonry? {4094|4095}

A. I think I have been interested in Masonry as far as I have been politically aware. The turn of the sixties, early sixties.

Q. Did you distribute "The West, War and Islam" publicly?

A. It was mailed to a specific group of people whose addresses I have and thought it would be important that they should receive it.

Q. Was it mailed to a group?

A. No. To individuals.

Q. How was it mailed?

A. Via Canada Post in sealed envelopes.

Q. How were the envelopes addressed?

A. With the addresses of those individuals on the outside.

Q. Where were the names of the individuals on the envelopes?

A. Under the right of centre, and —

Q. So it was addressed to specific individuals, was it?

A. Yes, it was, in each case.

Q. Was it available for public distribution in Canada?

A. It was mailed exclusively to people outside Canada, mainly in what is referred to as the Moslem Crescent, which would be people from Morocco to Pakistan.

Q. Was it ever available to people in Canada from you?

A. Not from me.

Q. Have you made a study of the power {4095|4096} of Jews in the media?

A. Yes, I have.

Q. I now produce and show to you a book called, "The Powers That Be". Are you familiar with that book?

A. Yes, I am.

MR. CHRISTIE: May I file this?

This is from the Catholic Encyclopedia for Masonry.

THE COURT: Yes.

— EXHIBIT NO. 150: Excerpt from New Catholic Encyclopedia re Masonry.

MR. CHRISTIE: It is published in 1967.

Q. What has that got to do with Jews and the media, their position in the media?

A. It's a book by David Halberstam.

Q. What is the year? When was the book published?

A. 1979.

Q. And what does it indicate to you about the prominence or otherwise of Jews in the media?

A. It describes with quite a number of fascinating and great deal of detail the ownership, for instance, of the Washington Post and other papers in America.

Q. Why are they significant?

A. Well, The New York Times, the Washington Post and some of the Los Angeles papers are the greatest and the most important newspapers, certainly in North America, and by their influence, in the world.

Q. And what effect did that have, in your view, on the subject of Middle East peace or the Arab world?

A. Because many of the inflammatory headlines about the Middle East situation could be found in those newspapers.

Q. And what were you attempting to do through the article, "The West, War and Islam"?

A. It might sound grandiose, but I thought I could defuse a rather dangerous situation.

Q. How?

A. Well, I knew I wasn't powerful enough to do it in North America, but certainly by writing to people that had influence in the Middle East I could alert these people and hopefully bring about an infusion of information, and through information, understanding, and I was perfectly willing to be a vehicle for that information if they were to help me financially.

Q. Information to whom?

A. Information to the people in Canada and America, in England and in West Germany, to not go to war, but to solve that problem peacefully.

Q. Information about what?

A. About the Middle East situation.

Q. Well, why didn't you feel they were already being informed?

A. I don't know how many people read The Washington Post or The New York Times over there. {4097|4098} I just thought, like many other writers do and publicists do that I had something unique to say and to contribute, and I felt duty-bound to say it. And I don't regret that I did.

Q. What was your objective in doing it?

A. I have said it before that I wanted to defuse what I thought was a situation where we were drifting towards a war in the Middle East, and it was a war, I felt, that was totally unnecessary, and that could be prevented through the distribution of information, especially through the removal of stereotyping of the Arabs, which was at that time, thanks to the Ayotallah Khomeni, very strong in the western world.

Q. And what, in relation to "The West, War and Islam", did you do to research the statements you made regarding Jews in the media?

A. I relied on the book, I think, which is already in evidence called "Jewish Lists" by Greenberg, and I had in my files the speech by the Chief of the General Staff of the United States Army Air Force and so on, George Brown, who had mentioned the undue influence of Zionists in the American media, and books like "The Powers That Be", and there is a whole range of other books that deal with the subject.

Q. What do they lead you to believe about it?

A. That although the people in the Middle East were possibly reading American newspapers, I felt they were getting only one side, meaning largely the Zionist side. {4098|4099}

Q. And what, in regard to that, did you think Masons had to do with it?

A. Well, since these German Masons had paid for the advertisement, and I just thought that this was one time when the confluence of interest, or whatever, should be exposed that exists between Masonry, Zionism — it is a very complex thing. And I thought since it is very difficult for people in the Western World to understand it, people who did not grow up in our culture and had not access to our libraries and our information, my information, for instance; that they could not possibly comprehend what is going on, and I felt that in the space available to me, which was dictated by airmail postage considerations that I could afford, I had to be extremely terse and, like many abstracts, possibly it is as faulty as an abstract can be. It is the boiled-down essence of an idea. That is why it is only in short paragraphs.

Q. What knowledge did you have of the connection between Jews and Masons?

A. There are the graphics. There are the rituals exposed in many books, numerous articles, especially in Europe and France. In the German area of the world a well-known author who I know personally whose books I know for many years, whose books I have bought — Europe has a long tradition of writing about the role of Masonry, especially in politics. It is in America and in Canada this is not a tradition, but in Europe, intellectual circles in Europe and publicists circles and so on, and people who are politically conscious, Masonry is frequently discussed and its role {4099|4100} in politics, and it is acknowledged.

Q. What is acknowledged?

A. The power of Masonry in politics.

Q. And what about the relationship between Masonry and Judaism? I now show you an object which you have brought to my attention. What is that?

A. It is, I suppose, a certificate, you may call it.

THE COURT: A what?

THE WITNESS: A certificate, Your Honour.

THE COURT: A certificate, yes.

THE WITNESS: Handed out to a fellow whose name is down here. It says, "Edwin Smith".

Q. MR. CHRISTIE: But what does it display in connection to Masons and Judaism?

A. Well, on the right hand on the bottom side there is a seal, and it has the Star of David very prominently displayed almost as big as the seal on the other side.

Q. Are you aware of the symbolic meaning of the letters over top?

A. Geez, I did know it, but for the moment I don't. It's an abbreviation of a Masonic statement, possibly. I don't know it for the moment.

Q. Have you studied the influence of Masons in history and politics?

A. Yes.

Q. Would you tell us some of that?

A. In recent history, I think the {4100|4101} most memorable that many people would remember and recall is the scandal caused by the P2 lodge in Italy and Argentina which led to the death of many prominent – of some prominent people and financiers, arrests, massive arrests. It is responsible, I believe, for toppling one government in Italy.

Q. Well, could you give us some detail about that, because I don't know that anybody else understands that.

THE COURT: Excuse me a moment.

MR. GRIFFITHS: Could we have the date when that scandal occurred, first?

THE COURT: You might ask Mr. Zundel that.

THE WITNESS: I would have to go through my box of files, Your Honour.

THE COURT: Could you go on with something else, and perhaps – —

MR. CHRISTIE: Well, I could – yes, I suppose I should provide the date.

Q. What, particularly, are you aware of in respect to the P2 scandals prior to 1983, '81?

THE COURT: Prior to?

MR. CHRISTIE: Well, Your Honour, my client's knowledge of the world did not cease in

81. If he acquires knowledge about something to do with Masons after '81 that confirms his knowledge of Masons prior to '81, would that not be relevant?

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: I take the position, Your Honour, that what Mr. Zundel is testifying to now {4101|4102} does not go to the truth of the matter as to his belief in these matters, and the relevant time for his belief in these matters is not today before the jury, but when he published them, and the date of publication is 1981.

THE COURT: It makes sense to me, Mr. Christie. It doesn't mean you can't ask him what beliefs, if any, he had prior to 1981 concerning Masons.

MR. CHRISTIE: Yes, sir.

Q. Well, what political activities of Masons are you aware of existing before 1981, then, that –

A. There is a massive body of literature dealing with the influence of Masonry which led to the First World War, for instance.

Q. Can you give us some information about that?

A. It was published by the German Field Marshall Ludendorf, and he has written tomes and tomes of books about the influence of Freemasonry on European Governments which brought about the assassination of the Archduke in Sarajevo, and from there on, various alliances and political moves in Europe. And he attributes them squarely to Freemasons. He names names, dates, places, and that's only one author. Henri Quaston (ph) does the same in his French books. He talks about the Grand Orient Lodge, and the European writer, as I said, Johann Muller (ph) who lives in Argentina and publishes his books in Europe and Argentina, there are some six or seven, he again mentions dates, places of events in European history where Masons figure prominently. {4102|4103}

Q. I think I have an American dollar bill before 1981. Do you see any significance on that?

A. There is a Masonic emblem on the dollar bill[.].

Q. Have you made a study of Masonic emblems?

A. Yes, I did.

Q. I produce and show to you a book called "Masonic Symbols in American Decorative Arts" published by the Scottish Rite Masonic Museum. Are you familiar with this book?

A. Yes, I am. It comes from my library.

Q. I can barely hear you.

A. I said yes, I did, because it comes from my library.

Q. What does this indicate to you about Masonry?

A. The book is full of emblems, shapes and graphics that are found on the pyramid on the back of the United States dollar bill.

Q. What does that have to do with your understanding of the influence of Masonry on politics?

A. I have subscribed for a number of years for magazines like "Northern Lights" in the United States that are magazines put out by Masons that proudly state that President George Washington, for instance, was a Mason. I have an envelope in my collection mailed in Frederic[k]sburg, Virginia, and it says, "Masonic Club {4103|4104} Stationery", and it says, "225th Anniversary George Washington, Master Mason". And I have seen a plaque with George Washington's name on it referring to him as a Mason.

Q. So this is something not new, right?

A. No. The Masonic movement in America was there since colonial times.

Q. Are you aware of its influence in relation to communism?

A. Yes, I am.

Q. I now produce and show to you a book by Monsignor George Dillon.

THE COURT: The first book you referred to, you want that in as an exhibit?

MR. CHRISTIE: Yes, Your Honour.

THE COURT: 151.

— EXHIBIT NO. 151: Book, "Masonic Symbols In American Decorative Arts"

THE COURT: What is the name of the book that you are referring to now?

MR. CHRISTIE: It is called, "Grand Orient Freemasonry Unmasked as the Secret Power Behind Communism" by Monsignor George F. Dillon.

Q. Are you familiar with that book?

A. Yes, I am.

Q. Where did it come from?

A. It comes from my own library.

Q. What does it indicate to you? {4104|4105}

A. The title is self-explanatory, that it calls Freemasonry the secret power behind communism.

Q. I now produce a book called, "Freemasonry and the Vatican" by Vicomte Leon De Poncins.

MR. CHRISTIE: Could I file this book as an exhibit, Your Honour?

THE COURT: Yes.

— EXHIBIT NO. 152: Book, "Grand Orient Freemasonry Unmasked" by Monsignor George F. Dillon.

THE WITNESS: Yes. "Freemasonry and the Vatican."

Q. MR. CHRISTIE: And that is before 1981, is it, sir?

A. This was published ...

Q. I think in '67 if I remember right.

A. First published in 1917. This is published in 1968.

Q. And where did that come from?

A. This came from my own private library.

Q. And what does that indicate to you about Masonry?

A. It talks about the campaign in favour of Freemasonry, Masonic secrets, Judaism and Freemasonry, Satanism and Freemasonry, and it discusses communism and Freemasonry, Freemasonry and the Revolution of 1789. It is not a long book, and it — {4105|4106}

Q. Have you read it?

A. Yes. And it covers these topics, I think, with sufficient detail to certainly make me understand that there is cause to believe that certain Freemasons are promoting communism.

Q. Why is there an association in your understanding of those institutions?

A. Well, if, at certain times in history, certain organizations pursue the same goals and do not oppose one another in working in congress with one another, then I think that they are allied. Certainly, at least, allied.

MR. CHRISTIE: Could I exhibit this, Your Honour?

THE COURT: Yes.

— EXHIBIT NO. 153: Book, "Freemasonry and the Vatican" by Vicomte Leon de Poncins.

Q. MR. CHRISTIE: Did you, over the years, compile a file on Freemasonry?

A. Yes, I have.

Q. Is this it?

A. This is part of it, yes.

Q. Has any of the research that you have done indicated anything to the contrary of what you printed in "The West, War and Islam"?

A. No, it hasn't. And much of this research comes from popularly available books, magazines, New Catholic Encyclopedia, some even Life Magazine, some from the BBC, London. There is a publication called {4106|4107} "The Listeners", books on Klu Klux Klan pointing out that it was Masonic in origin, German magazines, even material by some well-known Soviet writers on Masonry. There is quite a body of writing, I understand, in the Soviet Union. This is an English version and it's called, "Who Are the Masons", a Soviet's views of the Masons.

Q. Is it the Soviet view of the Masons now?

A. At the moment they had a falling-out, it seems.

Q. In "The West, War and Islam" you said, "Vicious, greedy people who call themselves Jews". What did you mean by that?

A. I think you will see in the text of the publication that "who call themselves Jews" is in quotation marks.

Q. But what does it mean?

A. It means that there are people in the world today who cloak themselves under the protection, the umbrella of being Jews and do all kinds of nasty things, because they know that the smear word "anti-Semite" is so powerful that they can get away with murder, as in the case of Israeli terrorists killing people. We have just heard news reports about murder squads roaming the world killing alleged Nazi war criminals without trial. So these people are making use of the goodwill extended to Jews around the world and camouflaged under that protection they are what I consider greedy, vicious and militant.

Q. Have you had experience with {4107|4108} Sabina Citron in the past?

A. Yes, I have.

Q. The complainant in this case.

MR. GRIFFITHS: Excuse me, Your Honour. I think it is something that should be discussed in the absence of the jury.

THE COURT: Please excuse us, members of the jury.

— The jury retires. 4:40 p.m.

THE COURT: I gather, Mr. Christie, we are off Masonry for a while.

MR. CHRISTIE: Well, for the moment, yes. I was going to deal with the background of the prosecution, this prosecution has, with its inception with the past activities of the same complainant, and trying to demonstrate some of the allegations made here in relation to the accused's own experience, particularly — that's all. I want to display the fact that Sabina Citron was involved in trying to have my client's postal rights taken away. When that failed, she was also instrumental in these proceedings.

Shortly after they were taken by the Crown, but it is a fact that she was the private informant against the accused, and I feel that the jury {4108|4109} should realize that there is an element behind this proceeding that should be made known, and that it demonstrates some of the militance of people who cloak themselves [sic] in this appellation.

I was inclined to the view that we should seek to have Mrs. Citron called as a hostile witness because she was a witness at the preliminary and gave evidence which demonstrated the fact that Auschwitz was not a one-way ticket. She, herself — left there, as I am well aware from the examination of the preliminary hearing. She refused to work and she was not put to work, apparently, and she left there and went to somewhere else in a passenger train, and read that transcript. And I wanted to have the benefit of that evidence to demonstrate that Auschwitz-Birkenau was not, as some people have described it, somewhere out of which one only left dead or up the chimneys, as it has been said. But I certainly hope that I am not precluded from bringing out the background of the case to show what's really behind the prosecution.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour. {4109|4110}

I suggest, Your Honour, that the Crown has intervened. There is nothing behind the prosecution other than the fact that in the prosecution

there was a preliminary inquiry at the end of which the judge found that there was sufficient evidence to put Mr. Zundel on his trial. There is certainly not a totally groundless or baseless complaint.

We have been involved in that trial now for two months, which also indicates it is not a groundless complaint, but there are reasonable and probable grounds upon which a charge could be laid and was laid.

The Crown intervened at the earliest opportunity when the charge was laid, as it is bound to do, as it was an indictable offence. The reason why I was promptly on my feet is I thought — and although Mr. Christie hasn't made specific reference to it — that we would be getting into other proceedings.

He did make reference to the postal authorities proceedings during the course of which Mr. Zundel's postal rights were initially taken away, here in Canada, and then following the hearing returned to him, and I would say, Your Honour, I would submit that {4110|4111} that has no relevance whatsoever to this matter before the Court, that it is evidence from which the jury might draw a totally improper inference that this charge has already been dealt with, where it is not.

It would be like Dr. Morgenthauer getting up and saying, "I have already been acquitted of this charge three times before, four times before." Everybody may know it, but you can't say it. And I take the position that Mr. Zundel is in no better or worse position than Dr. Morgenthauer. He can't say what happened in other legal proceedings where he's been acquitted. They are not criminal proceedings and they are not dealing with the section or matters that are before this Court.

That's my submission, Your Honour.

THE COURT: Mr. Christie?

MR. CHRISTIE: If Dr. Morgenthauer was pursued by the same complainant in the proceedings and something falls in terms of saying by that very person that they are vicious, greedy and militant, and if the issue is that the statements were true, I would think that it would be relevant to the hearing of that matter as to what happened in the background between the {4111|4112} parties, and it is my submission that the accused should be able to say what he means by the terms, "militant, greedy and vicious", which I intend to do by putting before the jury what he thinks is going on between someone who represents an organization that calls itself Jewish and calls itself The Holocaust Remembrance Association.

I don't see that the jury should be unaware of that. It is certainly not a situation of separate prosecutions by unrelated persons when it has, as in this case, because the same person seems relentless in pursuit of Mr. Zundel.

MR. GRIFFITHS: Postal authority came after, if I may, Your Honour, 1981.

MR. CHRISTIE: After 1981?

MR. GRIFFITHS: That is my understanding.

MR. CHRISTIE: I don't think so. My client's instructions are that they didn't come after 1981.

THE WITNESS: November 1981 they were initiated.

THE COURT: It is thirty days before {4112|4113} 1982.

MR. CHRISTIE: Well, it is certainly a personal experience of the accused. It is not something that he is giving hearsay evidence about, so maybe it is a factual basis for his opinion that does not have to be prior to the time of the prosecution [sic] or alleged offence, if it is going to the truth, because he has experience of some viciousness by a person in that category.

—— {4113|4114}

#### REASONS FOR RULING

THE COURT: Counsel for the accused, during his examination of the accused himself, has proposed to ask Mr. Zundel certain questions concerning what I understand to be, perhaps, a private complainant in this prosecution.

He proposes, also, as I understand it, to make reference to certain postal rights which are said to have been removed from Mr. Zundel and then restored at a point in time, Mr. Zundel interjected, about the month of November 1981.

His purpose is to bring to the attention of the jury the fact that an allegedly Jewish person representing an allegedly Jewish organization has hounded, harassed and chased Mr. Zundel and has been responsible for this prosecution which has consumed the last approximate seven weeks of our time.

Crown counsel, quite correctly, objects. Crown counsel in this country, and certainly in this province, do not act as gladiators for certain specific groups within the fabric of Canadian society. Crown counsel are independent persons, just as defence counsel are. {4114|4115}

This prosecution is obviously not brought on behalf of one specific group. This prosecution, I am quite satisfied, has been brought on behalf of the community at large. Crown counsel does not represent one specific group. He represents the whole of our community. That is a tradition which goes back many, many decades.

There has been due, lawful process, I am satisfied, insofar as the committal [sic] for trial is concerned. This prosecution is here. It has consumed our time. I do not sit in judgment between Germans and Jews or anyone else; neither does this jury. This jury represents the community at large.

Whether a person harasses another person is not a matter this jury is called upon to decide. This jury is called upon to decide certain things on instructions from me and no one else. Relief for harassment, insofar as relief to Mr. Zundel is concerned, can be sought by him, if proper and lawful grounds exist, in other forums and at another time.

What Mr. Christie proposes here is not relevant to the issues this jury must decide on that subject. There will also be no questions put to {4115|4116} Mr. Zundel with respect to whether or not his postal rights were taken away, whether they were restored, where or when.

THE COURT: Now, is there any doubt in anybody's mind about what they can ask and not ask? Because I will make it very plain.

Bring back the jury, please.

MR. CHRISTIE: Will we be sitting till six o'clock?

THE COURT: What is your convenience?

MR. CHRISTIE: Well, my convenience is quite irrelevant. I am prepared to be here.

THE COURT: I will decide how long we will sit when I see how tired the jury is becoming. I am quite prepared to sit through till midnight, but I don't think I will impose that on the jury.

— The jury enters.

THE COURT: Go ahead, Mr. Christie. {4116|4117}

Q. MR. CHRISTIE: Are you familiar with the relationship of bankers to the influences and power of Islamic nations?

A. I am not an expert at it, but I have looked into that, yes.

Q. What have you studied in your understanding of international finance?

A. All kinds of books on bankers, the Federal Reserve system that issues money in the United States, the banking system generally, the great families in banking, merchant banking — the Rothschilds, the financing of the Russian Revolution, for example.

Q. What do you know about the financing of the Russian Revolution?

A. There is a great body of literature, especially in the thirties and forties.

Q. Can you name some of the titles you are aware of?

A. Well, there is a fairly recent book by a fellow called Sutton, Anthony Sutton. It's called, "Wall Street and the Bolshevik Revolution" which deals in great detail with the machinations of certain financial interests, especially in the United States, to help the Bolsheviks, to secure markets for them and loans for them and invest money in the Soviet Union.

Q. Do you have that book yourself?

A. Yes, I do.

Q. And what effect did it have on your thinking in regard to bankers and international finance? {4117|4118}

A. It is similar to Freemasonry. One cannot study and hope to understand politics if one does not examine what drives politics and what finances politics. Politics is basically related to money. Sometimes

money comes before politics, and sometimes it is the other way around. There is an interrelationship there. It is a symbiotic relationship and always has been. People with money were frequently powerfully connected, and there is a very cynical view amongst many people in the writing profession that, if I may be permitted to say it, that you can even buy justice.

Q. What do you know of the influence of the Rothschilds?

A. In international banking?

Q. Yes.

A. They are a very old family of bankers, started shortly after the Middle Ages, and films have been made about them and written about them, about all the various sons of the Rothschilds. There are banking houses that are far-flung in France, in London, in America now, even, and they are involved in many international financial dealings.

Q. Do they have any relationship with the Warbergs? [Warburgs]

A. I can't prove that there is a specific corporate interconnection or relationship, but bankers are very congenial people and frequently get together in thrashing out international agreements and so on. I think that's an open secret.

Q. What is your understanding of the {4118|4119} relationship of international finance and, for example, the Bolshevik Revolution from your understanding of the Sutton book?

A. There is no doubt that without the help of powerful financial interests in the Western world, most especially Germany in the period, and also America, especially America, the Bolshevik Revolution would have failed.

Q. And where would this information, this money come from?

A. Jacob Schiff, for instance, in America, was one of the bankroller of the Bolshevik Revolution.

Q. Are you familiar with the activity of the Trotskys in North America?

A. Yes.

Q. How did you acquire that knowledge?

A. He was living in North America. He was writing columns in North American newspapers and he was a fundraiser and he left from here to go back to Russia with quite a number of people who lived on the lower east side of New York. Many of them couldn't even speak Russian when they got back to the Soviet Union.

Q. And do you have any knowledge of their activities in travelling to the Soviet Union?

A. Well, they came at the tail end of the First World War, whether in Switzerland — and some of the chief leaders of the Bolsheviks were shipped through Germany into Russia in order to topple the Soviet Government. And the German Foreign Minister at the time had a hand in that, in that they were shipped {4119|4120} in a sealed railroad car to Russia. Their coup, or their revolution was successful. Little did these Germans realize that they had unleashed a spirit which they had found impossible to bottle ever since.

THE COURT: We will adjourn now.

— The jury retires. 5:00 p.m.

— The witness retires.

— Whereupon the hearing is adjourned to February 21.

## FEBRUARY 21, 1985

— Upon the hearing resuming.

THE COURT: Yes. Is there anything, gentlemen, before I call in the jury?

MR. CHRISTIE: I think, Your Honour, it would be appropriate if I might raise the issue of the slides now.

THE COURT: Yes

MR. CHRISTIE: Your Honour has heard evidence from the accused that he has relied upon the information relied upon by the slides in respect to his conclusion that the camp of Auschwitz was not an extermination camp. You have heard that he obtained {4120|4121} the slides from Dittlieb Felderer. You have heard a good deal about what those slides are and what they represent to the accused.

It is my hope that we can show those to the jury to indicate the condi-

tion of the camp relating to a number of things relating to the evidence of the witnesses of the Crown, particularly the evidence of Dr. Vrba pertaining to, among other things, the height of Leichenkeller I and Krema II, the question of the possibility of the six-meter-deep pits for burning, and the general discussion of the layout of the camp.

In the slides there's photographs of water treatment plants, sewage treatment plants, the barrack logs; there are slides of the swimming pool alleged by Felderer to be within the camp. There are slides of the cooking facilities and the kitchen buildings, all of which are located at the Auschwitz Museum which purports to be a representation for the world of what the Holocaust was all about.

A museum is not a tourist attraction. It is something designed to communicate information to the public about something of fact, and so certainly it is on that basis that my client has, I think, the right to {4121|4122} correct, that the four million people by the authorities alleged there to have died there, there are slides that indicate the plaques and other graphic representations which tell the world today that four million people died there, and we have led the evidence of Dr. Hilberg as to 1.2 million.

You have the evidence also of Reitlinger and evidence from Dr. Hilberg as to 700,000 people. These things, I suggest, are part of the reason why my client has doubted the allegations and has, I suggest, the right to place before the jury the reasons for his doubt.

There is a slide, as I recall, of that very plaque which shows the claim of four million people, victims of Auschwitz-Birkenau, and that's one of the factors in the defence theory that the representations spread to the world are not accurate, not correct. {4122|4123}

I don't think in the past there has been necessarily before you the evidence that the accused relied upon these slides, but I undertook to provide it, and I have provided it. The accused has sworn to it, and I would like the opportunity to show the jury why he relied upon that information.

Thank you, sir.

THE COURT: Thank you. Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

Your Honour, there are two separate issues to be put to the jury ultimately dealing with the allegations found in the pamphlet, Exhibit 1. The first issue is whether or not the information contained in Exhibit 1 is true.

The Crown has called some evidence on that point, and the defence has called some evidence on that point. The Court, Your Honour, has already ruled that slides taken by Mr. Felderer thirty-five years or forty years after the event is not relevant to the truth of the events, that there is no expert interpretation of, either from archeologists or an architect {4123|4124} to these buildings. There is no continuity of ground levels and systems for drainage in the camp today, when these slides were taken, in relation to 1942, '43, '44.

So these slides cannot go to the truth of their contents.

They may, Your Honour, as I understand it, the only reason that they are being put forward is for Mr. Zundel's belief in the truth of the matters contained in Exhibit No. 1.

To assess Mr. Zundel's belief, Your Honour, it would be necessary to know what it is that Mr. Zundel understands about each slide that was taken, none of which can be taken for its truth, but only for his belief.

I would respectfully suggest that there should be some evidence on a voir dire, if we are going to consider this matter at this time, there should be some evidence on a voir dire of what his understanding is of each slide. And when the slides were taken and when the slides that are in court were taken, and when the slides were assembled, as these are the matters that, supposedly, go to his belief.

And absent some evidence of that {4124|4125} nature by the people who seek to put in that evidence, I would suggest that it not be admitted.

I would suggest that it is not appropriate to hear from Mr. Felderer, whoever took any slides that Mr. Zundel might have, because it is irrelevant what they think about the matter. That is not even gone into. The only relevant thing is what Mr. Zundel thinks about the matter based on

information he received.

So we need the receptor and not the sender of the information.

THE COURT: I'm sorry?

MR. GRIFFITHS: We need the receptor and not the sender of the information with respect to the slides.

So that it is my submission at this point, Your Honour, without seeing the slides, knowing when they were assembled and whether the slides before the court are the same slides that were received, we are not in a position to say whether or not they should be admissible, whether or not these are the slides on which Mr. Zundel based his belief.

THE COURT: Mr. Christie. {4125|4126}

MR. CHRISTIE: On the issue of the voir dire, I thought that is what I tried to do once before when Mr. Zundel was on the stand. I endeavoured to ask Your Honour if we endeavoured to hold the voir dire and give his evidence as to how he got the slides, and I remember Your Honour saying voir dres were not for that purpose.

I am quite happy to put the accused on the stand at any time to explain the whole origination of those slides, and I am glad to do that now, if I am permitted.

As far as it not being to prove the truth is concerned regarding drainage, we called Thies Christopherson who was there at the time to talk about the conditions. It is strange for me to hear the Crown say when a picture is not taken contemporaneous to the event it is not to be taken for the truth of the contents.

I have been aware of the introduction of photographs taken in murder cases, taken many days, sometimes weeks after the alleged event, none of which would be possible to prove the same situations existed.

It's true, of course, that in those regards minor changes change more rapidly than buildings, {4126|4127} but we have certain physical structures like ground and walls and brick buildings which, it is a matter of argument, may have been moved, may have been taken down and disassembled. That is an argument that Crown could make. It is also open to the Crown to call rebuttal evidence if they think this is true; but I have never heard the proposition before that you could not call evidence to show the location, the evidence, plans, things of concrete, their existence in this world.

However feeble the argument is considered by the Crown, he can't, for a moment refuse to permit us or object to the introduction of such evidence.

If the judge decides that it is admissible, if Your Honour decides it is admissible, I would simply be arguing that this is certainly evidence which today my client has, and before 1981, or these slides were taken in 1980. I will lead evidence to that, if need be, from the person who took it. He can tell us the aperture of the camera, the film he took, the conditions under which he took the pictures, the information he got from Auschwitz, the research he has done. I am quite able and willing to put it in evidence {4127|4128} on the voir dire now as I was three or four days ago, as I recall, which I was trying to do at the time.

I have no objection to introducing all that evidence. I would be glad to do it now in the absence of the jury. I am equally able to do it in the presence of the jury.

If my friend wishes to conduct his own research and present evidence to the refutation of the reality of these photographs, but it strikes me as strange that at this stage the Crown should object, saying we have not conducted a voir dire when that was very clearly what I tried to do once before.

The slides are what he relied upon to a large extent to show the location, the understanding of the scene, the physical structure of the buildings and the location of items upon which the booklet, "Did Six Million Really Die?" comments and extensively states opinions.

My client has no other means of going back in time to 1940, to '45 than through the official sources of information to which we are all able to have access, namely Auschwitz itself, Auschwitz I and Birkenau, the Museum authorities, the books and literature on the {4128|4129} subject, none of which, if one is to be strictly technical about it, can he say has been proven by firsthand observation. But if the issue is how he derived his opinion and is his opinion reasonably founded upon some



reasonably verifiable source, why, then, could we not be allowed to place before the jury the actual inquiry that he has undertaken with the help of others to do as much as he can to get as close to the facts as he can and to then show the jury what research he has undertaken? That is all that I have asked the right to do, and nothing more.

—— {4129|4130}

#### REASONS FOR RULING

THE COURT: In the absence of the jury, counsel for the accused has moved the Court for leave to lead evidence from the accused, and probably from one Felderer who has already testified, concerning the contents of a number of photographs taken by Mr. Felderer of one or more concentration camps said to have been employed during World War II by Nazi Germany. One of the camps in question is Auschwitz.

The evidence already heard by the jury to this point is that Felderer took about thirty thousand pictures in all of every aspect of the camps that he visited. There is much evidence that Mr. Felderer visited many, many sites of Nazi concentration camps both in Germany and North-west and Central Europe, as well as in Eastern Europe – Poland and areas such as that. There is also clear evidence that Mr. Felderer took those photographs, as I recall it, between 1978 and 1981, perhaps 1982.

Clearly, whatever the years the photos were taken, they were all taken at a point at least thirty and perhaps more years following the end of World War II.

The issue is essentially that counsel {4130|4131} wishes to lead this evidence as to the honesty in the belief that Mr. Zundel has testified that he had in the contents of Exhibit 1 in this trial entitled, “Did Six Million Really Die?”

The slides in question depict the position of various buildings and other structures within the confines of the concentration camps.

It is the desire of counsel to employ the photographs, if permitted to do so, in order to buttress the honest belief in the contents of Exhibit 1 which the accused says he possessed when he published the exhibit.

Mr. Christie has indicated that some of the photographs display the contents of the plaques on the walls of buildings. Those plaques indicate that four million died, for instance, at one of the camps. The photographs show the location of the crematoria, the alleged gas chamber in one of the camps, as well as the area surrounding the camps where other evidence discloses burning pits for dead bodies as they are being used and are located.

The slides show that there is a Museum in Auschwitz. One slide shows the existence of a {4131|4132} swimming pool. He also desires to show, in addition to all of this what, for instance, the camp of Auschwitz looks like today.

The defence desires to place before the jury these photographs in order to disclose to the jury the efforts that the accused had made to acquire, as professed, honest belief in the contents of Exhibit No. 1.

Crown counsel, on the other hand, takes the position, essentially, that photographs taken some thirty or forty years after the event cannot be used for the purpose proposed because what the camera saw thirty or forty years later is not relevant to conditions as they existed in the period of time that is covered within the pages of Exhibit No. 1.

I note that there is no evidence of a nexus between the conditions that other evidence discloses existed between 1939 and 1945 when the photos were taken. I made a previous ruling with respect to the introduction of these photos through the witness, Felderer.

I see no reason to change my mind now. It is my respectful view that the contents of photographs taken in the year 1978 through 1981, unless {4132|4133} there is an evidentiary nexus or connection that relates back to conditions that existed at the time that this jury is going to have to deal with, are irrelevant. For that reason they will not be admitted. I conclude by saying that virtually every topic that Mr. Christie wishes to cover on behalf of his client has already been covered by evidence other than that contained in the photographs themselves, as I am told.

There is no need to have a voir dire because the photographs them-

selves, as I have ruled, are irrelevant to the issues the jury must try by reason of the fact that they are about three to four decades remote. The motion is, therefore, dismissed.

MR. CHRISTIE: Thank you, Your Honour.

There is only one other matter that I wanted to make sure I did not want to raise in the presence of the jury without raising it in front of Your {4133|4134} Honour, and that is the issue of this situation.

I am not entirely clear on what Your Honour directed me respecting the question of my client's belief about the “greedy, vicious and militant nature of some people who call themselves Jews”, and that being —

THE COURT: I don't recall it. You had better remind me.

MR. CHRISTIE: Well, it was Your Honour's direction, I believe, that I should not raise the difficulties between Mrs. Citron and my client.

THE COURT: Yes. Oh, I know what you are talking about now. Yes.

MR. CHRISTIE: There was one thing that I was going to ask Your Honour if that applied to, and that is this, that this would be firsthand, direct experience between my client and a group known as the Holocaust Remembrance Association and a debate that took place publicly on a television show known as the Charrington Show. It is, apparently, a television show, a talk show, open line kind of thing, that took place — it's after the date of the charge. But I was under the impression that that stricture as to state {4134|4135} of mind acquired before the date of the charge only applied to those things upon which he was relying from secondary sources, that if it is direct experience, if he had direct firsthand experience of a thing that could prove knowledge at the time, if he could give evidence upon it.

Now, I may be mistaken in it, but — that if he had experience, direct, firsthand eye witness experience of a situation that supported his view published at the time, that it was direct evidence. It was not, kind of, the basis for his belief.

Now, specifically, what I mean, is that my client would like to raise in front of the jury certain statements made by Sabina Citron pursuant to Mr. Frank Walus who has testified in this case that in this television debate Mrs. Citron publicly stated that she felt that Mr. Walus should be prosecuted, and that she had information that she would like to put before the courts to pursue him. And my client takes the view that that's an evidence of a rather vicious kind of conduct on behalf of people that are taking — that role for themselves and would support his view that they constitute the kind of viciousness he referred {4135|4136} to in the pamphlet, because he called Mr. Walus; Mr. Walus has told the story, and my client's view is that it is vicious to pursue this man further. And these people are doing it. So I wanted to be able to put before the jury through my client just what happened there.

Now, I have a video tape of that interview which would show exactly what was said, but I think it wouldn't be necessary to do that. I think that it would take too much time. But he could, at least, say what he heard face to face from Mrs. Citron, a representative of this group that has been pursuing him for many years, about Mr. Walus, because it does show a kind of viciousness that he says is what he is talking about in the article, “The West, War and Islam”.

THE COURT: When was “The West, War and Islam” published?

MR. CHRISTIE: Your Honour, I checked the indictment, because that is what my friend directed me to —

THE COURT: I should have asked, I'm sorry, I should have asked when he alleges it happened. {4136|4137}

MR. CHRISTIE: Well, I have admitted the facts as I understand them, sir. There was a distribution, but we could argue about publication.

THE COURT: I know; but here is — what I am trying to decide in my mind at the moment is this:

When did this television interview, contest or debate occur?

MR. CHRISTIE: It took place long after this date, sir.

THE COURT: Long after Exhibit 2?

MR. CHRISTIE: Yes. Long after it was distributed, yes.

THE COURT: That is what I wanted.

MR. CHRISTIE: That is why I thought that certainly if Your Honour meant to indicate to me that anything that occurred after that date is



not relevant, then of course, I understand this is not relevant.

THE COURT: That is what I am questioning at the moment, but I naturally have not made up my mind. I want to hear from both sides. That is the point why I asked you the question. {4137|4138}

MR. CHRISTIE: My understanding was that he could still give evidence about factual events that supported his view at the time if it's like direct evidence. He experienced this:

"I am sitting right across from Mrs. Citron and she says, 'I still think Frank Walus is guilty and we have witnesses that I know that are coming from Jerusalem and we should still go after him.'

As I understand it, that is direct evidence of —

THE COURT: Frank Walus is the witness from Chicago.

MR. CHRISTIE: Right. And Your Honour, he has a tough time explaining what happened, but the best I can gather from it is that it was eventually dropped after an appeal was filed, and I don't know even if an appeal occurred. Anyway, he has explained what happened. He said he never was there, and here is somebody saying publicly, "We need to go after this man", right in the presence of my client. And he said that is what he means by "vicious people who call themselves Jews", and that is what he means in his article. {4138|4139}

So that is basically what I'd like to know, because that is something that he would like to be able to explain to the jury, one of his experiences which verify his factual experiences which verifies his publication.

Now, I don't think I can explain it any clearer, Your Honour. I think that is ...

THE COURT: No. That is clear enough. That's fine. Thank you.

Mr. Griffiths.

MR. GRIFFITHS: Your Honour, on page 1 of Exhibit 2 under the paragraph, "The International Zionists" is where the phrase occurs:

They have an influence on Western leadership. "Political and religious Zionism play a disproportionately large role in the West because of Zionists' domination of the mass media of information, education and entertainment, the banking system, the secret societies and the world communist conspiracy. Zionists are aided and abetted by millions of brainwashed Christians of the West who have been led to believe that vicious, greedy and militant people who call themselves 'Jews' are 'good', because the Christian {4139|4140} Bible mentions 'Jews' as 'God's Chosen People'."

Now, how does Mr. Zundel's personal relationship with any individual go towards the proof of that phrase? I don't understand.

"Just as mistakenly, the brainwashed Christians of the West have been led to believe that vicious, greedy and militant people who call themselves 'Jews' are 'good', because the Christian Bible mentions 'Jews' as 'God's Chosen People'."

I don't, with respect, Your Honour, see the relevance of the evidence that is sought to be called as to Mrs. Citron's personal belief about a matter that was before the courts, how that relates to that phrase. That is the first objection.

The second is that it does, indeed, come after the time set out in the indictment. My third objection, I guess, is more of a factual one: How a personal belief that somebody holds as to the guilt or innocence of man, involving a man, is vicious. If it was improper, there are civil channels that are open. I don't believe any of them were exercised.

Mr. Walus lives in the States, not Canada. There is no indication of what influence, if {4140|4141} any, Mrs. Citron has on proceedings in Chicago or in the United States; indeed, no indication that she was involved in the first prosecution of Mr. Walus, which is not to say that there is expected a second prosecution. I don't know what the situation is.

There was a conviction of Mr. Walus, an appeal, and the appeal wasn't proceeded with by the Government, so that the conviction was quashed. Assumedly there was enough evidence for a first court that, as you heard, it was a matter that had apparently hung on the issue of one of identity, a long time after the event. Those are issues, a short time after the event, that give every court a great deal of difficulty, Your Honour, and I would, for those reasons, respectfully submit that it is

irrelevant to this charge.

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: Just briefly, in reply, my friend refers to Mrs. Citron as merely her personal belief. She does represent a group who have been highly visible and highly influential in public discussions, and it is my client's [sic] desire to show the type of thing that he means when he says "vicious, greedy and militant people who call themselves 'Jews'". {4141|4142}

He is not seeking some kind of legal remedy against Mrs. Citron. He is seeking to justify the right to express an opinion. I think that's really the issue. I don't know why we raise this issue of legal actions.

THE COURT: I agree with you. I don't think that Mr. — and I say this respectfully to both sides — I don't hold with Mr. Griffiths' last point.

MR. CHRISTIE: My client's position is to justify the views he expressed, and he is trying to demonstrate some things that happened in his own life that led him to come to that conclusion.

I guess that is about the size of it. And this is one of the situations that caused him to form this view, and I suppose it is arguable whether it is a justifiable basis, and we can eventually argue that, but we will be able to have the right to say what happened and why he feels this way.

Thank you very much, sir.

—— {4142|4143}

#### RULING

THE COURT: I say this to both counsel, that if I can possibly help it, and I am quite satisfied in my own mind that I can, I have no intention of permitting this trial to go beyond the issues that have been joined between Crown and defence.

The issue that I must now decide is whether or not Mr. Zundel, when he continues before the jury, may be permitted to make reference by way of explanation to a line contained within the confines of Exhibit 2. That line appears under the title of, "The International Zionists" on the first page of Exhibit [sic] 2. The sentence in which the line is contained is as follows:

*"Just as mistakenly, the brainwashed Christians of the West have been led to believe that vicious, greedy and militant people who call themselves 'Jews' are 'good', because the Christian Bible mentions 'Jews' as God's Chosen People'."*

Counsel for the accused wishes to ask for an explanation of why that line is there in the {4143|4144} exhibit. The explanation, I am told, will involve an exchange which occurred between Mr. Zundel and a Mrs. Citron in another forum on another occasion. That other forum or occasion, as I understand it, was a confrontation under controlled conditions of, perhaps, a media situation in which certain allegations were made and exchanged by Mrs. Citron and Mr. Zundel.

Those allegations involve one of the witnesses who testified on behalf of the defence, Mr. Walus. Mr. Walus was charged with being a Nazi war criminal. The charges are made against him in the United States. The evidence, as I heard it, seems to disclose that that charge was not proceeded with.

It is of some significance that the confrontation that I have mentioned occurred at the point in time well subsequent to the writing of Exhibit 2 and its distribution or publication, as the jury may decide.

The only ground on which I rule that no such questions can be put to Mr. Zundel on this subject is that very point. It is not relevant to the issues this jury must decide. That is the reason I make no comment any further with regard to what, if {4144|4145} any, other means of obtaining relief or redress Mr. Zundel may be advised to take. That is none of my business.

My business is whether or not the jury should hear something relevant to an issue here. The only possible relevance would be the accused's belief in the truth of the line mentioned at the time of the publication, if that is proven.

It indeed was published long before the confrontation. There is no relevance. Therefore it cannot be asked.

MR. CHRISTIE: Therefore Thank you, Your Honour.

I have no other issues to raise other than one that I think I mentioned a long time ago, and I advised my friend of it. He has exchanged cases with me in regard to it. That is the issue of the question of a commission to take the evidence of John Fried.

THE COURT: Let me interrupt you just a moment. I am concerned about the jury. They have been there for forty-five minutes now. I gather {4145|4146} this will take some time.

MR. CHRISTIE: Yes, sir. I believe so.

THE COURT: I need some help. How long do you gentlemen feel I should let that jury out of that room?

MR. CHRISTIE: I would think I will be about fifteen minutes, Your Honour.

THE COURT: Mr. Griffiths? Well, I will let the jury go free until eleven o'clock.

MR. GRIFFITHS: Thank you, Your Honour.

THE COURT: Yes. Go ahead.

MR. CHRISTIE: I have provided my friend with a copy of the case of Jewel and Weiss, and I'd like to offer that, Your Honour, and the case of R. v. Davis. These two cases and some other cases of which I have informed my friend are the basis of my application.

THE COURT: Which one are you going to cover first? {4146|4147}

MR. CHRISTIE: I was going to refer to the case of Jewel and Weiss.

THE COURT: This is an application to take commission evidence from a witness in New York?

MR. CHRISTIE: Yes, sir.

THE COURT: And that's all.

MR. CHRISTIE: That is all I am asking, Your Honour. There is no other issue that I have attempted to raise at this point.

In this particular case, Your Honour, the facts are – in the issue that I am addressing the witness, John Fried, was a witness at the preliminary hearing who, the record will indicate, was an advisor to the Judges at Nuremberg. The argument of the defence would be that his location and background was evidence of the influences involved in Nuremberg, and therefore it would be a significant and integral part of the defence. I, at the outset —

THE COURT: I just missed that. I got, he was an advisor of the judges at Nuremberg.

MR. CHRISTIE: Yes.

THE COURT: What was your next —

MR. CHRISTIE: Because of that and {4147|4148} his background and antecedents it would have been an integral part of the defence in that his position was certainly that – argued, that is – of bias. He was someone who had fled from Austria. It's all on the record in the preliminary. He was Jewish. He had expressed animosity towards certainly the government and the defendants of the day, and he was in some capacity that he explained in which he communicated directly with the judges and, by my recollection, he was also involved in the process of prosecution, specifically taking commission evidence.

THE COURT: Sorry, Mr. Christie. He was prosecuting, you say?

MR. CHRISTIE: No, no. He was involved in some way in the prosecution by taking commission evidence in some regards. My recollection of the transcript, subject to any corrections by my learned friend, is that he exercised some kind of judicial function itself in which either he took evidence on commission, or he took part in interrogations. That is certainly something that would have been interesting and relevant to the defence.

His actual presence there involved {4148|4149} with the judges, as he said he was, in itself would have been relevant to the defence because it indicates the person with intense animosity and involvement in the situation, being a person of Jewish background, was obviously something significant to the influence of justice at Nuremberg.

We are not able to bring those facts to the jury because he did not return from the United States at the time of the trial.

THE COURT: This trial.

MR. CHRISTIE: Yes, sir. He was apparently not requested to do so by the Crown, and my concern was, and I have expressed it to my friend,

as to why he would not come back. I asked that he be produced for cross-examination. Nothing of that nature has occurred.

THE COURT: When did you do that?

MR. CHRISTIE: I did so in December, from personal conversations with my friend before the trial commenced. I did so at the outset. I think I indicated from the very first day —

THE COURT: Yes, you did.

MR. CHRISTIE: — that I would take {4149|4150} that position. And through the trial that has been my position.

In the case at bar, the allegations in "Did Six Million Really Die?" about the Nuremberg trials rest upon the substantial ground that those involved were certainly motivated by intense animosity towards the accused and their position.

THE COURT: Those involved in Nuremberg.

MR. CHRISTIE: Yes. That's the thesis of "Did Six Million Really Die?", and therefore, because the accused has indicated his belief in that thesis, it's adopted by the defence in this case.

THE COURT: When you say those involved, you mean those who have sat as judges.

MR. CHRISTIE: I'm sorry?

THE COURT: When you say those involved at Nuremberg were, as contained in Exhibit 1, were motivated against the accused at Nuremberg.

MR. CHRISTIE: Yes.

THE COURT: What do you mean by those involved?

MR. CHRISTIE: I should mean more {4150|4151} specifically, and more articulately, I have tried to indicate the judiciary.

Now, the reason why it's significant in regard to John Fried is that his relationship as expressed in the preliminary was as some kind of advisor as to the judiciary involved; and that involves a close contact.

This area one can never now place before the jury without an opportunity to do so by commission. I have checked the Criminal Code section provision for commission evidence, and it does permit an application in the midst of the trial. I didn't make one earlier because I had asked the Crown to produce the witness in the meantime, and in view of that fact not having occurred, I am put in the position to request that now.

My client has indicated that he is prepared to pay all the expenses of the commission, and I am submitting that this witness, because of his position, expressed under oath at the preliminary, becomes a significant part of the defence to which we had a right to rely in view of his being called at the preliminary and not being called at the trial. We are {4151|4152} not presented with the opportunity to rely on that portion of the Crown's case supportive of the position of the defence.

In the case of R. v. Jewell and Wiseman (1980) 6 W.W.R. 185, a decision of Mr. Justice Hughes, in that case the prosecutor did not call as a witness the person who had been a witness in the preliminary hearing, and he was the only person who could give evidence as to the blood alcohol level of the victim of the murder who could aid in the case of the accused. The accused applied for an order directing the Crown to call the witness. The application was granted.

*"The witness' evidence was material, and where a material witness is held back because his evidence may assist the accused, the court is justified in interfering with the exercise of the prosecution discretion to call witnesses."*

THE COURT: I gather that was a witness who was already within the jurisdiction of the court.

MR. CHRISTIE: Yes. And I think that that's – the circumstances of this situation are such that I am not asking for a subpoena to issue, but {4152|4153} I am asking for the right to take a commission, because we cannot really subpoena a witness from another country.

The same argument arose in R. v. Ross, in that – well, that case involved – I won't cite that case, but it was a case in which the same issue arose. It was a murder case in which I was involved in which one of the witnesses was from the United States, and in the course of the trial – that went to the British Columbia Court of Appeal, R. v. Thomas Ross, Jr., and it involved a witness from the United States, and I was

advised then that I should actually ask for a commission, although I have argued that the similar fact evidence from another country should not be admitted because no answer could be provided to it without the witness. So because of that case from British Columbia I thought I would ask, because of the location of the witness and the circumstances of this case, that we consider a commission to take that evidence.

I am well aware of the inconvenience that would result. Nonetheless, we have, in that person of John Fried, a firsthand witness to the proceedings at Nuremberg whose presence there tends to indicate a {4153|4154} strong support to the thesis of "Did Six Million Really Die?" that actual persons involved in Nuremberg did have quite an axe to grind and emotional involvement in the prosecution and were in close contact with the judges.

A statement that confirmed the reported views of Judge Wennerstrum, which we have heard even from Dr. Hilberg, indicated that he felt that there were an awful lot of Jews involved in the prosecution at Nuremberg, and one of the explanations tendered in the evidence of this case was that Jews from Europe frequently were able to speak German and, therefore, able to conduct or be involved in the prosecution and interrogation process.

The unfortunate by-product of that logical and practical situation may very well be that the thesis in "Did Six Million Really Die?" has some support.

I had undertaken a computer search of all relevant authorities on the subject of the right to call witnesses, the right to require the production of witnesses, and all of that is available. I offered it to my friend. He indicated that he doesn't wish {4154|4155} copies, and I am prepared just to file that material.

In one particular case to which I would like to refer is Lemay vs. The King, (1951) 120 C.C.C. 1, a decision of the Supreme Court of Canada, I believe, also reported in 1 S.C.R. 232, which indicated that in certain circumstances a prosecutor is under a duty to call witnesses essential to unfolding the narrative, although he has a discretion which may not be interfered with unless the accused is prejudiced by it.

Well, John Fried would have been a very important part of our case, as I indicated. He swore under oath the extent of his involvement in the Nuremberg proceedings, and to that extent I suggest it was improper not to have him available.

The explanation provided at the time I don't particularly want to go into unless there is some denial of the fact. Otherwise there is nothing particularly difficult about producing —

THE COURT: Was Fried cross-examined at the preliminary?

MR. CHRISTIE: Yes, he was.

I have the results of the computer {4155|4156} search on the subject, and there are some cases —

THE COURT: One that comes to mind is Bulleymond.

MR. CHRISTIE: Yes. My friend is prepared with that case, and he has given me a copy of it.

Those are numerous and sometimes off the mark, but there are some there that are particularly useful.

THE COURT: Thank you.

MR. CHRISTIE: Thank you, sir.

THE COURT: Yes, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour. I'd like to start with Lemay, Your Honour, which I think is the leading case, because it is a Supreme Court of Canada case. It is Lemay v. The King.

THE COURT: I have it here.

MR. GRIFFITHS: This deals with the prosecutorial discretion in calling witnesses. And {4156|4157} indeed, even eye witness of an offence. Not all eye witnesses need be called by the Crown, as long as the Crown is not acting from some — and the phrase used is "oblique motive". And LeMay is referred to in a number of cases, and that's the phrase that keeps cropping up, is that the Crown —

THE COURT: "Oblique" could be exchanged for the word "unfair", I suppose.

MR. GRIFFITHS: I think that could be a good translation, Your Honour. I would pass that up to Your Honour. There is a little note on the front referring to some specific pages of that case that I am relying on.

Your Honour, the difficulty with this trial or the unusual nature of this trial is not that there is a paucity of witnesses available. Clearly, the difficulty is the vast number of witnesses that are available to testify. Many, many people who, as soldiers, as concentration camp victims, indeed as participants in the judicial proceedings at Nuremberg although I believe most of the justices are now passed on — are still alive today. Does the Crown have an obligation to call everybody? We could be here for more {4157|4158} years than I'd care to count, Your Honour. Clearly, we don't.

Mr. Fried, Your Honour, was called at the preliminary hearing. He was qualified as an expert in international law is my recollection. He had written a thesis and had background in the United States in international law before he was seconded from the Department of Labour in Washington to the Nuremberg proceedings to assist with legal memoranda to the justices.

What I failed to understand fully until Dr. Fried was on the witness stand was — at the preliminary — is that he was not involved in the International Military Tribunal. He was involved in the subsequent American Military Tribunals and provided assistance to the justices at those tribunals. He is a Jew who is now in his eighties. He uses a cane, somewhat frail, and was living in New York.

In light of the fact of his age and health and of the lack of knowledge that he had as to the International Military Tribunal that Dr. Hilberg had a more intimate knowledge with, notwithstanding that Dr. Hilberg was never at Nuremberg, but had read {4158|4159} the entire proceedings and the evidence of the proceedings which Dr. Fried had not, in my discretion I chose to lead that evidence through Dr. Hilberg.

Now, I had initially advised Mr. Christie the first time that we met to discuss this case, which I think was in November, late November, that at that time I was still expecting to call Dr. Fried, and it wasn't until before Christmas time that I advised him, shortly before Christmas, that I advised him that I was not going to call Dr. Fried. I advised him that I was prepared to, any witnesses that I was not calling who had testified at the preliminary hearing, I would assist him in whatever way he felt he required in the locating of those witnesses in terms of addresses or phone numbers or what-have-you so that he could make arrangements for the witnesses to testify for the defence.

In that sense, Your Honour, there has been no effort by the Crown to hide Dr. Fried, to preclude the defence from calling Dr. Fried if they so desired.

Now, there are, in this field, Your Honour, three cases really that I rely on. Bulleymond {4159|4160} is one of them. Your Honour is familiar with that. I will deal with the others first, Your Honour.

R. v. Rowbottom No. 2, 36 C.C.C. (2d) 303 —

THE COURT: Is that Judge Borins?

MR. GRIFFITHS: Judge Borins, yes, Your Honour. It was an application to take commission evidence of two Americans who apparently were subject to some sort of judicial order in the United States not to leave the jurisdiction, so they were unable to come up to Canada to testify. An application was made during the trial for their commissioned evidence. His Honour Judge Borins first of all ruled that a section application could not be made during the trial. That was subsequently overruled by the Court of Appeal.

THE COURT: I'm sorry, in the Rowbottom case?

MR. GRIFFITHS: Yes. The other matters that he discussed, Your Honour, the criteria that were not appropriate, were not dealt with by the Court of Appeal, and at page 312 of the case he sets out some of the criteria. The first full paragraph, in fact, is the only full paragraph on that {4160|4161} page, 312, and he says in part that ss. 637(b) and 640(2), "... when a witness is out of Canada, provides an exception to the general principle of common law as found in s.575 that the evidence of a witness be viva voce in the presence of the accused and the Judge and jury. Where an application to take commission evidence is brought in the course of trial it is not sufficient for the applicant to merely allege

that the witness is out of the country and unwilling to attend to give evidence. Depending on the circumstances of each case, evidence must be before the Court to demonstrate at least a good reason why the witness cannot attend, the extent of the efforts made to procure his or her attendance, why the application was not made before the commencement of the trial, the nature of the evidence which {4161|4162} the witness is able to give, its materiality, the willingness of the witness to testify, and the compellability of the witness to testify. These and other considerations are no doubt proper for the trial Judge to consider in the exercise of his discretion. The applicant should be able to demonstrate that the granting of the application will not result in a serious interruption to the continuity of the trial and, indeed, its very completion. This is of particular importance in jury trials."

Then he concludes by saying:

"Needless to say, the matter being one of discretion, it is not possible to set down any general rule as to when a commission will be granted or refused in the course of a trial."

Now, Your Honour does have in the {4162|4163} form of submissions and certainly some of those submissions are not denied, some evidence before you in that form of why the application was not made before the commencement of the trial and the nature of the evidence which the witness is able to give. Mr. Christie has commented upon its materiality to his case.

What you have not heard, Your Honour, and what I'd suggest there should be evidence on, in all the cases that I have indicated, that there is at least affidavit material as to the efforts made to get the witness here to testify, the efforts by the applicant, whether the witness is willing to testify, whether he is compellable to testify. If he cannot attend, why he cannot attend. We have no evidence of those matters, Your Honour.

THE COURT: Is there any case law of which you are aware, and I will ask the same of Mr. Christie whether he is aware, as to whether or not commission evidence has been taken on the basis that the witness must be produced by the Crown from a foreign jurisdiction and made available for cross-examination?

MR. GRIFFITHS: I know of no cases {4163|4164} on that, Your Honour, and indeed, I would take the position that that, if he were in the jurisdiction, that would not be proper, either. He should be made available as a witness for the defence.

THE COURT: Mr. Christie, do you have anything on that?

MR. CHRISTIE: Well, when I set out to investigate this situation I thought that that was a well-founded rule, that if a person was called at the preliminary, that it was pre-supposed that the defence had a right to cross-examine at the trial.

THE COURT: To cross-examine at the trial.

MR. CHRISTIE: Yes, that the witness would have to be produced for cross-examination at the trial. And I confess that after looking, I haven't found any cases that support that proposition, although I always thought that it was a well-established rule.

THE COURT: Which is probably why on so many occasions judges step in if they feel that unfairness is going to be the likely result. It some- {4164|4165}times comes under the heading of prejudice.

MR. CHRISTIE: I have many times, you know, as a matter of course, heard judges say, well, the witness will be produced for cross-examination, having been called previously, but I have no cases on that point. I thought it was a basic rule of fairness that was generally recognized, but I have found no jurisprudence that establishes that that I am aware of.

THE COURT: Thank you. Yes, go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

The next case, Your Honour, is R. v. Demeter, and I haven't, Your Honour —

THE COURT: Is that Mr. Justice Grant?

MR. GRIFFITHS: No. This is the Court of Appeal, Your Honour. I haven't photocopied the entire case. There were so many issues there, but the issue that I am particularly directing Your Honour, it is on page 450, it starts at (c): "Counsel for the defence applied to the trial Judge

for an order directing the Crown to take the evidence of Oleynik on commission evidence in Hungary and alternatively for an order {4165|4166} appointing a commissioner that the defence might take Oleynik's evidence on commission in Hungary."

That matter is discussed, and on page 453, following a review of the law, at the first long paragraph under the phrase, "Emphasis supplied":

"It is unnecessary to decide whether the Court has a discretion under s.637 to refuse to order the appointment of a commissioner to take the evidence of a witness who is out of Canada where the application is made before trial. We are all of the view, however, that the trial Judge was warranted in refusing the application for an order appointing a commissioner to take the evidence of Oleynik at the stage of the trial at which the application was made in the absence of any indication that Oleynik was willing to give evidence, or that he could be compelled to give evidence or what evidence he would give if willing or compellable. In all the circumstances the trial {4166|4167} Judge properly exercised his discretion in refusing to declare a mistrial ..."

Oleynik [ ] was the one who, I think, was being pointed to as the killer of Mrs. Demeter, and he subsequently died, and before his evidence could be taken.

So Your Honour, again the Court of Appeal seems to indicate there that there has to be some evidentiary basis for the application for a commission, that, as to the attempts that were made to locate the accused, and there is some evidentiary basis of that in Demeter, his willingness to testify, why he is unable to come to Canada. You have none of that before you.

In that circumstance, Your Honour, I would suggest that first there is no oblique motive for not calling Dr. Fried. He was brought as an expert witness, not an eye witness, on Nuremberg and qualified as such. My friend would now seek to utilize his evidence not as an expert witness, but as an eye witness of events, participant in an event.

He is not the only witness. The Crown {4167|4168} has not hidden that witness, so there is no oblique motive on that.

Secondly, Your Honour, there is no evidentiary foundation before you for the granting of the commission.

You have Bulleymond as well for the other considerations that our Court of Appeal has said should be applied and considered.

Those are my submissions.

THE COURT: Mr. Christie.

MR. CHRISTIE: With respect to the issue of whether there is an oblique motive, I must say that it is clear that had the witness been produced, albeit as an expert, it would certainly have lent some support to the factual basis for the argument in "Did Six Million Really Die?", and I am not going to allege anything untoward about obliqueness, but it would seem to be somewhat unfair that his absence will deprive us of a certain factual piece of information which would support the thesis.

Thank you, sir. {4168|4169}

THE COURT: Thank you gentlemen. Once again I have been given food for thought. It will take some time.

— Short adjournment.

—— {4169|4170}

#### REASONS FOR RULING

THE COURT: In the absence of the jury, counsel for the accused has moved the Court to order that the evidence of one John Fried be taken on commission.

The jury in this trial will be asked to decide a verdict on whether or not Mr. Zündel published a false statement or false news pursuant to s.177 of the Criminal Code. The motion with which I now deal is brought pursuant to s.637 of the Criminal Code.

The subject of count number one concerns the publication of a statement or booklet entitled, "Did Six Million Really Die?" The issue really is whether six million Jews were massacred or murdered in Nazi concentration camps during World War II or not.

One issue within the confines of the broader question concerns itself with the honesty of the accused's belief as to the essential truth of the

contents of Exhibit No. 1. Mr. Zundel is now in the process of testifying in-chief on his own behalf before the jury. {4170|4171}

One of the basis for his professed honest belief is his view that the American trials at Nuremberg, in contradistinction to the Allied trials of senior Nazi War Criminals at Nuremberg, were unfair proceedings.

Dr. John Fried was called as a Crown witness at Mr. Zundel's preliminary hearing concerning the charges with which this Court now deals. Dr. Fried, I am told, in his younger years, was an advisor on matters of law to the judiciary presiding at the American Nuremberg Trials.

At Mr. Zundel's preliminary hearing Dr. Fried testified and was cross-examined by defence counsel then appearing on Mr. Zundel's behalf. Mr. Christie, counsel for the accused at this trial, moves that either the Crown produce the witness, Fried, for cross-examination by the defence, or else this Court should order that his evidence be taken on commission at the place where Dr. Fried resides, namely, New York City.

I have not been informed on whether or not Dr. Fried has expressed a willingness or an unwillingness to testify at all, nor have I been told what {4171|4172} specifically he would be expected to say, if anything, if he did agree to testify. I have been advised, however, that the witness is Jewish. He fled his country of origin, Austria, I infer presumably to escape from Nazi Germany. Further, he expressed animosity towards the accused who were being tried by the Americans at the American Trials in Nuremberg. He was further involved in the taking of commission evidence or in some other capacity in that regard in what I gather from Mr. Christie was either a judicial or quasi-judicial capacity during the course of the American Nuremberg Trials.

Mr. Christie suggests that Dr. Fried may have influenced the presiding judges at the American Nuremberg Trials to the point where unfairness resulted. Beyond this information being imparted to me on this motion by counsel from the well of the court, I have no other indication of what Dr. Fried would be expected to say by way of relevance to the issues this jury must try in this trial.

Both counsel agree that the defence in either November or December 1984 asked that this witness be present at this trial. Crown counsel agreed {4172|4173} then that he expected to call the witness at this trial. Mr. Griffiths then decided to lead the expected evidence of Dr. Fried through another witness, Dr. Hilberg, who did testify here. He informed Mr. Christie in December last of this change of mind.

Defence counsel has advised me that at the start of this trial about seven weeks ago, or at least on the 22nd of January last, which is about four weeks ago, that he would be making this motion. Beyond that I have not been advised of what, if any, steps have been taken by anyone to attempt to obtain the appearance of the witness in question in these proceedings at this trial so that the witness could be viewed by the jury.

In the case of Lemay v. The King 120 the Supreme Court of Canada made it clear that the Crown has a discretion to decide what witnesses it will call in the prosecution and what witnesses it will not call. Barring an "oblique motive", which I translate to mean an unfair motive, that discretion should not be interfered with.

Judge Borins in the case of R. v. Rowbottom No. 2, 36 C.C.C. (2d) 312 *inter alia* sets out {4173|4174} a number of considerations which, in his view, must be judicially considered when an order such as this is to be made or not made. The relevant paragraph on page 312 reads as follows:

*"Where an application to take commission evidence is brought in the course of trial it is not sufficient for the applicant to merely allege that the witness is out of the country and unwilling to attend to give evidence. Depending on the circumstances of each case, evidence must be before the Court to demonstrate at least a good reason why the witness cannot attend, the extent of the efforts made to procure his or her attendance, why the application was not made before the commencement of the trial, the nature of the evidence which the witness is able to give, its materiality, the willingness of the witness to testify, and the compellability of the witness to {4174|4175} testify. These and other considerations are no doubt proper for the trial judge to consider in the*

*exercise of his discretion. The applicant should be able to demonstrate that the granting of the application will not result in a serious interruption to the continuity of the trial and, indeed, its very completion. This is of particular importance in jury trials. Once such an order is granted and a trial is adjourned to permit the evidence to be taken there are many reasons why a substantial delay can result, e.g., preparation of a transcript, translation of a transcript into English or French, refusal by the witness to answer certain questions. It would seem that once an order to take evidence by commission is granted it cannot later be cancelled where substantial delay results in the {4175|4176} taking of the evidence. Needless to say, the matter being one of discretion, it is not possible to set down any general rule as to when a commission will be granted or refused in the course of a trial."*

I respectfully agree with those last statements. I also respectfully [sic] agree with the Ontario Court of Appeal in the case of R. v. Demeter 25 C.C.C. (2d) 417 where, at page 453, the Court held as follows:

*"It is unnecessary to decide whether the Court has a discretion under s.637 to refuse to order the appointment of a commissioner to take the evidence of a witness who is out of Canada where the application is made before trial. We are all of the view, however, that the trial Judge was warranted in refusing the application for an order appointing a commissioner to take the evidence of Oleynik at the stage of the trial at which the application was made in {4176|4177} the absence of any indication that Oleynik was willing to give evidence, or that he could be compelled to give evidence or what evidence he would give if willing or compellable."*

The cases of R. vs. Davies (1970) 5 W.W.R. 704 and R. vs. Jewell (1980) 6 W.W.R. 186 I have read with interest. Mr. Christie states that they can be distinguished on their facts as those of the case at bar.

The Ontario Court of Appeal in the decision of R. v. Buleyment 46 C.C.C. (2d) 429 appears to widen the judicial discretion given the trial judge in an application such as this. At page 442 Mr. Justice Martin had the following to say:

*"The learned trial Judge in his reasons for granting the application expressed the opinion that the prosecution having established that the witness was not available to give evidence at the trial and could give relevant evidence, his discretion to refuse the application was a {4177|4178} narrow one to be exercised only if the evidence sought to be obtained was of slight probative value and gravely prejudicial.*

*I am, with deference to the learned trial judge, of the opinion that the field of his discretion with respect to granting the application at that stage of the proceedings, in all events, was not so narrow. Where an application is made during the trial to take the evidence on commission of a witness who is out of Canada, the Judge is entitled to take into consideration such factors as whether the trial will be seriously disrupted by the taking of the evidence and the possible prejudice to the opposite party resulting therefrom, as well as the consequences that the tribunal of fact will not have the advantage of observing the demeanour of the witness. {4178|4179}*

*Although the trial Judge indicated that his discretion was narrowly confined, he none the less, demonstrated that he was alive to the importance of the fact that the jury would not have an opportunity of observing the demeanour of the witness under examination and cross-examination, and the necessity for alerting the jury to that defect in the evidence. The fact that the jury will be deprived of the opportunity of observing the demeanour of the witness is, of course, a factor, but no more than a factor to be weighed by the Judge in deciding whether to grant an application made during the trial to take the evidence on commission of a person who is out of the country.*

*If the absence of the opportunity to observe the demeanour of the witness were controlling, the provisions in {4179|4180} the Code for procuring the evidence of a witness who is out of the country would have a very limited application indeed.*

*In the present case there was no likelihood that the taking of the evidence of Williams on commission in the United States would disturb the orderly progress of the trial, and the appellant suffered no prejudice in that respect. I am of the opinion that an analysis of the trial Judge's*

*reasons as a whole does not disclose that he failed to exercise his discretion in a judicial way, and his order appointing a Commissioner to take the evidence of Williams is not susceptible of attack in this Court."*

This trial started on January 10th or thereabouts, 1985. It is now February 21st of the same year. In my respectful view to issue an order for the commission to take the evidence of Mr. Fried would unduly {4180|4181} disrupt the orderly progress of this trial. Certainly the jury would be deprived of observing the demeanour of the witness in examination-in-chief and in cross-examination.

I respectfully agree with Mr. Justice Martin. That, of course, is one factor of many that I have considered. We do not know if Mr. Fried, who is now, I am told, in his eighth decade of his life and in frail health, would testify, or if he did what he would be expected to say.

In the last analysis one must exercise a judicial discretion by coming to a decision as to whether or not to deny this application would result in real prejudice to the interests of the accused. That involves an examination of the issue upon which the Commission is sought.

In this case the Commission is sought in order to buttress or support an honest belief that Mr. Zundel said that he has in the contents of Exhibit No. "Did Six Million Really Die?". If I thought for one moment that the only supporting evidence that exists on evidence of Dr. Fried, then I would give very serious {4181|4182} consideration to the issue of the order that is requested in the motion.

However, when one examines the record of the evidence that has been given by a multitude of witnesses, if I may use that term, on behalf of the defence, it is certainly clear to me, at least, that there is much other evidence which, if the jury accepts it, tends to support the evidence given by Mr. Zundel himself concerning that issue.

Therefore it cannot be validly said, in my respectful view, that the evidence of Dr. Fried, if not before the jury, would result in real prejudice to this accused upon his trial.

For the reasons I have given, the motion is dismissed.

MR. CHRISTIE: Thank you, Your Honour.

Those are the matters that I think wanted to bring before you in the absence of the jury. Would it be convenient to bring them back and deal with some other matters?

THE COURT: Yes. Bring in the jury, please.

(VOLUME XIX FOLLOWS) {4182|4183}

## VOLUME XIX

— the jury enters. 12:10 p.m.

THE COURT: Members of the jury, thank you very much for your patience. I can assure you we started at nine thirty, and with the exception of a little time for me to marshal my thoughts, we have been working ever since.

Go ahead, Mr. Christie.

MR. CHRISTIE: Thank you, Your Honour.

### ERNST ZÜNDEL, previously sworn.

#### CONTINUED EXAMINATION-IN-CHIEF BY MR. CHRISTIE:

Q. Mr. Zundel, you mentioned [sic] the other day a forensic report on the Anne Frank Diary. Did you obtain that in 1980?

A. Yes, I did.

Q. And from whom did you obtain it?

A. From the attorney general.

Q. And did you translate it from the portion of the Anne Frank Diary?

A. Yes, it is.

Q. And having read it, what does it {4183|4184} say in respect to your earlier evidence?

A. It corroborates that the German Federal Police, Forensic experts, examined these documents, Diary I, Diary II and Dairy III, and they found out that additions with ballpoint pen had been made which only

became available in 1951.

Q. And how does this affect your opinion in relation to the whole of the diary?

A. It cast serious doubt on the authenticity of the diary, certainly. The writer, whoever was the writer, was alive in 1951 because there was [sic] subsequent court experts who testified in other cases in West Germany that the body of the diary is one that all the handwriting matches.

Q. Matches with what?

A. With the original. In other words, there are some loose leaves in the diary, and there are three books, and this court expert, Menabecher (ph), in a case in 1960, testified and said that the diary in its entirety was written by the same person.

MR. CHRISTIE: I have the translation and original, or photocopy of it, Your Honour. I would like to file that.

THE COURT: Number 154.

— EXHIBIT NO. 154: German forensic report (and English translation) of the Anne Frank Diary.

Q. MR. CHRISTIE: Have you done research into the reports of the International Tracing {4184|4185} Service from time to time from 1978 till 1980?

A. Yes, I have.

Q. I now produce and show to you a series of reports from 1978 to 1980 including translations of those portions in French, and the original of that portion in English. Are you familiar with that?

A. Yes.

Q. Are they from your records?

A. Yes.

Q. What do they indicate about the annual death figures, or the total death figures in concentration camps?

A. Every year the number of deaths listed increases slightly. It started in 1970 with 343,661, and ends in 1983 with 373,468.

Q. What is your understanding of why these changes have occurred?

A. Because we have been told in this court that there are over forty million cross-reference files on file in Arolsen, and there are constant requests. I was told when I contacted them, in the early eighties, that they have five thousand requests which still had to be processed, and they have a terrific backlog there for people who have lost people in concentration camps or have lost friends and so on. So by no means were forty million people dead as in the cross-reference files. These are as in every filing system to arrive at one point. I think the final death figure in the camps is presently close to the 373,468. They might fluctuate in a year or two by two thousand, {4185|4186} three thousand, but I believe all deaths in German concentration camps pretty well are registered in here, in spite of what the Tracing Service says in its publications. I have had some experience with these people and we have had Mr. De Grace here as a witness who was put under extreme restrictions on what he was allowed to say by his own people. The Red Cross [sic] is very loath in getting involved in political controversies because they are beholden to their national governments frequently for funds and for offices, and for being allowed to work in these various countries. They are apolitical, and so they are desperately trying not to get involved in this revisionist Holocaust controversy that is going on.

Q. They do not agree with that figure being the total; is that right, sir?

A. That's right.

Q. What do they say about it?

A. They say it is based on incomplete statistics, and I think that they are not lying. I think that this is true. There are thousands of soldiers missing, German soldiers missing which the German Tracing Service hasn't found because many of the records of the Second World War, especially in individual cases, a man gets blown up by a grenade, there is absolutely no trace of him. If there is nobody there to witness it, the man is missing.

Q. Well, then, what is your opinion as to that figure that they record?

A. It is very close to the number of people who died. However, their statisticians make {4186|4187} allowances in wartime casualties as to the number of missing. It is understood. The percentage is understood.

There is a small variance.

Q. How large a variance do you think there is?

A. Five, ten per cent maximum, absolute maximum.

Q. You heard the evidence of Dr. Vrba pertaining to the millions of deaths he described being unregistered. What is your view of that matter?

A. I don't believe him.

Q. Have you done a study over the years into the subject of delousing with Zyklon-B?

A. Yes, I have.

MR. CHRISTIE: I would like to file these Red Cross Reports, if may, Your Honour, as one exhibit, perhaps. And that way —

THE COURT: 155.

— EXHIBIT NO. 155: Documents relating to the Internatinal [sic] Tracing Service.

Q. MR. CHRISTIE: I now produce and show to you a file. Is this your file?

A. It is.

Q. And what does it reflect as a result of your research?

A. It deals in depth with the delousing procedures of various countries at various times, and particularly with delousing through Zyklon-B, or HCM. It goes back as far back as the First World {4187|4188} War, looks into steam delousing of clothing and so on, and it deals with the first delousing chamber, if you want, in Hoffman's land outside New York City that was instituted by the United States Government.

Q. Why did you undertake all these studies?

A. Because I wanted to find out for myself if some of these wild charges that were bandied about by Holocaust promoters could be true in fact. And scientifically they come up short.

Q. I am not going to file that, but how many years have you worked on that question?

A. Since the middle sixties. If anybody were to build gas chambers the way the Holocaust promoters say they were functioning or operating, they would most likely kill more people outside the gas chamber than inside the gas chamber, including the operators and the people who run the damn thing that had constructed it.

Q. Now, in your work have you researched into the question of Masonry in depth?

A. In some depth, yes.

Q. How long have you studied the subject?

A. Since the beginning sixties when I became politically aware.

THE COURT: That is Masonry, I'm sorry?

THE WITNESS: Freemasonry, yes.

THE COURT: Oh, Freemasonry

MR. CHRISTIE: Yes. I'm sorry. {4188|4189}

Q. I now produce and show to you a book called, "Secret Societies and Subversive Movements" by Nesta Webster. What do you know about that? First of all, where does it come from?

A. It was published in the United States of America by E.P. Dutton and Company, and it is a reference work by anyone wanting to deal with Freemasonry or subversive societies, and it was frequently quoted. I know one printed by Sir Winston Churchill in the Sunday Telegraph in 1919 when he talks about the origin of Bolshevism.

Q. And do you have that book in your library?

A. That is my own library, yes.

Q. Is it from your own library?

A. Yes, it is. It belongs to me.

Q. What does it tell you about Freemasonry and why is that relevant to your opinion?

A. Well, it ties in Freemasonry with the subversion and points out the Jewish connection, both in ritual, in words, in graphics and in content to Freemasonry.

Q. Is there any particular reference that you feel is relevant to the issue of the publication "The West, War and Islam"?

A. The total book is relevant to it. I'd have to read the whole book into it.

Q. And in relation to the thesis of that book, what do you have to say

about "The West, War and Islam"?

A. I feel that I have given a truth-{4189|4190}ful and correct abstract of this book and other books on the topic in the space available to me.

MR. CHRISTIE: Okay. I'd like to file that book.

THE COURT: No. 156.

— EXHIBIT NO. 156: Book, "Secret Societies and Subversive Movements" by Nesta H. Webster.

Q. MR. CHRISTIE: I now show and produce to you a book. Can you identify the author, the title, the year of publication, where it comes from?

A. It's called, "The Secret Powers Behind Revolution", "Freemasonry and Judaism", by Vicomte Leon de Poncins, and it was published by Boswell Printing in London, England, in 1929.

The entire book deals with this question, and there is one, just one sentence or two sentences on page 95 I would like to quote in support of the thesis of "The West, War and Islam", and it says:

*"In support of this we can quote the article of Dr. Isaac M. Wise published in The Israeli of America 3rd August 1866:*

*'Masonry is a Jewish institution, whose history, degrees, charges, passwords and explanations are Jewish from beginning to end.'*"

Q. And you were aware of that before publishing, "The West, War and Islam"? {4190|4191}

A. Yes, I was.

Q. I now produce and show to you, "Revolution and Freemasonry 1680 – 1800". Are you familiar with that book?

A. Yes, I am familiar with that book.

MR. CHRISTIE: Could I exhibit this, please, Your Honour?

THE COURT: 157.

— EXHIBIT NO. 157: Book, "The Secret Powers Behind Revolution" by Vicomte Leon de Poncins.

Q. MR. CHRISTIE: How long have you owned that book?

A. 1965, '64.

Q. And what does it say in relation to your opinion in "The West, War and Islam"?

A. The book was published in the United States by Little, Brown and Company, and it's called, "Revolution and Freemasonry 1680 – 1800" by Bernard Fay. Again it supports my thesis as expressed in "The West, War and Islam", that it is a revolutionary organization, and on page 116 it says:

*"All that Masonry owed to Desaguliers, the shrewd Huguenot, who gave the intellectual impulse to the society and launched Freemasonry on its conquest of the world."*

So it's considered a world revolutionary movement. The entire book is full of — for instance, on page 168, it says: {4191|4192}

*"It is false and fallacious to pretend that the Masonic lodges had no political activity; ..."*

*"They took the place of our contemporary political discussions and created the political atmosphere of the period."*

And so it goes on throughout the entire book.

MR. CHRISTIE: Okay. I'd like to file that, please.

— EXHIBIT NO. 158: Book, "Revolution and Freemasonry 1680 – 1800" by Bernard Fay.

Q. MR. CHRISTIE: I now produce and show to you a book entitled, "Christianity and American Freemasonry". Are you familiar with that book?

A. Yes, I am.

Q. Can you tell us when it was published, by whom and where?

A. It was published by The Bruce Publishing Company of Milwaukee in the year [sic] 1961, and it deals with the Christian people's relationships to Freemasonic lodges and other secret societies.

Q. Is there anything particularly referable [sic] that you say supports your view in "The West, War and Islam"?

A. Page after page and chapter after chapter deals with the Popes, various Popes throughout history, canons on Freemasonry, and Catholic involvement {4192|4193} in Freemasonry, but there is one particular point that I would like to quote from from [sic] page 145 that I stand accused of, and that is "The West, War and Islam":



*"A similar word of caution was given in 1950 regarding membership in Rotary, the businessmen's luncheon and service club. Since then Catholic priests have been forbidden to hold membership in Rotary while lay Catholics have been discouraged from joining the 433,000-member club. At the time of the prohibition a number of priests were serving as presidents of local Rotary clubs and a Canadian Catholic held the position of international president. The Holy Office pointed out that Rotary presents a purely natural ethical code without reference to the Church or divine law. Furthermore, in some countries Rotary seems to have become a recruiting service for the Masonic lodges and the center of incipient anti-clerical activities."*

Q. Are you aware of any instance in history where Masonry has been connected with assassination?

A. There was a lodge called The Assassins —

MR. CHRISTIE: May I file this?

THE COURT: Yes. 159. {4193|4194}

MR. CHRISTIE: I am asked, Your Honour, to file only an excerpt. Unless there is an objection, may I do so?

MR. GRIFFITHS: Whatever he based his evidence on, Your Honour.

THE COURT: Yes.

MR. CHRISTIE: Thank you.

— EXHIBIT NO. 159: Photocopied excerpt from book, "Christianity and American Free-Masonry" by W.J. Whalen.

Q. MR. CHRISTIE: Could you describe further your understanding of the relationship between Freemasonry and any assassinations?

A. I have studied the period of French Revolution, and the subsequent terror in France, and I have seen many illustrations of Masonic aprons of that period, for instance, that showed bloody daggers and cut-off heads, bleeding, and throughout European writers who cover this period, there is a tremendous amount of reference to violence and so on, and I have brought one English language book, the case of a Captain Morgan, just south of Toronto here, across the border in the United States.

Q. I now produce and show you a book entitled, "Freemasonry Exposed" by Captain William Morgan. Are you familiar with that book?

A. Yes, I am.

Q. Where does it come from?

A. It was published by Ezra A. Cook; Publisher, in Chicago, Illinois, and it was written by a {4194|4195} Captain William Morgan, who was subsequently killed, for it is thought, having published this book, and the fate of William Morgan is the very first page of the book, how he was found drowned and his legs tied with rope in Niagara, I think it was ...

Q. When was the event that is described in that book?

A. September 1882.

Q. Are you familiar with the history of that case?

A. Yes, I am.

Q. Did it create a public alarm about the subject of Masonry?

A. It created an outcry that even reached as far as Presidential campaigns of the period, wide newspaper publicity about it.

THE COURT: I just missed — we have come over a century here. I was at the French Revolution and all of a sudden we are up — is there a connection here?

MR. CHRISTIE: Just the connection of assassination connected with Masonry, Your Honour.

Q. Perhaps we should elucidate in that. Are you familiar with the role of Masonry in the French Revolution?

A. Throughout the books of the period and certainly in Masonic magazines to which I have made frequent reference in my research, like the Canadian Mason, and especially the Canadian Masonic Magazine called Northern Light, they quite proudly picture in virtually every issue revolutionary leaders in various {4195|4196} parts of the world who have, like George Washington, for instance — I think if I may add here, it must be understood that there was a government in power in the colonies in the United States very much a lawfully, legal government, and George Washington and his people overthrew that legal government, and the plot was hatched, so was the story, in these Masonic lodges. So just because they succeeded and became the Government

of the day doesn't make it any less a conspiracy to overthrow a legal government.

Q. Have you studied in a book called "The Nature of Freemasonry" by Hubert S. Box?

A. Yes, I have.

MR. CHRISTIE: May I file this, Your Honour?

THE COURT: Yes.

— EXHIBIT NO. 160: Book, "Freemasonry Exposed" by Captain William Morgan.

Q. MR. CHRISTIE: What does this have to do with your thesis in the article "The West, War and Islam"?

A. This book was published in 1952 by Augustine Press in London, and it is a very scholarly book. It deals with virtually every aspect of Freemasonry. It talks about the initiation ceremonies, the Master's degrees and so on, and it was very instructive and helpful to me in my research.

Q. Are you familiar with current newsmagazines — {4196|4197}

THE COURT: Just a moment. Is it connected to his —

MR. CHRISTIE: His research.

THE COURT: Well, I know that. Is it connected to his belief in Exhibit 2?

Q. MR. CHRISTIE: Can you identify it to the expressions of opinion you uttered in the publication of "The West, War and Islam"?

A. That's right. For example, on page 30 it discusses the connection of Freemasonry to the Kabala, which is a Jewish trend of thought.

Q. Are you familiar with Kabalism?

A. Only peripherally. It's something that almost disgusts me, really.

THE COURT: Almost what, sir?

THE WITNESS: Disgusts me.

THE COURT: It disgusts you.

THE WITNESS: Yes. It is not an area I want to get into.

Q. MR. CHRISTIE: You said it was Jewish, though. How do you say that?

A. On page 29:

*"But the source of inspiration which admits of no denial is the Jewish Cabala."*

And the whole story is based on the Cabalistic rituals, cabalistic signs in Freemasonry. They draw very heavily upon it. There are books such as "The Occult and Freemasonry". There is a vast body of literature available on Freemasonry.

Q. Are you aware as late as 1981 of {4197|4198} political activities in which the subject of Masonry was involved?

A. Yes.

MR. CHRISTIE: May I file this book, Your Honour?

THE COURT: Yes.

— EXHIBIT NO. 161: Book, "The Nature of Freemasonry" by Hubert S. Fox [Box].

Q. MR. CHRISTIE: I now specifically refer to a magazine. Can you identify it?

A. Yes. Newsweek Magazine, June 8, 1981.

Q. What does that indicate about Freemasonry or the subject of Masonry?

A. It talks about the famous scandal that rocked Italy, Argentina, Switzerland and it's called the P2 Lodge Scandal.

Q. Do you know about that? Have you read into the subject?

A. Quite extensively, yes.

Q. And did you read about that at the time you published "The West, War and Islam"?

A. I did, yes.

Q. Were you aware of some of these things?

A. Yes, I was.

Q. What were you aware of at that time from those magazines?

A. That there was a group of people {4198|4199} who were defrauding the Italian Government and the Italian public, syphoning off billions of dollars in funds through clandestine dummy corporations and so on, and their network spread to Argentina financial dealings, into the Catholic Church. I think it was the Banco Ambrosiano, and all kinds of interesting inter-banking connections. It led to the either suicide or murder



of a fellow called Gelli, I believe, in London.

Q. How was he found?

A. Hanged under a bridge in London.

Q. Are you familiar with the origin of that organization, the P2 Lodge?

A. It's a Freemasonic lodge. It was founded by Italian Freemasons.

Q. Are you aware of the distinction between the continental Freemasons and some of the British Masonic lodges?

A. Yes. There are different lodges and different graphic emblems, different signs that they identify one another.

Q. What kind of signs?

A. Secret handshakes, signs of distress, that if they are in need of help and they want to signal somebody that they need help, that they think might be one of their lodge brothers, then they have a certain way of identifying themselves, or they meet in a meeting, they have certain ways of letting the other person know that they are Masons. And there are certainly oaths. We have been witnesses right in this courtroom where people who are Masons took their Masonic oaths very seriously. {4199|4200}

Q. Are you aware of secrecy being an aspect of Masonry?

A. Well, if you can't even reveal the oath, and if even the oath is secret, then all secrecy derives from that and goes on from there. How can we find out if it is so secret?

Q. Do you see anything wrong with that?

A. Well, as a person who is a normal human being in public life, I don't go around keeping secrets. Maybe I should have kept a few, and I wouldn't be standing here today, so ...

Q. Were you relying upon that publication in relation to your publication in "The West, War and Islam"?

A. It only confirmed what I already knew for about fifteen years. And it's not the only incident. There is the corruption in Mexico under the current government in Mexico. That was widely written about at the turn of the century – well, 1910, 1920, to be a Freemasonic government.

MR. CHRISTIE: Could I file this exhibit, please, Your Honour?

THE COURT: Yes. 162.

— EXHIBIT NO. 162: Newsweek Magazine, June 8, 1981

Q. MR. CHRISTIE: Why did you feel inclined to write about that subject in relation to the publication "The West, War and Islam"? {4200|4201}

A. There is a great ignorance about Freemasonry in the general public, especially in North America and Canada, not so much in Europe. In Europe Freemasonry is always discussed again and again in political journals and political meetings; it is a topic that is frequently raised and aired. In North America there is not very much interest in that. I could speculate on that, but it's not the place nor the time. So I felt that these people in the Middle East to whom this material was exclusively directed could not have, possibly couldn't have knowledge of the political structure and power, influences and so on in North America, and that's why I felt in that very small paragraph which, undoubtedly, is inadequate, that at least I should alert them to the thing that there is such a thing, a very powerful group in North America called The Secret Societies with international connections into financing and so on.

Q. In your research did you consult the definitions and understanding of this publication?

A. Yes. It's the New Catholic Encyclopedia. It's published in San Francisco, Toronto, London and Sydney, and on page 134 it deals quite extensively with the Church's role or explanation. It's called, "Condemnation of Freemasonry by Church and state", and it lists date after date going back to 1738 right up to modern times, and it certainly makes no bones about the fact that the Catholic Church, officially, does not think that Freemasonry is a Christian thing, and if anything, it is anti-Christian, and it states and warns, as I have said before in the case of the {4201|4202} Rotarians that they don't want Catholics to become Freemasons.

MR. GRIFFITHS: What is the publication date of that, the New Catholic Encyclopedia?

THE WITNESS: 1967.

THE COURT: What is the name of the publication, please?

THE WITNESS: It is called, "New Catholic Encyclopedia, Volume VI".

Q. MR. CHRISTIE: Did you, in the course of your research, also consult the Encyclopaedia Judaica?

MR. CHRISTIE: May that be an exhibit, Your Honour?

THE COURT: Yes.

— EXHIBIT NO. 163: Photocopied excerpt from the New Catholic Encyclopedia, Vol. VI.

THE WITNESS: Yes, I did.

Q. MR. CHRISTIE: And what did it indicate in regard to your research?

A. This one is called the "Encyclopaedia Judaica", Jerusalem, The Macmillan Company, copyright 1971 by Keter Publishing House, Jerusalem, Israel, and it is organized in columns rather than pages, and beginning with columns 122, 123, 124 especially, it deals with Freemasonry at some length, and it points out the Jewish involvement in Freemasonry from the very beginning, especially North America the first lodges, how many Jews there were, how dominant {4202|4203} they were, what their rituals were, Solomon Bush, deputy inspector general of Masonry for Pennsylvania. Jews were influential in the Sublime Lodge of Perfection in Philadelphia which played an important part in the early history of Freemasonry in America. They chose a number of prominent Jewish names. And it deals also with the role of Freemasonry in Israel, once Israel was created, and how, what kind of lodges there were in Jerusalem, because Jerusalem figures a great deal in the, can I say, the folklore or the King David, Solomon and the reconstruction of the Temple is very important. It is a very important piece of information.

Q. And does that come from your sources?

A. I had it copied by a researcher in the library.

Q. And were you aware of that when you published "The West, War and Islam"?

A. Yes, I was.

Q. And the conclusion of this series of questions, I now produce and show to you a publication of another source.

THE COURT: Exhibit 164.

— EXHIBIT NO. 164: Photocopied excerpt from Encyclopaedia Judaica.

Q. MR. CHRISTIE: What does that indicate in relation to your thesis expressed in "The West, War and Islam" regarding Masonry?

A. This publication is called, "The Catholic World", "Can a Catholic Join the Masons?", {4203|4204} and on page 367 it outlines that many Masons are totally unaware of what the very small ruling circle on the top plans for their organizations, and it says that the Masonic Federation is to be judged not so much by the acts and things it has accomplished as by the whole of its principles and purposes. It shows the aspect. And I wanted to stress this, that I don't, by any means, want to condemn every Mason. I have known and still know Masons who are very decent people, but they are lower echelon Masons. There are seventeen million people, apparently, in the United States that belong to secret societies, and there's only sixty-six Masons that have attained the highest thirty-third degree rank. So we can't blame seventeen million people, maybe even out of the sixty-six, what even only a handful may be planning or doing. I have known many Masons who are decent people. I want to stress, however, I felt bound in my article to alert them, these people that received this material, to the power and influence of Freemasonry in the Western World. This is totally apparent from the whole body of this [sic] little three and a half page thing.

MR. CHRISTIE: Can I file that, please, Your Honour?

THE COURT: 165.

— EXHIBIT NO. 165: Photocopied excerpt from "The Catholic World".

Q. MR. CHRISTIE: Now, also in the publication "The West, War and Islam": you make certain {4204|4205} remarks pertaining to the persons you called, "vicious, greedy and militant persons who call themselves Jews".

What were you referring to in regard to that, those remarks?

A. In my own personal private life I have had enough personal experiences, threats, including bombs, finally, but including threats of beating, arson, threats to my children, threats to my business. I was the victim of a huge demonstration outside my house organized by people

who call themselves Jews that had placed ads in ethnic newspapers and bussed people to my place.

Q. How many people?

A. Depends on which newspaper you believe. Some say fifteen hundred. Others say two thousand. And that mob of people called for my public execution, hanging, storming of my building, throwing fire bombs and so on. I have the tape recordings of that particular demonstration, that alone. And then, over the years, a number of telephone threats have come to me, that it came to the point when Bell Telephone finally had to intercede and did record those things and trace the callers, and that turned out to be in the greatest number Jewish kids, young kids, seventeen, eighteen, nineteen years old, members of the JDL, apparently.

Now, when I went – maybe I cannot talk about this here, but the very day, my first day of the court appearance I was knocked down outside Old City Hall by members of the JDL, and if it hadn't been for the intervening of some police officials here, I {4205|4206} may have been killed there that day in full view of the media.

I consider that vicious and certainly militant, and if I read the pronouncement of a certain Rabbi Meir Kahane, emanating from the late sixties in New York and now Israel, that man is anything but a nice man. He is vicious and militant, and if I dig long enough I will find that he is also greedy, I bet.

Q. I now produce and show you a book called, "They Must Go", by Rabbi Meir Kahane. Are you familiar with that book?

A. Yes, I am.

Q. Is it available in our society?

A. Yes, it is. Regular bookstores.

Q. Have you read it?

A. Yes.

Q. What do you derive from it?

A. It is a policy of, drive the Palestinians out of Palestine, and I consider that vicious.

Q. I now produce and show you a book called, known as "The Avengers". Is that your book?

A. I own it, but it is written by Michael Bar-Zohar who was, for many years, the assistant to Ben Gurion.

Q. Why is that relevant to the case of some Jews being called vicious and militant and greedy?

A. It advises, like all books, the most ruthless lawlessness and murder that some people who call themselves Jews perpetrated on German people after the Second World War, and at the end of the Second {4206|4207} World War —

Q. Rather than give an editorial version, can you quote from it?

A. It says:

"Beni seemed rather embarrassed and he hesitated before going on. The Nakam leaders evolved a scheme which was disclosed to only a very few people. Much time and money went into the preparations. We knew that if we succeeded, no other actions would be necessary. Looking back, it could be called a diabolical scheme. It was designed to kill millions of Germans. Yes, millions, and all at the same time, men, women and children, old and young. The main difficulty was that we wanted to kill only Germans ..."

That's on page 52. And then, on page 55 he talks about Operation Poisoned Bread.

Q. What was that all about?

A. The Toronto Star carried an article about it on March 9th, 1968, and it says that one thousand S.S. officers were poisoned.

It is corroborated in this story here where they say that on April 15th, 1946, they poisoned two thousand loaves of bread which were destined for German prisoners. And according to some accounts published in Nuremberg newspapers, twelve thousand prisoners of war suffered from arsonic [sic] poisoning, and several thousand of them died.

Q. So that is what you call Vicious, is it?

A. I certainly do. {4207|4208}

Q. I now produce and show to you a book called, "Memoirs of an Assassin" Are you familiar with that book?

A. Yes, I am.

Q. What does that have to do with Jews being called vicious, greedy or militant?

A. It was published in 1959, and the publisher is Thomas Yoseloff, and I don't think I need to elucidate on it, on the Stern gang.

Q. Maybe you do.

A. The Stern gang were a bunch of terrorists and caused mayhem in Palestine while the British had the mandate there.

Q. Why?

A. Because they felt they wanted the British out and they wanted to take over Palestine.

Q. What happened?

A. They were instrumental in taking over Palestine and they later formed the Government of Israel.

Q. Did they do illegal acts?

A. Lots of them.

Q. Why?

A. I think it was the blowing up of the King David Hotel that, certainly, was laid at the doorstep of these terrorists which killed, I believe, ninety-six people, maimed others.

Q. Well, just particularly what, in that book, relates to your belief that there are some people who call themselves Jews who are greedy, vicious or militant? {4208|4209}

A. Well, Avner is a very famous writer and he outlines how they went about assassinating people.

Q. For what end?

A. To remove them. There were stumbling blocks in their path to creating Israel.

Q. And where does that book come from?

A. It was published in New York. It comes from my own library.

Q. From your library.

A. Mm-hmmm.

Q. Thank you.

MR. CHRISTIE: I'd like to just file these three books, maybe as one exhibit.

THE COURT: Exhibit 166.

— EXHIBIT NO. 166: Three books, "They Must Go", "The Avengers", and "Memoirs of an Assassin".

Q. What is your feeling towards Jews generally?

(Page 4210 follows) {4209|4210}

A. I have no special feelings for Jews, no more special than I have towards Irish or Lebanese. If you wonder whether I discriminate against Jews, some I find interesting, others I wouldn't go near with a ten-foot pole. I treat them as people.

Q. Why did you make the remark about some people who call themselves Jews being greedy, vicious or militant?

A. Because it's the truth. Some people who call themselves Jews behaved in a vicious, greedy and militant manner. And I put that in quotation marks, "Jews".

Q. I show you now the book called, "The Rise and Fall of the Jewish Gangster in America". Are you familiar with that book?

A. Yes.

Q. Who published it?

A. It's called, Holt, Rinehart and Winston in New York

Q. Is that your book?

A. Yes, it is.

Q. What does that have to do with the suggestion —

MR. GRIFFITHS: Excuse me. What is the date?

THE WITNESS: Copyright 1980, by Albert Fried.

Q. MR. CHRISTIE: And what does it indicate about certain criminal activities?

A. It details, just like the title says, the rise and fall of Jewish gangsters in America, {4210|4211} and it dispels one of the biggest myths, may I say, that crime in America is Italian, namely the Mafia. It lists some names which will come as — it certainly came as quite a surprise to me, that many of the crime kingpins certainly of the thirties were Jewish.

Q. In the course of your research over the years you examined the

question of Jewish involvement in activities that are described as greedy, vicious or militant?

A. Of course, yes.

Q. Why have you done that?

A. Partly because I was surprised at the reaction that I was receiving. I was at the receiving end of all kinds of threats and violence, intimidation, boycotts, threatening letters, threatening phone calls. And so naturally, that made me examine how come that the Irish are not threatening me, or how come the French Canadians are not threatening me.

Q. I now produce and show to you a series of files which I do not intend to enter without indicating what they signify.

MR. CHRISTIE: I'd like to file this book, if I may.

THE COURT: 167.

— EXHIBIT NO. 167: Book, "The Rise and Fall of the Jewish Gangster in America".

THE WITNESS: This is a very condensed and selected amount of material on this {4211|4212} topic which led me to write this particular sentence in this little newsletter.

THE COURT: Just before we hear from it, I see it is close to one o'clock. If you don't intend to enter that mass, you might give some thought to, hopefully, abbreviating it by letting the jury know what is in it.

MR. CHRISTIE: I was just going to do it, just in a very general way, ask him what it signifies.

THE COURT: The witness was ready to make another quotation. That is why — do you want to do it now?

MR. CHRISTIE: I think I will just ask the question and direct the witness, and that way, if I may, cut it short.

Q. What does this whole pile of documentation signify?

A. Viciousness, militancy and greed by identifiable people who cloak themselves in the ethnicity of being Jewish while they are carrying on their nefarious activities.

Q. And does this judgment apply to all Jewish people?

A. Of course not.

Q. Why was reference made in your publication to such persons that call themselves Jews as vicious, greedy and militant?

A. I wanted to make a distinction, because that is to my friend Ginsburg and others, and Alfred Lilienthal and others, I am very aware that {4212|4213} there are all kinds of Jews in the world, many different streams, there is no uniform body of Jews as there is no uniform body of Germans. You know, we are all different people. But that's why I put it in quotation marks. Some people who call themselves Jews.

MR. CHRISTIE: All right. Thank you. Those are my questions on that point.

Now I will withdraw these documents, Your Honour. Would this be a convenient time?

THE COURT: Yes, it would.

— The jury retires. 1:00 p.m.

— The witness stands down.

— Luncheon adjournment.

— {4213|4212a}

— Upon resuming.

— The witness returns to the stand.

— The jury enters.

THE COURT: Go ahead, Mr. Christie.

Q. MR. CHRISTIE: Mr. Zundel, in support of your thesis in "The West, War and Islam" did you do a study on the subject of banking and its relationship and influence upon the world?

A. Yes, I did.

Q. Could you describe the sources you relied upon for your information?

A. Some publicly available books, especially one called, "None Dare Call It Conspiracy", which is already an exhibit, I believe, and the other one called, "The Rockefeller File".

Q. What does the Rockefeller name have to do with banking?

A. It is a well-known wealthy family dealing with banking in the United States.

Q. And were you referring to the Royal Bank of Canada particularly?

A. Not at all. Nothing was further from my mind that singling any Canadian bank.

Q. With respect to the media, what type of media were you talking about?

A. Basically American media. When we talk about Western media, we talk about the American media, the New York Times, Washington Post, Chicago Tribune. {4212a|4213a}

Q. Are there any other sources of banking that you relied upon?

A. Yes. "Lincoln Money Martyred".

Q. That is a book about whom?

A. About President Lincoln in the United States and the banking system going back to the Bank of England, the establishment of the Bank of England. It gives a brief synopsis of the various ways in which banking systems have been set up in England and in America.

Q. Are there any other sources for your opinion in respect to banks?

A. Books from the library about — Peter Trueman's books about the Bronfmans — just people who are involved in finance; but I think this booklet here more than anything else tells a very good story.

Q. Why is that?

A. It gives a quick overview. It only has 140 pages, and it deals with the Consul [Council] of Foreign Relations, manipulations of bankers and politicians, the Federal Reserve Board, World Government. It is a real good synopsis, I believe.

Q. Now, were there any other major sources for your opinion in respect to banks?

A. I went to some inspected areas, the Globe and Mail, for instance, had a very good story on Paul Volker (ph), not too long ago, and they call him the second most —

MR. GRIFFITHS: Well, excuse me —

Q. MR. CHRISTIE: Was it before 1981, because — {4213a|4214}

A. Geez, I don't recall the date, but I mean, I have known about Paul Volker and the Federal Reserve long before 1981.

Q. What is your opinion in respect to those institutions?

A. Well, they have a lot of money and they represent wealth, and wealth is power and power is influence.

Q. Are there any other sources of information respecting banks that you would like to indicate before the jury that you relied on in your research?

A. I am not an expert on banking, really, no. I didn't delve into the banking as deeply as I delved into the Holocaust extermination legend, because number one, I don't have much money so it's of not that much interest to me, and I am on very good terms with my local bank manager, so it's not — my interest in banking is strictly from what banks have traditionally been doing or have been accused of having done over the last fifty years.

I have been involved with Bernard Barous (ph) [Baruch] in the United States Government and with the Neil Report that President Roosevelt asked to go into to check into the interest of the Morgan trust in the United States, the financing of the First World War, there was a big controversy which lasted, and an investigation which lasted over two years and produced over two thousand pages of testimony.

Q. What was that called?

A. The Nigh Report established by the {4214|4215} United States Government, but this is what I was attempting to do here.

Q. Have you introduced here before the jury all the reasons why you believe in the thesis you put forward?

A. In the time that we had, I couldn't possibly begin to do that, and also, there are restrictions that a court of law, I have found out, imposes on a forum like this. It's not like a university or a television debate or a kind of a high school jam session. If it was, we would go to courts to learn about life and not to universities. This is a restriction that is placed on it. The rules of evidence, first of all, are very strict. This has been something new to me. I have never been before exposed to a courtroom environment, and the linguistics, as His Honour has ruled that German, any text in German couldn't be admitted here I was raised in Germany, I was educated in Germany, I was trained in Germany. Like every eth-

nic that comes to this country, I suppose, for the rest of my life, I will carry my German ethnicity like a snail[-]house with me and that is the total of my experience. So what I am defending myself with up here is material from the English-speaking world, some French texts, and a few translations because of the necessity of this courtroom procedure.

Q. What effect has this prosecution had upon you?

A. I have lost twelve pounds, which might have been a good thing. It's tiring. It's an educational process, I will say that. I have learned a {4215|4216} great deal. It has taught me that legal people have a specific language and are very careful in the way they phrase things. They are not like artists or writers certainly, or business people. It has and it is going to cost me a lot of money – that's the bottom line to defend myself in this courtroom, but outside of that, it has been an educational experience for me.

MR. CHRISTIE: Would you answer questions from my learned friend, please.

THE COURT: Yes, Mr. Griffiths.

#### CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Mr. Zundel, I'd suggest to you that you purposely sought to mislead and deceive this jury in presenting your beliefs to this jury. What do you say to that?

A. You are entitled to your opinion. This is your job. You are prosecuting me, so I am not surprised that you make that charge.

Q. Do you agree or disagree?

A. I totally disagree with you.

Q. All right. I point out to you a book that's not been entered into evidence yet called, "The Hitler We Loved & Why".

MR. CHRISTIE: I object to the introduction of books that are not before the jury at this time. It is something I would like to discuss in the absence of the jury if it is going to arise. {4217|4217}

MR. GRIFFITHS: It is going to arise.

THE COURT: Excuse us, members of the jury.

— The jury retires.

MR. CHRISTIE: Your Honour, the accused is charged with the publication of two books with which we have been dealing for approximately two weeks. Now, the Crown is intending to introduce two books which, from the preliminary hearings, it is alleged to have been published and authored by the accused.

I am not about to launch into the defence of some other publications. If the Crown intended to do so by some allegation of similar fact or other justification for this type of evidence, that they should do so now as late in the defence as the cross-examination of the last witness – because if it was the intention of the Crown to allege some pattern or form of introduction of this form of evidence under the rules of similar fact, it should have been done in the Crown's case and we could have answered it in the preparation and delivery of the defence.

We are now, therefore, confronted with {4217|4218} this, at the eleventh hour having finished all examination-in-chief, and I can tell you this was and is the last witness – I should have indicated that to the Court – but I respectfully suggest that to now involve the accused in the defence of other publications at this hour of the proceedings is entirely unfair to the accused.

I am well aware of what my friend intends to do with regard to this, having read the transcript of the preliminary. It is an attempt to introduce other publications by the accused or allege they are by the accused when, in fact, that is not the issue in the trial at all. And I would respectfully suggest that any cross-examination on collateral matters of publication that are not the issue in the proceedings is entirely unfair to the defence of the accused.

THE COURT: You have an advantage over me, Mr. Christie, because I don't know anything about the book. You say, first of all, it's collateral and you say secondly – or that is secondly. Primarily you say it is similar fact?

MR. CHRISTIE: I am saying there can only be few basis for introducing

things of the accused, {4218|4219} one of which is similar fact allegations which, if that was the Crown's intent, it should have been introduced at the time the Crown was making its case so we can defend against it. It is now impossible to answer any new publications as to their truth, their falsity or the other issues that arise. I think it should really be proper for my friend to indicate the justification of the introduction of this, and then we would be in a better position to respond, because I don't wish to make statements of facts as to my friend's reasons without specific —

THE COURT: Don't worry. I will handle that.

MR. CHRISTIE: But I am well aware, my understanding is that the accused published this book or had something to do with the publication, and it is going to launch us into a whole new sphere of inquiry into other publications which the Crown wanted to allege had to do with crimes or similar facts, they could have done it at any other stage. Then we could have defended against these things, but the Crown has elected by the conduct of this case not to introduce those things, and we were entitled to assume we were not to defend against {4219|4220} other publications.

THE COURT: Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour. First of all, Your Honour, I do not introduce it as a similar fact. If I was going to introduce it as a similar fact I would have done it in my case. My friend has very clearly, in the defence put in by Mr. Zundel's testimony led by my friend over the last two days, he has put (1) Mr. Zundel's reputation for honesty and sincerity in issue, and (2) he has put in issue his true belief in the matters that are contained in Exhibits 1 and 2.

THE COURT: Do you want to change to honest belief?

MR. GRIFFITHS: Honest belief, I beg your pardon, Your Honour. Honest belief.

I suggest and submit to Your Honour that when those things have been put into issue, that I am able to inquire into, through cross-examination of Mr. Zundel, his honest beliefs in these matters.

THE COURT: Your position is that you want to test the honesty of the belief.

MR. GRIFFITHS: Yes, sir, through {4220|4221} other writings of Mr. Zundel.

THE COURT: I ask you now, is the book in question, the one in which is probative of the issue of the honest belief, the contents of them, I mean? If it is, that is one thing; if it is a story about something else entirely irrelevant to the issue the jury must try, I'd like to know that now.

MR. GRIFFITHS: I understand, Your Honour. Mr. Zundel, in his testimony before the jury, indicated how he is a pacifist, he is a peaceable man. He has indicated that he doesn't wish to spread intolerance within the community or disrupt social harmony. He has called his own son to give evidence in that regard.

This book and other writings that I will be alleging Mr. Zundel is involved with do not go to the Holocaust per se. They do go to his motive, I would suggest, for printing this material that is before the Court; and the motive is not as pristine as Mr. Zundel would have us believe. Motive is something that the Crown is entitled to bring out in cross-examination, particularly in circumstances such as this where the good character is put into evidence and where his belief in the pamphlets, Exhibits 1 and 2, {4221|4222} are in evidence and where there is imputed within the confines of the indictment an intention to disrupt or injure the public interest, which he has said he did not have.

THE COURT: All right. What do you say, Mr. Christie?

MR. CHRISTIE: Well, Your Honour, I say that if the Crown wanted to prove some other publication that he was intending to disrupt social and racial harmony, they should have charged him with that. We came here to defend two publications, and now I know what my friend proposes to do. He proposes to drag in a whole bunch of other publications that were not the subject of the inquiry until now. He says that it goes to his honest belief, and he also, then, says it doesn't go to the Holocaust per se. It also, I am sure, in regard to this booklet, I am well aware, does not go to the issue of "The West, War and Islam", either.

MR. GRIFFITHS: Granted.

MR. CHRISTIE: It goes, if anything, to a totally different subject, a totally different publication which my friend will allege is attributable {4222|4223} to my client for no particular reason other than to introduce another publication that I cannot defend against because the case is over. And I suggest that is to introduce some irrelevant piece of possible prejudice at a stage when there can be no probative value to the issue at stake, the truth or falsity of the two publications in issue, and the honesty and the belief in them.

All of a sudden, at the last hour when I can no longer call defence on this collateral issue, I will be opposed by a piece of information which has nothing to do with the issue until now. I certainly think it is an unfair tactic by the Crown to wait until now to bring forward books that, if we had to, we could answer. We could have made them the issue. If the Crown wished to throw them all together, which now I see at the last minute they will do or try to do, then the whole case would have been a vastly different and much longer trial. He chose to take us by surprise at this hour so that we would not have the ability to answer all these other publications. It's a very deliberate choice. I don't think it is an accident. And it's got nothing to do with either "The West, War and Islam" or {4223|4224} the Holocaust per se.

I would hesitate to imagine, I would be frightened to think of how long the trial would have been if I had to defend every publication of Mr. Zundel's in the last fifteen or twenty years; but that's really what we would be obliged to do somehow if we are now confronted with other irrelevant publications.

I can't think of a more unfair tactic than to wait till now to introduce a damning piece of prejudice which we could have answered with a fair defence if we had been confronted with it in the case for the Crown previously.

—— {4224|4225}

#### REASONS FOR RULING

THE COURT: Counsel for the Crown proposes to question this witness by way of cross-examination concerning what I understand to be a publication either published by Mr. Zundel or perhaps written by him. Whether it is one or the other, or both, is not of pivotal importance to this ruling.

The subject matter of the proposed publication does not relate in its subject matter to that of either Exhibits 1 or 2 in this trial. Crown counsel proposes to test, via this publication, the evidence that the accused gave when he was testifying in-chief concerning the honesty of his belief in the essential truth of Exhibits 1 and/or 2.

It is proposed to employ this publication generally to test the honesty, but in addition, Crown counsel has indicated that he proposes to employ the publication, if he is permitted to do so, in order to test the credibility of this witness insofar as that Mr. Zundel has sworn, when he was examined in-chief, *inter alia* that he is a peaceable person seeking community harmony between all members of the community, regardless of their racial or ethnic background, and that his {4225|4226} motives go in that direction. That, I understand, is the issue I must decide.

Wide reasonable latitude should be accorded to any counsel whose duty it is to cross-examine in what is an adversary situation such as this. It seems to me that provided that proper groundwork is laid, Crown counsel may ask those questions.

The honesty of the belief as put forward by the defence has been buttressed or supported by very close to a hundred books and periodicals. Regardless of the fact that the subject matter of the proposed tool of cross-examination does not relate directly to the subject matter of the two periodicals in issue, it nevertheless does relate and is probative of the honesty of the belief.

Insofar as I have described it, and to test the credibility generally speaking of this witness, you may use it.

MR. GRIFFITHS: Thank you, Your Honour. {4226|4227}

MR. CHRISTIE: Excuse me, may ask one clarification? I think this mat-

ter is likely to arise with a number of books. If my friend would list those, then I will not have to object every time it comes up, and then I know where I stand.

THE COURT: Exactly. As you both know, I am all in favour of that.

Would you mind doing that, please?

MR. GRIFFITHS: No, sir. "Our Emblem The Best of Two Worlds", a mailing called, "Achtung Samisdat Truth Squad". There are a number of other files and pamphlets that I may be referring to, Your Honour, in the course of my cross-examination.

THE COURT: If there are, you might be good enough to let Mr. Christie know in due time, although you may not reach those today. You may. It is up to you.

Is there anything further, gentlemen?

MR. CHRISTIE: I don't think so, Your Honour.

THE COURT: Bring back the jury, please. {4227|4228}

THE COURT: I missed the name of this book we are dealing with.

MR. GRIFFITHS: "The Hitler We Loved & Why".

MR. CHRISTIE: Other than that and the book, "Our Emblem", there are no other books to be presented?

MR. GRIFFITHS: If there are, I will let you know.

MR. CHRISTIE: I would like to avoid having to object every time.

MR. GRIFFITHS: That is why I will let you know.

— The jury enters. 3:05 p.m.

THE COURT: Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

Q. Mr. Zundel, I showed to you a book called, "The Hitler We Loved & Why". Do you recognize that?

A. I do.

Q. And it's written by, or the author is given on the front of the cover and inside as Christof Friedrich & Eric Thomson. Do you know either of those two men?

A. I supplied pictures. {4228|4229}

Q. No. Are you either of those two men?

A. I have written a number of books under Christof Friedrich.

Q. So Christof Friedrich, in this book, is you. Right?

A. I supplied photographs from my archives.

Q. We will come to that. Christof Friedrich in this book is you. Is that right?

A. That's right.

Q. What role did you play in the writing, your production of this book?

A. I supplied photographs of the Second World War era and the pre-Second World War era to the book.

Q. All right. And were you involved in writing any of the copy with those photographs?

A. I did not. I had the idea of a book explaining why the Germans voted for Hitler. A publisher in the United States, as is frequently the case, liked the idea. I had not the money nor had I found out the market to put a book of this type out, and so he said that he would like to produce a book like that. And he used his own staff writer to write the book. What he got from me was photographs, as you can see, inside here, from my own archives, some of whom he supplied, some of whom I supplied.

Q. How many of those photographs did you supply?

A. I can't really recall. {4229|4230}

Q. Was it most of them, or some of them?

A. A fair number.

Q. And who was the publisher?

A. White Power publications, — who it's a corporation in the United States. He apparently runs three or four publication houses, and this one is called White Power Publications.

Q. And is it run by a man by the name of Dietz (ph) ?

A. Yes.

Q. And Dietz is a friend of yours?

A. Acquaintances.

Q. And he puts out other publications as well as this one?

A. He puts out a magazine called, "Liberty Bell".

Q. And he put out other publications under "Liberty Bell"?

A. No. Mr. Dietz, free of charge, advertises some of my books in there.

Q. Why would they be free of charge?

A. In circles like mine, Samisdat means self-published by the underground. People often want to do you a favour, whether you ask them or not, and they include your name and address and they advertise free of charge for you. It is supposed to be their form of giving you a boost in sales or a boost in audience, or in lieu of donation.

Q. In lieu of a donation to what? Mr. Dietz, was he asking you for a donation? {4230|4231}

A. No. He thought he was doing me a kind turn by advertising some books for me.

Q. I see. Well, you had an opportunity to look this book over?

A. That's right.

Q. And do you agree with its contents?

A. I don't see much wrong with the content, no. There's a couple of posters in there which they inserted done in the United States which are of a nature totally typical to the United States, certainly not to Germany in the nineteen thirties; but outside of that, much of the contents to do with the Third Reich, there is not much wrong with it. The writer chose the style of "we", making himself as part of the Third Reich. Well, he is an American, and he never set foot in Germany, apparently, during the era of the Third Reich. It is just a method of writing it.

Q. All right. Page 21, there is a photograph. Is that a photograph that you supplied?

A. Yes.

Q. All right. And do you agree with the copy that's written underneath that photograph?

A. It's in a rhetorical style, but the true content is there, yes. It's truthful.

Q. That is a picture of some men in fedoras and suits with a machine gun; is that right?

A. That's right.

Q. It says, "Street-fighting, civil war ...":  
*"Disorder: Jew-dominated communists barricade the streets and machine[ ]gun {4231|4232} law-abiding citizens. The Jews tried to conquer Germany with their Red Terror and civil war, just as they had done so successfully in Russia."*

Is that right?

A. That's right.

Q. And this photograph that you took or that you had in your archives, do you know where that's from?

A. It came from a publication in the 1920s when Germany was experiencing a series of Jewish dominated controlled revolutions in Germany, in Bavaria, one especially by the Jewish Bolshevik by the name of Kurt Eisner (ph) who murdered a number of aristocrats and other people. There were others like Rosa Luxemburg, and they were certainly known as Jews, and the literature of the day refers to them as such, and they were Jewish terrorists, yes.

Q. All right.

A. So historically it is accurate. By the way, he also declared war on Switzerland.

Q. Who declared war on Switzerland?

A. Kurt Eisner.

Q. Do you have a picture of that, too?

A. Maybe not in this book, but I certainly have in my files.

Q. Page 32, there is a photograph. Is that a photograph you supplied?

A. I can't recall, but I could very well. It looks like a newspaper clipping from the 1930s era. {4232|4233}

Q. And you agree with the copy provided there?

A. It's like the rest of the book, I think tailored for an American audience, a specific audience that this man's deeds appeal to.

Q. Sir, the question is, do you agree with the copy?

A. I would not have written it that way, Mr. Griffiths.

Q. All right. But do you agree with it?

A. I am not a literary judge. I think it is, as I said to you, that man's style and that is what he wrote.

Q. I am not talking about the style. I am not asking for literary analysis. Do you agree with the content contained on page 32 describing what is

in that photograph?

A. No, I don't, really.

Q. All right. Do you agree with me that this book is classified as a hymn of praise to Hitler and to Hitler's Germany?

A. I think a hymn of praise is certainly your choice of words. It is a book trying to give a different viewpoint of Hitler's Germany.

Q. Is there anything critical?

A. Is there anything critical in there? I doubt it very much.

Q. You doubt it very much. Okay. Page 42, is that a picture you supplied?

A. No. That's a picture that again, {4233|4234} "The Face of The Enemy", it shows Jacob Rothschild supplying an award to Martin Luther King.

Q. And it is under the captioned heading, "Face of The Enemy", Jacob Rothschild and Martin Luther King.

A. That's right.

Q. What would you receive in royalties for this book? How much money would you get from this book?

A. For this book?

Q. How much does this book sell for? Does it say here?

A. No, it doesn't say here. I received no payment for the book.

Q. Five dollars it says here. How much did you get for the book?

A. Mr. Dietz agreed to print one of my flying saucers books in the United States, one of my editions of my flying saucers books, and he agreed to it if I supplied photographs for him.

Q. So you got money indirectly?

A. Well, I received some money because he said he would give me a good deal by publishing the flying saucer book.

MR. GRIFFITHS: May that be an exhibit?

MR. CHRISTIE: I don't think it should be an exhibit. He has answered questions on it. He identified what he had to do with it. I don't see why it should be an exhibit against him.

THE COURT: I will mark it as a {4234|4235} lettered exhibit. I will hear argument on it later.

— EXHIBIT "Z" (For Identification): Book, "The Hitler We Loved & Why", by Christof Friedrich & Eric Thomson.

MR. GRIFFITHS: Do you remember when this was published, what year?

A. Inside it says 1977.

Q. Does that seem right to you?

A. '76, '77. Could be another edition. I don't know.

Q. It says, "Copyright 1977 by White Power Publications".

A. Yes.

Q. And were you involved on the editorial board of any of Mr. Dietz' publications in that time?

A. This has caused me some embarrassment. Without asking me, he made me either an associate editor or contributing editor to one of his publications.

Q. Which one?

A. I am not quite sure if it's the White Power Report or Liberty Bell.

Q. You have to speak up, Mr. Zundel. White power Report or Liberty Bell?

A. Yes. White Power Report or Liberty Bell. I am not sure which one. I asked him when it came out immediately to take me off and to, in future, please not use my name without asking me.

Q. All right. Wasn't White Power {4235|4236} Report, hadn't you contributed some material to White Power Report?

A. Under the name Christof Friedrich appeared one article in there, I believe, one of the things you mentioned before, "Our Emblem" or "The Best of Two Worlds".

Q. Had you written anything else aside from — I'm sorry, you say "Our Emblem" or "The Best of Two Worlds" appeared in White Power Report?

A. Either that — in one of two publications. I publish a lot of stuff, Mr. Griffiths. I am not trying to evade your question, but I am a little hazy on it. It was somewhere in 1976 or '77.

Q. That is the time you were on the editorial board?

A. That is when he put me on without asking me, and you will note if we have subsequent publications, that it was not for very long because I asked him to take me off.

MR. GRIFFITHS: I believe, Your Honour, that Mr. Christie and I have something, I'm sorry, once again, that will have to be discussed in the absence of the jury.

THE COURT: Coffee will be quickly ordered, members of the jury.

— The jury retires. 3:20 p.m.

THE COURT: How long will it take, gentlemen?

MR. GRIFFITHS: I don't know, Your Honour. {4236|4237}

Mr. Christie indicated to me that he wanted an opportunity, I don't know whether it was to object ...

MR. CHRISTIE: Well, all I said — I want to know what he is going to be putting forward, and before he does —

THE COURT: That's fair enough.

MR. GRIFFITHS: Well, I've indicated.

MR. CHRISTIE: There is a whole file folder, and if he intends to put the whole thing to the witness, I have certain things to say. If there is something particular, then I'd like to know what it is he intends to put forward.

I am given three pieces of paper, for the record, now four.

MR. GRIFFITHS: And the booklet that I think is still in your possession.

MR. CHRISTIE: I have absolutely nothing in this regard other than the four pieces of paper, and one is called, "Achtung", the other is "Re-treat", and something typed out which says, "This is sent to an unsolicited address free of charge, Bonn Police State". Now, I have never seen this before. I {4237|4238} have no idea. And consequently I would need a little time to look at this.

THE COURT: How much time do you need?

MR. CHRISTIE: I have now been given number five, "White Power Publications", "The Best of Two Worlds". I would like twenty minutes to look after these things.

THE COURT: Certainly. Twenty minutes.

— The witness stands down.

— Short adjournment.

— Upon resuming.

— The witness returns to the stand.

MR. CHRISTIE: I have had the opportunity from my friend to see some of the things, being things that I indicated that he intends to cross-examine on. I have asked his permission and obtained it to speak to my client while he is under cross-examination in order to ascertain if those things were admitted by him as a publication, etcetera. I have {4238|4239} been informed that this same series of exhibits was put to him at the Postal Hearing Inquiry in Ottawa at the very period of time when I was not entitled to cross-examine or lead evidence about because it was after 1981, that being 1982.

That, I think, has some bearing on what my position is, because it involves questioning about things that were put to him at a time when I was not entitled to lead evidence, and I was told then that the state of mind, the activities of his learning at that stage was irrelevant to the charge. However, if Your Honour views the ruling you had earlier as applicable to that, then my remarks are just put there for the record; but I do think that it's a situation where my friend should not be examining on a period of time or cross-examine on a period of time that I was not allowed to examine on or lead evidence about.

In addition, it's my understanding that some of these items have already been denied once by my client under oath, and so I don't understand why the Crown is putting them to him again, with respect, in particular to the alleged booklet, "White Power {4239|4240} Publications" and "The Best of Two Worlds". My understanding is, from my instructions, is that they were denied already by my client under oath, and it is as if one keeps on putting something to him when he is well aware that he denied it. That process has some error in it involving the suggestion that the Crown could put to a person —

THE COURT: Well, what you really mean I think, is that that submission has some merit to it. I think it may. I will ask Mr. Griffiths about that

in a moment.

MR. CHRISTIE: All right. What I mean to say is, as if to put to a witness something that he has already publicly denied under oath at another time, in front of this jury, obviously with prejudicial implications, even if he repeats his denial, I think that that's about the state of affairs respecting that brochure.

The other thing, the only problem that I can see which strikes me as a somewhat serious problem, is that they rose, to my instructions, in 1982, and they have been dealt with once before a tribunal. Now they are coming forward again. {4240|4241}

THE COURT: Yes. What about the White Power matter, Mr. Griffiths?

MR. GRIFFITHS: I am prepared to voir dire that, Your Honour.

THE COURT: Do you want to do it today, or would you just as soon do it some other time?

MR. GRIFFITHS: I will do it whenever, Your Honour, at the convenience of Your Honour and the jury.

THE COURT: All right. Swear the witness on the voir dire.

—  
ERNST ZÜNDEL, sworn on voir dire

CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Mr. Zündel, I am showing to you a pamphlet called, "Our Emblem The Best of Two Worlds". Do you recognize that?

A. I do.

Q. Who is the author of that pamphlet?

A. I am not.

Q. Who is the author of that pamphlet, Mr. Zündel?

A. A staff writer for George Letz (ph) {4241|4242} Publication.

Q. What role, if any, did you play in the writing of that article?

A. I did not play any role in the writing of it.

Q. What role, if any, did you play in the publication of the article that is written?

A. The staff writer called me for some background information, because there was a postal strike in Canada at that time and so the only matter that he could get in touch with me was by telephone.

Q. What is the name of the staff writer?

A. Eric Campbell.

Q. Eric Campbell?

A. That's right.

Q. Were you on the editorial board of the publication at the time this was written, January '77?

A. It doesn't say here, no. This is not a publication, Mr. Griffiths. It's just —

Q. Were you on the editorial board of White Power Publications

A. For a brief period of two or three months, I believe, but that's about it. I am not quite sure whether that was the time on it.

Q. Were you on the editorial board when this publication was written?

A. I don't recall.

Q. Whose name is attributed to that article? {4242|4243}

A. Christof Friedrich.

Q. That's your name, the name that you write under?

A. It is one of the names that I write under, yes.

Q. And have you taken any legal action as a result of somebody using the name you write under and putting it to an article?

A. I have never taken legal action against anybody, Mr. Griffiths, and in all the years that I have been hounded around, I never have, not against Madam Citron or anybody else.

Q. Page 6, it says:

*"[I]f we were a commercial outfit — patriots for profit — we would ... to the fringe and have no trouble obtaining handouts from racial enemies. We have been accused of running our printing plant for the Jews the Communists and the United States Government, even a UFO base located in Antar[c]tica."*

A. That's right.

Q. Are there any other people writing about UFO bases in Antarctica beside you?

A. Lots of people writing about that. And Mr. Dietz published that, I told

you.

Q. He published that. No question about him publishing. The question now is the authorship of that article {4243|4244}

A. Well, I have told you, and that is the answer. I didn't write it.

MR. GRIFFITHS: Thank you. No further questions, Your Honour.

THE COURT: Mr. Christie?

MR. CHRISTIE: I have no questions.

MR. GRIFFITHS: I won't submit it, Your Honour.

THE COURT: Thank you. Are there any other problems, gentlemen?

MR. CHRISTIE: Well, since we are in the process, I would certainly object to this book, "The Hitler We Loved & Why", going to the jury.

THE COURT: I don't want to hear about that now.

MR. GRIFFITHS: No. I will carry on.

THE COURT: Bring back the jury.

— The jury returns. 3:50 p.m.

#### CONTINUED CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. I am putting to you six pages {4244|4245} stapled together. The first page says, "Achtung: Samisdat Truth Squad". Can you identify that material that passed to you?

A. Yes, this comes from me.

Q. All right. And all six pages come from you?

A. I think so, yes.

THE COURT: I'm sorry?

THE WITNESS: I think so.

THE COURT: Thank you.

THE WITNESS: They are poor photocopies, but I think so.

Q. MR. GRIFFITHS: Poor photocopies.

All right. The first page, "Achtung: Samisdat Truth Squad Ernst Zundel, 200 Carlton St., Toronto, Ont."

A. That's right, sir.

Q. And there's a couple of paragraphs there signed "Ernst Christof Friedrich Zundel".

A. That's right.

Q. And it deals with a tour of yours in North America, and Udo Walendy, I presume to speak on issues about the Holocaust; is that right?

A. I made a number of tours. I wanted to quickly check if his name appears here. No, I don't think it was with Udo Walendy.

Q. It was a tour to speak on that subject.

A. Yes.

Q. All right. Second page, back of the first page, "Combat Belt Buckle".

A. Right. {4245|4246}

Q. All right. That's by you. Just hold it up so the jury can see it. Now, is that something you sell or sold at that time?

A. Yes. That's a trade mark. This is for the letter "z" for "Zundel".

Q. It is very much like the "SS" sign, isn't it? —

A. Well, it's the other way around, but it's a lightening flash. That is a belt buckle that I have designed, yes.

Q. Why would a pacifist like you sell a combat belt buckle, Mr. Zundel?

A. Well, for the same reason that Rabbi Julius Rosenthal would write a foreword to a book called, "Adolf Hitler". Same thing.

Q. I don't understand the connection, sir.

A. Well, it's very simple. I have to raise money somehow, and this was strictly a method of raising money.

Q. Okay.

A. Except I used my own design, a thing which was produced by my firm, whereas here someone is enriching himself by using Adolf Hitler, and he is a Rabbi to boot.

Q. "We are planning to produce a limited quantity of this beautifully-crafted, black, white and red enamelled belt buckle. For the purpose of economy, we must submit a minimum order of 200 buckles. The projected cost of these {4246|4247} buckles will be \$15, including postage and handling. Please let us know how many you would like for yourself and your friends. Not only will they make excellent gifts, but they will

serve to let others know that you support Aryan Man in his struggle for Truth, Freedom and Justice! Please indicate interest only. Send no Money!"

What is "Aryan Man"?

A. In the thirties all white people were known as Aryans. It's a term which is no longer used these days, but all white people are Aryans.

Q. Why would you use that term?

A. It was going to an audience of people who used this term.

Q. "Let others know that you support White Man in his struggle for truth, freedom and justice." Is that how we should read that, then?

A. Yeah.

Q. Are you a racist?

A. I am not a racist because I identify my own race as white. You could ask me am I colour-blind. It is ridiculous. Of course I am white.

Q. You sell — there is also some tapes here, cassette programmes that you are advertising for sale.

A. Yes, I do.

Q. No. 41, "Samisdat Media Tactics I."

"Ernst Zundel show us how he introduces {4247|4248} forbidden and censored subjects on the airwaves. Listen how he gets in to win with the entering wedge of a 'far-out' topic (UFOs) and proceeds to drive home facts about Allied war crimes, the myth of the 'six million', Canadian concentration camps, communist infiltration, racial and Jewish problems; all subjects known to very few North Americans. This fantastic presentation was broadcast for two hours on a live, uncensored, coast-to-coast talkshow."

Have I read that right?

A. Very well.

Q. What are "racial and Jewish problems"?

A. Exactly what it says. There are race problems and there are Jewish problems.

Q. Well, what is censored or forbidden about getting into talk about racial and Jewish problems?

A. Well, now, let's see. We should ask Brian Nelson of CTV.

Q. No. I am asking you.

A. Okay. Brian Nelson was fired from CTV for touching on what is known as a Jewish problem. He called Israel a Zionist entity in the State of Kuwait, got back to Toronto, and lost his job, was kicked out of CTV. That is a Jewish problem for {4248|4249} Brian Nelson.

Q. What's the Jewish problem for you?

A. The Holocaust legend.

Q. I see. All right.

A. And the vilification of the German people.

Q. What's a race problem for you?

A. Well, it's spelled in a small "r", whereas Jewish is spelt with a capital "J". So it is in the same line as "communist infiltration, racial and Jewish problems[ ]". That was 1976. In '77 there must have been some race problem as a public topic. I don't remember directly today what it was referring to. But I could listen to the tape again.

Q. These are all subjects known to very few North Americans, so it wasn't a public topic you were getting to there.

A. Well, it was a broadcast video show. It had a fair-sized audience of a thousand people. So it is not secret. It is public to me. And you want to hear about the flying saucer thing?

Q. Certainly.

A. I have used my flying saucer books as a wedge to talk about the Holocaust, yes, because certain self-appointed censors have managed, in North America, and especially in this city, to keep the topic of discussing the Holocaust from another viewpoint off the airwaves. And I must say that it has worked quite well.

Q. So that's a hook that you use. you might sell a book on UFOs and then get them to come {3767|3768} {4249|4250} back and buy some more. What kind of material would you sell them, then?

A. Material on the Holocaust.

Q. I see.

A. And it's not a hook. You could call it a wedge.

Q. A wedge. All right. German tape No. 43 called, "The German Holo-



caust”:

*“In the midst of Samisdat/Kampfgruppe Zundel’s campaign of press interviews, ...”*

I am going to stop for a minute. What does “Kampfgruppe” mean? It is a German word, isn’t it?

A. It means “action group”. We are activists. We don’t sit behind writing desks only or microphones. We go out and proselytize our viewpoint by handing pamphlets to people and going on stations, if necessary.

Doesn’t it also mean “battle”, “battle group”?

If you are talking about war, then it is battle. If you are talking about intellectual pursuits, then it is called action.

So when Hitler wrote “Mein Kampf”, he was talking about “My Action”, or was he talking about “My Battle”?

No. He was talking about his struggle. His struggle, Mr. Griffiths.

Q. His struggle.

A. The literal translation of “Mein {4250|4251} Kampf” is not “My Battle”, but “My Struggle”.

Q. So this is a struggle group?

A. Yeah. We certainly are struggling, you can say that, just like I am struggling in this courtroom.

Q. And since we started reading that, we should probably finish. “The German Holocaust”:

*“In the midst of Samisdat/Kampfgruppe Zundel’s campaign of press interviews, mass-mailings and marches against the Zionist Holocaust Hoaxers, police authorities advised us to record incoming telephone calls as evidence in possible criminal proceedings. While these calls are not outright hate calls like those recorded in #40, ...”*

That is another cassette you sell. Right?

A. Mm-hmmm.

Q. *“... they are important because they reveal to the uninformed or misinformed German that World War II propaganda shown no signs of diminishing and that overseas Germans suffer the effects of this Zionist brainwashing campaign. Zionists are teaching Germany to love the entire world, while at the same time they teach the entire world to hate Germany! Listen to beaten and {4251|4252} brainwashed Germans who hate themselves and to Jews who love this postwar, self-hating Germany.”*

What do you say?

A. And what do you find wrong with that?

Q. No. In fairness to you, we should read the whole thing.

A. Oh, I agree with that.

Q. You agree with that?

A. I sure do.

Q. Okay. No. 48, tape in German, “My Plans”:

*“Ernst Zundel, leader of Samisdat/Kampfgruppe Zundel discusses his worldview and battle plans for the achievement of our glorious future.”*

Whose future is that you are talking about, Mr. Zundel?

A. The entire German people, if you wish.

Q. The German.

A. Yeah.

Q. *“His detailed blueprints for action are based upon his own living monument to Aryan tenacity and strength of will – his twenty trying years of experience in the political arena. The programme concludes with his stirring appeal to global action, the only cure for the global evil of {4252|4253} Zionism, the only salvation from Zionist enslavement. Hear this universal declaration of independence from today’s corrupt and life destroying system.”*

Have I got that right?

A. You sure did.

Q. And what kind of actions are you talking about in your battle?

A. Well, let me see.

Q. For Aryan Man.

A. Before we were talking about action and what I called for was marches. Right? And naturally, that’s exactly what I am preparing, is political action, because in my twenty-five years in this country I have never been in trouble with any laws save s.177 of the Criminal Code, s.281.1 in Ottawa, which I won, and therefore, since this thing is from

1977, I have not heard any reports of civil unrest, uprisings, shoot-outs or anything else like this. I have been known and I still am known as a writer, a thinker and a political activist, a human rights activist, it turns out to be now.

Q. Are you on track now for your global plan.

A. It’s part of it.

Q. There is a tape in English. I can’t make out the number. It looks like it would be about No. 50, in English, “A Plan for Aryan Man”:

*“Ernst Zundel, leader of Samisdat/Kampfgruppe Zundel gives us the benefit {4253|4254} of our news media, of his 20 years of frontline political experience in a globe-girdling State of the Race ...”*

State of the Union?

A. Yes.

Q. “... State of the Race Message.”

What race?

A. The white race.

Q. Are we in good shape?

A. No.

Q. Because of the Jews?

A. Because of Zionist manipulation yes, and infiltration of our society by secret societies.

Q. Anything else?

A. I think for the beginning that will do.

Q. What about black people?

A. They don’t bother me at all.

Q. All right.

*“How is Aryan Man faring on Planet Earth? What are his prospects for the future?”*

I guess a Zionist couldn’t be an Aryan man.

A. As a matter of fact, many of them are, according to Arthur Kressler (ph) [Koestler], eighteen per cent are Semites, and many of them are Khazars, and Khazars are from the central area of Russia and they are Aryans.

Q. So this is your plan for White Man including Jews? {4254|4255}

A. Those who want to identify with us, yes.

Q. Who is “us”?

A. Aryans, whites.

Q. Well, you said they are, and they were; why would they have to identify if they are and were?

A. Don’t put words in my mouth.

Q. You said eighteen per cent were white.

A. I said racially speaking they were, but I have no idea whether they want to identify with us or somebody else.

Q. I didn’t know they weren’t white already.

A. Well, then, maybe you have to study up on it.

Q. You are telling us that they’re not white. Jewish people are not white.

A. I am saying that Arthur Kessler said —

Q. I am not asking for Arthur Kessler. I am asking for you. You are the one who made this tape about Aryan men.

A. Well, everybody’s information is based on something. Mine happened to have been based on something that Arthur Kessler [Koestler] found, who was a prominent Jew.

Q. Yes.

A. And he said in his book, “The Thirteenth Tribe”, that many of the Jewish people are {4255|4256} not Semites. Therefore, for instance, they have no right to the State of Israel.

Q. All right. So that’s Arthur Kessler’s [Koestler’s] view.

A. Which I share.

Q. You share that.

A. That’s right.

Q. All right. And are the ones that you say that eighty-two per cent of Jewish people are not Semites – and by “Semite” I take it you mean descended from Arab peoples

A. That’s about right, yes.

Q. Have I got that right?

A. Pretty close.

Q. Okay. Eighty-two per cent are not black; eighty-two per cent are not white.

A. Arabs —

Q. How many? How many? What is the percentage of non-white Jews, then, according to your estimate? You make a distinction, and I am not sure I understand.

A. Well, if you want to know how many black Jews there are in Israel, they have quite a number. I have been to Israel, and I have seen the problems between Ashkenazi [Ashkenazi] Jews and Safarti [Sephardi] Jews, and I have all kinds of articles about the race problems in Israel and the non-acceptance of dark-skinned Jews by white-skinned Jews.

Q. Are white-skinned Jews white people, or black people?

A. Well, basically that is their {4256|4257} choice. I don't know. I don't know every Jew in the world, you know. Israel seems to identify for the moment with American interests, so I don't know. That's an indication. It doesn't indicate that they are associating with Red China, for instance, or with black Africa.

Q. Does Aryan man have anything to do with northern European, christian, white people?

A. Not northern European.

Q. Well, how would Hitler define an Aryan man?

A. He was talking about Germanics. The Aryan race includes even Brahmin Indians'

Q. Is that the definition you adopt, or is there some different definition?

A. Well, if you look into some books on genetics and race, you will see the term used. These days it has evolved, like many other terms, but generally speaking Aryans were what we used to, or what we sometimes called Caucasians of Caucasian race.

Q. Is that how you use the term, or do you have some other definition for the term?

A. No. There are Swedish, Bulgarians, Russians, Belgians, Maltese ...

Q. Slavs ...

A. Certainly in — Germanic. Sometimes even beyond.

Q. That is your definition, then of Aryan.

A. Yes.

Q. So would only Jews who identify {4257|4258} themselves as Aryans can be Aryans? They have to decide whether they are or not. Is that what I understand?

A. Well, those eighty-two per cent of the Jewish population who are Ashkenazi and made up of the old Kasar [Khazar] empire, Kasarians, [Khazarians] yeah, they have to make the choice sooner or later, and some of them have done it in the Soviet Union. They have dropped being Jewish and they have integrated into Soviet society as Russians. The census show that.

Q. So if they dropped being Jewish, then they can be a member of Aryan men?

A. Yeah. Sure.

Q. And if they want to continue being Jewish, then they are not Aryan men and they are not white people.

A. They might look like white people.

Q. But inside in their heart they are not.

A. It's a cultural affinity. It's their choice. Some Germans, they go to India and become Indians. I know one person, he came from Japan, came from Germany, he had such an affinity for the Japanese, met a Japanese girl, married her. That is his affinity, you see.

Q. It goes on, then:

*"How is Aryan Man faring on planet Earth? What are his prospects for the future. If he does not wish to become enslaved nor extinct, what can he do? Ernst Zundel points unerringly ..."* {4258|4259}

Is that fair?

A. Yes.

Q. *"... points unerringly to the bright sunrise of Aryan victory and shows us what we can do — right now to make certain our Final Victory."*

Is that right?

A. You read it correctly.

Q. Okay. What can we do right now to make certain of our final victory, Mr. Zundel?

A. To free us from the shackles of lies and brainwashing and mind manipulation. So that we once again begin to think like ourselves.

Q. "Ourselves" being Aryan?

A. If that's what you want to harp away at, yes.

Q. And can we say non-Aryans are the ones that are enslaving us?

A. No. We are allowing ourselves to be enslaved.

Q. By whom?

A. By those who would dominate the news, manipulate the news, some of them Aryans, some of them Zionists, some of them communists.

Q. This is a message to Aryan men. Right?

A. Right.

Q. And calls for an Aryan victory. So I assume that somebody other than Aryans that are enslaving us.

A. Not necessarily so at all. {4259|4260}

Q. Oh?

A. In the Soviet Union, in Poland, for instance, and in West Germany today the government is made of of Aryans, and they are holding their people subjugated. They are hounding them, jailing them, sending them to the Gulag in the Soviet Union for writing unofficial history, questioning sacred cows. It has always been a hallmark of dictatorship to usually use people of their own kind, because if non-native dictators are imposed — dictatorship lasts a very long time, Mr. Griffiths, the best dictatorship is best if you are run by your own kind, or the worst, whatever way you want to look at it.

Q. So how are we going to have an Aryan Victory? We are going to have a civil war among ourselves?

A. No, you don't need civil wars. You need the truth. It is like this. You are in a large room, a number of people, all minding their own business, not realizing that among them there is a pickpocket on the loose. Now, that pickpocket is a danger to each person in that room. Until such time that the light of publicity, in this case the light of the law, maybe, points at him and follows him throughout the room — nobody has to touch the man, nobody has to beat the man, nobody has to arrest the man. All you have to do is expose the man. And with publicity, that's exactly what you can do.

These people who are lying about the Holocaust are only a problem until such time that their racket has been exposed through truth. {4260|4261}

Q. All right. So Dr. Vrba, Mr. Urnstein, Henry Leader, Arnold Friedman, Ignaz Fulop, those are all the people that are lying and that you are exposing; is that right?

A. No. What we are doing is, thanks to this trial that I'm on, they have to come here in this witness box, and these twelve people are looking at them for the first time because these people have never met them, most likely, and it is due to these twelve people, they will make a decision whether they think Dr. Vrba, with his fantastic recollection, was telling the truth or was telling half-truths, or lies. And the same with the other witnesses.

Q. And the other witnesses? Well, what do you say?

A. I'm not the jury. I'm the accused.

Q. No, I am asking you, Mr. Zundel. What do you say?

A. Okay. I will answer you that since you have asked me, and obviously gave me the permission to answer it.

I think Dr. Vrba's stories are an insult to this court. I really do. For a man to say, bandying around his doctorate, insisting that he be called a Doctor, and then to say that he counted by the rattle of his barrack how many people were taken to the gas chamber, and that he did that for two years in a row and comes up with this sum total of 150,000 gassed Jews in Auschwitz from France in two years when Klarsfelt, Serge Klarsfelt, a man very much alive {4261|4262} poring over all the train manifests in France that he has available, brings the sum total of Jews deported in Germany during the entire war to 76,000, and you are asking me if I think Dr. Vrba is telling the truth?

Q. Okay. That's Dr. Vrba. What about Urnstein, Leader, Arnold Friedman, Chester Tomaszewski?

MR. CHRISTIE: Can we have one question at a time?

THE WITNESS: We will take Mr. Friedman. Mr. Friedman was testify-

ing in the preliminary, and I assume that a preliminary hearing is meant to be held —

Q. MR. GRIFFITHS: I will stop you, Mr. Zundel.

MR. CHRISTIE: What's the problem?

THE WITNESS: You asked me to answer for Mr. Friedman.

Q. MR. GRIFFITHS: Mr. Friedman's testimony in this court.

A. Oh, Mr. Friedman's testimony in this court not in the preliminary.

Q. No. The jury hasn't heard the preliminary. Right here,

A. Okay. Sorry. When Mr. Friedman says that he saw flames shooting out of the chimney of the crematorium — he has changed his testimony from the preliminary to this one, so we will address ourselves to this one. I think it is twelve or fourteen feet. If one then studies the plans of the crematories in the place where he said he was and you say that they have {4262|4263} ten meters or eight meter-long smoke and flame channels that go flat into a chimney, and then there is a seven meter tall chimney, and still, out of this length of pipe and chimney there are fourteen-foot flames shooting out, I think we are dealing with a man with a vivid imagination at best. I mean, in all fairness to him. Also he smelt the smell of burning flesh in that camp. Now, we have a book here in evidence by two British authors that deal extensively with what happens when a human body is cremated. Since the 1870s, Mr. Griffiths, there is no smell associated with the burning of human flesh.

Now, what was Mr. Friedman doing to these people here? Was he trying to deceive them?

Q. Well, my question is what you think he was doing.

A. I want to give him the benefit of the doubt.

Q. Just tell us what you think, Mr. Zundel.

A. I think he was retelling standard Holocaust stories which he might unwittingly, in the last thirty-five, forty years, have made his own in some form of group hallucination or mass hallucination. So that is Mr. Friedman.

Now, Mr. Urnstein, he told a good tale, was interesting, but he certainly didn't convince me. Now, there was who, Mr. Tomaszewski? Mr. Tomaszewski, I felt the sadness for him because I had the impression that here was a man who really had suffered.

Q. The others hadn't.

A. He convinced me more than the others. {4263|4264} Okay? You are asking me for my opinion. I am giving it to you.

Q. That is what I am asking.

A. I was a little surprised about his diet of horse manure and boots at lunch, you know, because I quickly calculated, if in the camp of Gussen [Gusen] there were six thousand people — there were many more in the total complex, but that would mean six thousand boots a day, if they had a daily ration of boiled boots. I think that this is pretty far-fetched. Also the number of Jews who were admitted to Gussen [sic] was considerably less than Mr. Tomaszewski said. Also the number of deaths in the camp of Gussen [sic], where he was, only in 1945 amounted to some 209 per day. Whereas in the first years that he described that he was there, — there were very, very, very much lower figures, Mr. Griffiths. So therefore his story was like all the stories told by people who have suffered, embellished.

Q. Group hallucination, group fantasy?

A. There are articles written in scientific magazines about such things as group hallucinations, yes.

Q. Oh, is that what you think?

A. I think it is perfectly possible. Otherwise, why would we get such far-fetched testimony out of so many people? Because in the Frank Walus case, for instance, we had people —

Q. No, I am not asking you about that.

MR. CHRISTIE: I would like the witness to be allowed to answer the question.

MR. GRIFFITHS: I am not asking about {4264|4265} the Frank Walus case. That is not the question.

MR. CHRISTIE: Well, I would respectfully suggest he is answering the question. It is for Your Honour to say, but —

THE COURT: Yes. I will just say that you can cover that if you wish, Mr. Christie, in re-examination.

THE WITNESS: Is there anything else now?

Q. MR. GRIFFITHS: Yes, there is. There is an advertisement in there for a book called, "The Hitler We Loved & Why".

A. That's right.

Q. And there is some copy accompanying there. Is that your copy, I assume? It is your mailout.

A. Yes, it is my copy.

Q. Could you read that, please?

A. Okay. I will get my glasses.

Q. If it will help, I will read and you can follow.

A. Okay.

Q. "The Hitler We Loved & Why":

*"Here it is: Hitler as the Germans saw him! As a nation, Germans were the best-educated people in the world. They followed Hitler to the end, through good times and bad, not for what he did to them, but for what he did for them. Were the Germans dupes when they fought for Hitler, or were we dupes when {4265|4266} we fought against him? This photo documentary tells the true and surprising story of Germany's Hitler. 225 rare and beautiful photos, 35 concentration camp documents, 2 drawings, adoption requirements for prospective parents, sterilization procedures, etc. 120 information-filled pages show how the Third Reich was really run! \$4.95 + 75 ¢ postage & handling."*

So you did make some money on this book.

A. That is assuming that there is profit in the \$4.95 book.

Q. Well, you sold some of the books.

A. Okay. Good. So what would you like to discuss on that, Mr. Griffiths?

Q. I would like to discuss how you adopt the book in total. You don't say this is me writing the copy. You adopt it.

A. No. It's one of many books. Look, you have just skipped over, for instance, this book, "Achtung! Waffen SS". We sell all different books.

Q. Not all have your name on them, though.

A. We have already covered that ground.

Q. Right. And this book with your name on it, you describe as information-filled pages show[ing] how the Third Reich was really run.

A. But that is what the book is, in essence, with the exception of some of the things {4266|4267} pointed out, I think, in the absence of the jury, if I am not mistaken, some of the posters included in this.

Q. Go ahead.

A. I hardly think a poster dealing with Martin Luther King has to do with the Third Reich. This is the difficulty that we are facing with this book.

Q. All right. Do you agree with the first page?

A. Oh, well, we are going to go through this page by page.

Q. We sure are. Yes./ A. The writer sums up the prevailing opinion of the people at the time when Hitler was in power. He was repeatedly, in plebiscite, selected again and again. First he was democratically elected in 1933 after, for thirteen years for office laying bare his platform. Then, when he was first elected, he was re-affirmed in power. First, I think, in four or five plebiscites usually with percentages somewhere in the neighbourhood of ninety-seven, ninety-eight per cent.

Q. The kind of plebiscite you get in Communist Russia. I mean, those weren't democratic plebiscites, were they, Mr. Zundel?

A. Yes, they were, in a way.

Q. You can vote for one person?

A. Well, it is the nature of a plebiscite like a multiple choice questionnaire. You have a choice. You could spoil your ballot or you could vote against Hitler's party, or — that's right. These things were then taken into account and remedial steps were taken {4267|4268} into areas where these National Socialists were encountering a lot of spoiled ballots. So that is the way Germans did things at the time.

Q. So you agree with the first page.

A. In essence, what Thomson has written there would reflect what was the conception at the time, yes.

Q. And you believe that.

A. Yeah.

Q. "At no time in recorded history has a leader, a wielder of power in human terms, not a popular figure-head or celebrity, had such a close-

ness to his followers, his entire people, as did Adolf Hitler. It can only be called a love relationship.

*What, other than love, can explain the German people's glad welcome of this humble, but thoroughly dedicated savior from the Eastern Marches? What, other than love, can explain how the people of Greater Germany remained with him in bad times and good, for better or for worse? What, other than love, can explain the fact that those who remember him love him still?*

*We loved him because he stood for the best that was in us, and as Our {4268|4269} Leader, demanded of us our best.*

*It was never Hitler's Germany. It shall always be: Germany's Hitler, the man loved by his people.*

*This is why we loved him ..."*

Have I got that right?

A. You did. This was the viewpoint, Mr. Griffiths, of millions of the majority of German people.

Q. And it's your viewpoint today.

A. Because nobody rose against him.

Q. And it is your viewpoint today.

A. That it reflects accurately the spirit of the times? Yes.

Q. And it is your viewpoint today. That is still how you feel about Hitler.

A. I wasn't there, but certainly the older generation of Germans as, for instance, in this book here called, "Adolf Hitler", translated by a Catholic priest, sold here in Toronto in the world's biggest bookstore, introduction by Rabbi Rosenthal, Ph.D, it exactly portrays the viewpoint of that book, except it is better quality printing with nicer pictures and is texted in by Goebels, Rudolf Hoess and others.

You see, Mr. Griffiths, there is such a thing as truthful history.

Q. It is your viewpoint today, is it not?

A. That Hitler was loved by the Germans? {4269|4270}

Q. Yes.

A. Yes.

Q. And you today, still agree with the programmes put forward by Hitler in the nineteen forties, thirties.

A. Where does it say that? It says —

Q. I am asking you that.

A. No. Hitler is a historic figure. He has entered the pages of history. His programme was tailored to the German people. It was formulated in 1921 or '22. We have gone on. Society hasn't stood still. Europe is being united. He was speaking for the Germans of 1918, 1919, 1920, and he did lift the German people up by their bootstraps and, as Winston Churchill said, brought them to a place in the sun in a book called, "The Great Contemporaries", where he devotes twelve pages lauding Adolf Hitler, and so did Sven Hedin (ph), the Swedish writer and novelist.

Q. And so does Ernst Zundel?

A. Ernst Zundel agrees with what page 3 of what this writer summarized about Adolf Hitler.

Q. All right. And you would like to see, in Germany, a return to the values and to the programmes and policies of Adolf Hitler, would you riot?

A. These are your words.

Q. I am asking you.

A. No. Because the times have changed, Mr. Griffiths. We have learned. Errors were made. Nobody can turn back the wheel of history. The {4270|4271} German people would be, certainly after all the brainwashing and the war that they have been through, they would never go back to Hitler with his funny moustache. Media has changed. Maybe today his style wouldn't be accepted, and so on, but if you are asking me about the essence of what that man brought to the German people, which is law, order, work, honesty, honour, yes.

Q. Integrity of the race?

A. Yes.

Q. Nationalism, German nationalism.

A. I think I just answered that. I am not a vertical nationalist of the 1919s and the 1920s. I came to Canada. I have lived here for twenty-five years. I married a French-Canadian girl. The friends that come with me today are drawn from every nationalities on the globe. So don't try

to put words in my mouth and attach things which do not belong to me.

Q. So you are not a German nationalist today.

A. I'm not, no.

MR. GRIFFITHS: Thank you. Could that be Exhibit "AA", Your Honour? I will be submitting it ultimately.

MR. CHRISTIE: Well, we have discussed that, and I think we will discuss it again.

THE COURT: Yes.

MR. GRIFFITHS: Thank you.

— EXHIBIT "AA" (For Identification): Pamphlet entitled, "Achtung! Samisdat Truth Squad". {4271|4272}

MR. GRIFFITHS: Before I move to a new subject, Your Honour

THE COURT: Members of the jury, please don't come to any conclusions until this case is totally finished and in your hands. Please don't discuss the case. Please keep an open mind.

Tomorrow morning at nine-thirty.

— The jury retires. 4:35 p.m.

— The witness retires.

— Whereupon the hearing is adjourned to February 22, 1985.

## FEBRUARY 22, 1985

— Upon the hearing resuming.

— The jury enters. 9:35 a.m.

THE COURT: Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

## ERNST ZUNDEL, previously sworn.

### CONTINUED CROSS-EXAMINATION BY MR. GRIFFITHS:

Q. Mr. Zundel, I am showing to you {4272|4273} a four-page article called, "Samisdat Kampf Tips", which is in German.

A. Mm-hmmm.

Q. And can you tell me if you can identify that?

A. Yes. I wrote that in 1980, August 20th.

Q. That's the date on there, is it not?

A. That's right. Mm-hmm.

Q. And was that directed to people here in Canada or to people in other countries?

A. In West Germany, largely, but some people also in America.

THE COURT: A little louder, please.

THE WITNESS: In West Germany clearly, Asia, Switzerland, the West German-speaking of the world.

Q. When it says, "Samisdat Kampf Tips", can you translate that, please?

A. It means "Samisdat Struggle Tips".

Q. And at the bottom of the page, again in German, there is a brief signed note with your name at the end of it.

A. That's right.

Q. Is that right?

A. Mm-hmmm.

Q. Can you read that to us, please?

A. In German?

Q. No. In English. An English trial as His Honour has told.

A. You want me to translate it for {4273|4274} you?

Q. I have a translation here. Perhaps you could take a minute, compare the two, and tell me if it's accurate.

A. Yes, I recognize this. This came from the postal hearing in Ottawa.

Q. Is that accurate?

A. Yes, it is.

Q. Could you read that, then, please?

A. "Foreword [Forward] Germans — the others have begun their retreat. Everywhere in the world, Anglo American style capitalism is on the way out. The old, unnatural alliance of yesterday seems to be breaking up. New, natural power blocs, such as China, not based on money, tanks or rockets but on the power of work, threaten to put an end to the old 'isms'. Germany's time has come. At last the ideals of our fathers will be realized all over the world. America's power has come to an end.

*The Jewish world conspirators find themselves on the defensive and are only capable of noisy rearguard action. European communism is shaky. There is ferment in Poland, Romania and in the Soviet Union. We will soon get our chance. {4274|4275} We must hold our ground, wait for our turn and strike at the right moment. Do not despair. Nature and time are on our side.*  
Ernst Zundel."

And it advertises a little badge. Another one of —

A. Zundel pins, yes.

Q. "At last the ideals of our fathers will be realized all over the world." What does that mean?

A. As it says quite clearly here:

*"power blocs, such as China, not based on money, tanks or rockets, but on the power of work, threaten to put an end to the old 'isms'."*

Capitalism, Bolshevism, communism, Zionism are dying.

Q. And "the ideals of our fathers" only refers to ideals of work and not ideals of Hitler?

A. You are talking about my father's ideals?

Q. Well, I think you are referring generally to the fathers of German people.

A. Yes.

Q. Which in 1980 I take to be people from the thirties.

A. Mr. Griffiths, the Germans in Europe are known as the powerhouse of Europe, and just like there was at one time in this country something called the Wasp ethic, in Europe we have the German ethic, which is usually based on hard work, frugality {4275|4276} honesty and at one time it was also honourable behaviour, honour. Now, these were the components of Germany's national ethic. That is what we were known for.

Q. All right.

A. That's why goods, for instance, made in Germany had such a good reputation.

Q. Nationalism, then, is apart of that ethic, German nationalism.

A. If you are talking in the context of the thirties, and if you want to keep harping away at nationalism, I don't see anything wrong with somebody being proud of his ethnic background and heritage. In Canada we make a fetish about it. We talk about the two founding races, French Canadians and English Canadians. We have the Multi-culturalism Ministry which is to encourage the ethnic heritage of people, and I will tell you, whether you like it or not, we Germans are entitled to represent and to see our history represented by ourselves the way we know it from eye witnesses, the way I know it from eye witnesses, not only through the eyes of some Jewish writers.

Q. Thank you, Mr. Zundel.

MR. GRIFFITHS: Could that translation be an exhibit, please, Your Honour?

THE COURT: Yes.

— EXHIBIT "BB" (For Identification): German pamphlet with English translation, "Samisdat Kampf Tips" {4276|4277}

Q. MR. GRIFFITHS: Mr. Zundel, you have told us that you published Exhibit No. 1, "Did Six Million Really Die?" Can you tell us when you started publishing that?

A. I re-printed an English publication in the Soviet process, adding the first sheet, I believe. I didn't bring my own copy. May I look for a moment.

Q. Yes. I have some marks in there but I don't mind if you see them.

A. The body of the text ties every picture. I re-printed in total from an English magazine, whatever, thirty-two pages that it was. I added different graphics on the front cover, in that I added, "Truth At Last Exposed". I added this page, this page, this page and this page. The rest was taken over in the Soviet process in total. Not a comma was changed or anything.

Q. Well, if I use the wrong word, my question was whether you published this and when you published it.

A. I had it printed, I think it was the beginning of the eighties.

Q. All right. There is in your article on the back page, there is a reference to a newspaper article indicating the British Columbia Attorney

General, and there is a date there, November 22, 1979.

A. Yes. It could be a reaction by the time I wrote the stuff, found a printer to print it, it could have been January '80, '81.

Q. And how long did you publish it {4277|4278} for?

A. I published two editions for it.

Q. And when did you stop publishing?

A. Oh, 1981, '82. The last edition was rather large, and so I just kept selling that.

THE COURT: A little louder, pleas.

THE WITNESS: The last edition, it was one of the large ones, so I had lots left.

Q. MR. GRIFFITHS: And how much would you sell this for?

A. I sold very few of them. I think \$2 or \$3. The rest of them I sent to members of Parliament, all members of Parliament, all the Ministers in various governments of Canada. I sent it to every Catholic priest in Ontario, every Protestant Ministry in Ontario, every Catholic priest in the Province of Quebec, to all radio stations, T.V. stations, newspaper editors, and I think to every history professor that taught history in high schools in Ontario.

Q. All right. And the pamphlet is said to be written by Richard Harwood.

A. That's right.

Q. That's a pen[ ] name, isn't it?

A. Yes. His real name, I found out, was Verral[ ].

Q. Richard Verral[ ]?

A. Yes.

Q. And when did you find that out?

A. I think Dr. Faurisson told me in {4278|4279} 1982, '83. But the booklet itself, Mr. Griffiths, I wanted to add to this, has quite a history.

Apparently Professor David Hogan originally drafted the booklet, and it was submitted to a publisher who didn't want to publish it, and then it found its way to England, and Richard Verral[ ] relied heavily on the material by Professor Hogan.

Q. You must have contacted Richard Varrel [sic], Richard Harwood, whatever his name is, in England to get copies of this.

A. I did?

Q. Yes.

A. No. I contacted the publisher called Historical Review Press.

Q. Historical Review Press. Is that any relationship to the group in California?

A. I have no idea if there is any kind of corporate connection or not, but these are the people that I dealt with, and interestingly enough, I naturally addressed myself to Richard Harwood, and back came correspondence signed, "Richard Harwood" over two or three years.

Q. Do you know who Richard Varrel [sic] is?

A. Richard Varrel [sic] was, so I am told, I never met him personally, I have had one letter from him, I asked him to come and be a witness at this trial. He says he has dropped political work. He has married a Jewish girl, and he wants, to have nothing to do with the political scene any more. He said the people that published this booklet didn't pay him enough and he is {4279|4280} currently in litigation for the money that he was supposed to get for that booklet.

Q. All right. And before he dropped his political activity do you know what that political activity was?

A. I have no idea, Mr. Griffiths, at all. He was, apparently, though, a graduate student of one of London's universities in history.

Q. So before publishing this, distributing and printing it, you didn't contact the author and discuss the matter with him?

A. No, I did not. I thought that the publisher, as I think I have said previously, I first imported the booklet from these people in England, but they were very tardy in deliveries. They didn't wrap the parcels well enough. They were sent by surface mail, which means by ship. They came to Canada in such horrible condition that I couldn't sell them and had to give them away.

Then I found a source in the United States. I bought them from there for a little while because you see, Mr. Griffiths, I did not have a printing press at that time, and even now I have a very small Gestetner-type printing press that allows me to print these cheap news letters that you

have showed to me. I have not the capacity in my shop to print booklets.

Q. And the source of the publication in the United States, is that the Historical Review?

A. In the beginning, yes.

Q. And the booklets, the first shipment that you got that was damaged, was there a {4280|4281} letter reprinted in those from Albert Speer?

A. No, I don't recall anything like that.

Q. All right. On page 4 – we are just going to go through this; it might take a little while, but there are a number of things in here I want to ask you about, and I'm sorry I have to use my marked up copy.

A. All right. At lunchtime I will bring my own.

Q. Page 4, column one, the first paragraph, "Introduction", the author says:

*"A great deal of careful research into this question, however, has now convinced me beyond any doubt that the allegation is not merely an exaggeration but an invention of post-war propaganda."*

A. Mm-hmmm.

Q. Do you agree with that?

A. Do I agree with the allegation is largely an invention of post-war propaganda?

Q. Yes, sir.

A. Yes, sir. I certainly do.

Q. All right. And on "The Race Problem Suppressed" well, there's two things here. The author goes on to say in the introduction, and you correct me if I am wrong, that part of the purpose of publishing this piece is because nationalism was being discouraged and the race problem was being suppressed. Is that a fair representation? {4281|4282}

A. Well, that is what Mr. Varrel [sic] said in his book, yes.

Q. All right. And was that part of the reason why you wanted to print it, because nationalism was being suppressed – I'm sorry, race problem was being suppressed and nationalism was being discouraged?

A. No. That refers typically to Britain. He said, should the people of Britain or any other country suppress their nationalism, blah, blah, blah, especially addressing himself to a British problem where they have a very strict, I forget what they call it, but it is race control laws, or something like that. It's a human rights organization, and writers in England constantly chafe under this particular thing. It hangs over them like a Democlin [Damoclean] Sword. It's a law in England that they have there, you see. And so he addresses himself to this. But I think that I understand what you are trying to elicit from me, and I will be happy to try and tell you this.

I had written, before I published this booklet to the publishers in England and asked them if I could change the format of this magazine, I would have liked to put it out in pocketbook version that people could read on the subway or while they are driving to work, because I find this rather not very handy, although it is nice, it is small. I would prefer things in this size, you see, and they would not give me permission, because apparently the publications had been rated, in other words. The publishing house had bad experiences with people cutting out the booklet, putting {4282|4283} it together, and printing smaller versions and so on. So I had the choice of not publishing it at all, or publishing it exactly in the photo offset method that I did, not touching a thing.

Q. All right.

A. Oh, and the letter of Speer I don't quite understand. Are you saying there was a letter by Speer re-produced in one of these books, or was it coming with the book?

Q. I am asking you if you saw a letter of Speer re-produced in one of the books.

A. No. Maybe there was an earlier edition that I didn't see, but this is the one that I had. This is the one that I reproduced.

Q. All right. "The Race Problem Suppressed", again at the start of the paragraph.

A. Right.

Q. "One could scarcely miss the object of this diatribe, ..." referring, I think, to Pandit Nehru ...

A. Yes. The one we have already quoted.

Q. "... with its insidious [sic] hint about 'multi-racial partnership'. Thus the accusation of the Six Million is not only used to undermine the principle of nationhood and national pride, but it threatens the survival of the Race itself."

Do you agree with that?

A. Again, you have to see it in {4283|4284} the context. He is a British writer, and he is obviously possibly of the generation that was still imbued with empires, or dream of empires, and here was a man, a coloured man in India who had yanked away India from the Empire, and he is telling the English how intolerant they were to the Indians. That is what Nehru said, and he doesn't like it. So he reacts with hostility towards it.

Q. My question, sir, is whether you agree with it.

A. I can understand him.

Q. "Thus the accusation of the Six Million is not only used to undermine the principle of nationhood and national pride, but it threatens the survival of the Race itself."

Do you agree with that?

A. That part of the sentence – oh, the accusation – the separate sentence. Yes, that separate sentence you can certainly see that the Zionists are manipulating this Holocaust, in quotes, the whole concept that encompasses the Holocaust to this effect, yes.

Q. So that the Holocaust threatens the survival, and it is a capital "R" racism; is that right?

A. Yes.

Q. Okay. So I guess it would be important for you and for the survival of the race that the Holocaust be denied.

A. Not that the Holocaust be denied, {4284|4285} you know. What we are doing is, through, I think, some pretty dedicated competent research, and I think if anything this trial has brought some people to the stand, for instance they talked about chemistry and so on, and crematoriums and also some of the methods used in Nuremberg, what we are trying to do is to bring the balance back into the picture, because every time that somebody wants to discuss, let's say that somebody wants to be proud of what he calls his race, trotting out comes the allegation of genocide and the rest of it.

I have listened to many speeches in the United Nations, for instance, where the Holocaust is frequently used by countries from the Third World to make all the other white nations sitting in the United Nations almost responsible, just like in this little book here called, "While Six Million Died", a chronicle of American apathy. Now, here is President Roosevelt, one of the greatest friends of the Jews, painted as if he allowed the doom of European Jewry, and in the next page what we see is England accused in the same way. There is a book out that accuses Canadians for not having done enough in the Holocaust. Everybody has to be made to feel guilty by the Zionist writers, because they didn't do enough to save the Jews, and they had the nerve to look after their national interest. So the Holocaust is being used today as a weapon of intimidation of politicians and media people. Of course it is.

Q. All right. And it threatens the survival of the Race itself?

A. If we allow it to continue it will, {4285|4286} Mr. Griffiths.

Q. So it must be stopped.

A. No. It must be explained, and then it will turn out that these people are using a most vicious hangover of the Second World War, a propaganda lie, to continuously keep us morally in the defensive, politically in the defensive, and they are not entitled to a copyright on our emotions.

Q. All right.

A. And on our goodwill.

Q. And the "us" you are referring to is what, white people, Germans, both?

A. All the people of the world are victimized by their lying propaganda – black, brown, green, coloured, Chinese, Japanese. The Diary of Anne Frank has been translated into fifty-two languages. A film has been made in the Japanese language about it. They are victimized.

Q. You said numerous times to Mr. Christie in the last couple of days that I think the phrase that you used was, first you believed in the Holo-

caust, and then you had a doubt, and then you researched it, and then you came to find that it was a hoax. Am I paraphrasing that right?

A. That's right.

Q. And as I understood you, your doubts were firmed up in the sixties, in the early sixties, and that is when you first began writing letters.

A. That's right.

Q. And did that coincide with your {4286|4287} relationship, and I mean that one in the sense of friendship – nothing improper – friendship with Mr. Arcand.

A. Yes. He was one of the competent men I realized that he tried to bring it, and I want to bring out who Mr. Arcand was. Mr. Arcand was a French Canadian man, one of the finest men in a regiment in Canada. He had at one time been the editor of "La Presse" in Montreal. His family had been here for some three hundred years, and he was a familiar figure in the Province of Quebec.

Q. What party? Christian National Socialist Party?

A. No. At one time in the middle thirties that is what it was called, and then it was involved in the National Unity of Canada, and as its emblem he had a beaver, because the ethic he wanted to project was the busy beaver.

Q. The beaver on top of the Swastika surrounded by maple leaves [sic]?

A. That's possible. So Mr. Arcand had been in concentration camps in Canada for six and a half years.

Q. He was interned as a Nazi during the War; is that right?

A. Mr. Griffiths, he was a Canadian officer. He was not properly charged. He was not properly tried. After six and a half years of no charge, no proper trial, but no restitution for his six and a half years; and even if you say he was a Nazi, what happened to all the constitutional freedoms and freedoms that people are supposed to enjoy in this country? {4287|4288}

Q. Was he not charged and had a preliminary hearing?

A. He had one of the wartime kangaroo operations, the way they were done in operation in England under the 18B Regulations, and the way it was undoubtedly done to the Japanese. Now, you wanted to know my relationship with Mr. Arcand. I will be happy to tell you about him.

He was a great Canadian. He spoke eight languages, one of them being German, and he made available to me books, speeches, articles which I had never seen before and never had access to. And he allowed me to study these books from his library. I had no other way of obtaining those things, especially not in German. Remember, it was in the early sixties when I was beginning to learn English and French. And I am not embarrassed by having known this great Canadian. He was a very good man.

Q. One of the policies of this party, of the Canadian party that he was the head of, this grand Canadian, was that Jews should be denied citizenship and deported from the country.

A. Well, that happens to be the same thing in the State of Israel with the Palestinians.

Q. Is that right, sir?

A. With the Palestinians.

Q. Is that right, sir? Was that the platform of his party?

A. That's possible.

Q. And the books and speeches were from the library of national socialist literature? {4288|4289}

A. No. There were books by Sven Hedin from Sweden [sic], books by Admiral Sir Barry Domeville (ph) [Domville] called, "From Admiral to Cabin Boy" by another British Member of Parliament, Francis D Nielsen (ph), and of course, there were some German books of the period, and some speeches by Adolf Hitler, you are correct.

Q. And he introduced you to some collaborators with the Nazi regime around the world? You made your contacts in the sixties?

A. Well, he wrote a letter of introduction for me. When I went to England, for instance, to meet Admiral Sir Barry Domeville, [sic] who had been imprisoned in England under the 18B Regulation and had been demoted from Admiral to cabin boy.

Q. And Sir Oswald Bosley? [Mosley]

A. No.

Q. And he was your mentor to your confused mind at the time?

A. No. What he helped me see was that there were people in all parts of the world – Canadians, Americans, Britishers, Spaniards, Italians, who all felt and had written and had studied the Second World War and did not think that the Germans were the ogres that the official propaganda had made them out to be. So he gave a balance of an imbalanced viewpoint, Mr. Griffiths.

Q. We are back to the Samisdat Truth Squad. Achtung, Exhibit "AA". I am just looking here, although it's not the best copy, unfortunately, a reference to – it is cut off at the top. {4289|4290}

A. Do you want me to read that?

Q. Please. This is a tape that you sell. It was tape No. 38, to my recollection. It is cut off at the top.

A. Yes.

Q. And it's from Adrian Arcand's funeral in 1967?

A. That's right.

Q. And could you read us that promotional piece?

A. Part of it is cut off at the top, and it says:

*"Canada's legendary nationalist leader. Hear this solemn moment of history, the music and the moving oration. Listen to the surprised reaction of the crowd as they witness nuns and priests giving the National Socialist salute as the coffin is being lowered. Adrian Arcand's confidant and protege the last nine years of his life was Christof Friedrich who discusses retrospectively [sic] the events, the political ideas and the circumstances which made Adrian Arcand one of Canada's greatest leaders and statesmen and one of Canada's [sic] greatest missed opportunities to reverse the ongoing trend of defeat, retreat and disintegration. Listen {4290|4291} to the story of a great man who suffered the tragedy of being far ahead of his time, the man whom Life Magazine devoted a ten-page feature article, calling him 'The 'Eagle of the North'."*

Q. And Christof Friedrich, the protege for the last nine years of his life, was you.

A. That's right. This flyer was put out in 1976, '77, when I was using that name.

Q. When you were using that name. All right. Now, if we can go back to Exhibit No. I. Have you got a copy now of Exhibit I?

A. I think it's your copy that you left me.

Q. No. It's the court copy. Page 6. I'd like to ask you about that. And under Chapter 2 there is a heading, "Detention of Enemy Aliens".

A. Right.

Q. And the pamphlet explains the policy of why Jews were being detained, and it says, "Chaim Weizmann. He declared war on Germany". Have I got that right?

A. Yes.

Q. And was there a Jewish Army during the War?

A. There came one into being called The Jewish Brigade who fought under England, and it is mentioned that they murdered Germans roaming Europe towards the end of hostilities. And there is quite a chapter devoted to the Jewish Brigade, but — {4291|4292}

Q. When did the Jewish Brigade come into existence?

A. 1944. And then I have here – let me just see here. It's The Daily Express of London, Friday, March 24, 1933, big headline, "Judea declares war on Germany. Jews of all the world unite. Boycott of German goods." And they are calling for mass demonstrations and so on. We have already talked —

Q. I'm sorry, what was the date of that?

A. It was March 24, 1933, Mr. Griffiths, a few months after Hitler came to power, when the German Army fitted into a football field.

Q. I've got March. I didn't get the year, sorry.

A. 1933.

Q. And what were Hitler's policies towards Jews?

A. At that time?

Q. When they came into power.

A. At that time no policies had been formulated. The Nuremberg Laws did not exist, and already propaganda in Europe had been at fever pitch, as evidenced by the book called, "Atrocity Propaganda Based on



Lies", a book by the Jewish publisher Jacow Trachtenberg. It's a trilingual book in which he denounces the anti-German hate propaganda that was then going on by other Zionist leaders making life difficult for Jews in Germany.

Q. Was he a Zionist leader? {4292|4293}

A. Trachtenberg? It is possible that he was, because there was a close relationship between Zionists and Nazis.

Q. Was it in 1945 [1935] that the Nuremberg Laws were passed in Germany?

A. That's right.

Q. And what did the Laws have to do about the integrity of the German race that should be maintained?

A. They were the same kind of laws that Israel adopted in 1948 when it became a State.

Q. I am asking you about the Nuremberg Laws of 1935.

A. I am saying to you I don't know them chapter and verse right now, but they believe in disengaging the Jewish population of Germany from Germany. That was one of their goals. And one of their advisors for it, so my friend Ginsberg tells me, was the Zionist leader C.O. Beck.

Q. So it was to disenfranchise the Jews.

A. That's right. Yes.

Q. Took away their citizenship.

A. I think they had a passport, but they had a "J" in it.

Q. And they could no longer vote or hold public office. They were not citizens any more.

A. Similar to the Palestinians in Israel.

Q. They weren't citizens any more.

A. My answer is the same. They were {4293|4294} just like Palestinians are second-class citizens in Israel. So these German Jews were second-class citizens of Germany, yes.

Q. My question, Mr. Zundel, is – we don't know what the situation is with the Palestinians in Israel ...

A. I do.

Q. May be a good analysis. My question to you is whether or not the Jews remained citizens after 1935, or whether they were disenfranchised.

A. They were disenfranchised. They couldn't practise law except in Jewish courts. They could not teach in German universities except in Jewish schools. There was a flourishing education where even Henry Kissinger got a diploma.

Q. And they couldn't vote or have any of the rights of citizens.

A. Well, their pension claims for instance, were held intact. They got their army pensions. They were allowed to wear their First World War medals, but if you are saying were they allowed to be full citizens that they could run for local mayor, councilmen, no, they were not.

Q. And is that the same plan Adrien Arcand had for Canadian Jews?

A. Arcand never formulated that, to my knowledge. I wasn't interested in what Arcand did before the War, and if that sounds strange to you, it is the truth, because it is past history, Mr. Griffiths. He had offered himself to the Canadians. He had a good following in Quebec. The rest of Canada didn't follow {4294|4295} him, so he had passed into history.

Q. All right. Page 7 of the book, column 2, and above where it says, "Population and Emigration", there is a long paragraph that begins, "Even as late as May 1944".

A. Mm-hmmm.

Q. And in that long paragraph is discussed one Joel Brand.

A. Right.

Q. A German book is referred to about Joel Brand. Do you know anything about Joel Brand?

A. Yes, I do. Yes.

Q. And was he involved in negotiations with Hitler to save Hungarian Jewry?

A. Not with Hitler.

Q. I'm sorry, with Eichmann.

A. Yes. He was sent by Eichmann to go to, I believe it was Israel via Turkey and Syria, was intercepted at the Turkish border, was held for a while, managed to negotiate his way out, finally made it to Palestine,

was arrested in Palestine, and spent the rest of the war years in Cairo in detention, in British detention.

Q. All right. Now, the proposition that Joel Brand was making, as I understand it, through intermediaries with Eichmann, was trucks for Jews.

A. That's right.

Q. Towards the end of the War in 1944. And Eichmann was offering to free Jews for military material.

A. Four hundred thousand, I believe {4295|4296} it was.

Q. Well, it says here, I think, a million.

A. Oh, a million. There you go.

Q. And my question to you is whether that was referring to Hungarian Jewry.

A. Well, if he was offering a million Jews, he must have drawn upon others, because I never heard that there were a million Jews in Hungary.

Q. Okay. Thank you.

A. And the deal, apparently – I have read the Joel Brand story from various angles, and apparently the deal was, the Zionists were very interested in that, because it would have meant a terrific influx of Jews into Palestine, rather quickly, but the Western leaders were against it because they were afraid that suddenly the German Army would have ten thousand American army trucks transporting more troops to the front, so they would rather not save the Jews. That's the charge made many times, because they wanted to deny the Germans the army trucks.

It was the end of the War. The German leadership was desperate, and in Europe it is not uncommon, Mr. Griffiths, you see. In the context of this book and the way you put it, it seems terrible, but the East German Government today regularly negotiates the release of prisoners with West Germany for various sums and various commodity arrangements and so on. It is a form of exchange that governments sometimes do.

Q. Thank you. Still page 7, Chambers {4296|4297} Encyclopaedia: "According to Chambers Encyclopaedia the total number of Jews living in pre-war Europe was 6,500,000."

And that is under the "Population and Emigration", second paragraph here. Now, is that a source that you checked before distributing this pamphlet?

A. I had a photocopy of it, but you see, the numbers came – it is interesting – there are so many statistics, Mr. Griffiths. I mean, there are books written, and Butz has got the numbers in his book about the dissolution of European Jewry; we have the Collins book about the Soviet Union and a vast number of Jews moving east of the Germans, that the Polish Jews moved to Russia when Poland was divided, and so on.

Q. Wouldn't you agree that when you do the numbers game you should quote them accurately?

A. Remember what I was working. I could not change a dot or iota in the booklet. I had to take what I considered was a very good, well-put-together, small booklet, in total or not at all.

Q. All right. So is it fair to say that you knew that that wasn't accurate?

MR. CHRISTIE: I object to that.

THE WITNESS: It was.

MR. CHRISTIE: I object. The Chambers Encyclopaedia article is in evidence, and it is not accurate to say it is a misquote of the number. It is obvious and can be argued what the consequences of {4297|4298} re-interpreting words in pre-war Europe mean, but it is not correct to say that it is a false number. I have read it with my own eyes, and I would object to my friend saying that it is a false number.

THE COURT: The jury has heard both sides. Go ahead.

Q. MR. GRIFFITHS: Is it fair to say, Mr. Zundel, that you knew that this wasn't an accurate representation of what was in the Chambers Encyclopaedia, but in the over-all context of the article you thought that was a small error and it was, in effect, a falsehood?

A. I thought it was a matter of interpretation, you see, and context, just like the race thing in the beginning is in context, just like the truck deal that you, I feel, think was such a horrible, callous gesture —

Q. I didn't say anything about it.



A. — by the Germans. I wish that the British had gone for the truck deal, and then I am sure that many of the Jewish people who had died at the end of the War because the deal didn't go through would be with us today.

Q. Page 9, column two under the heading, "Fantastic Exaggerations", the first sentence there says:

*"So far as is known, the first accusation against the Germans of the mass murder of Jews in wartime Europe was made by the Polish Jew Rafael Lemkin in his book 'Axis {4298|4299} Rule in Occupied Europe', published in New York in 1943."*

That isn't true, is it? I mean, the London Charter was December 1942 where the Allies called upon the Germans to stop mistreating the Jews?

MR. CHRISTIE: Your Honour, when I was repeatedly interrupted in my cross-examination, it was repeatedly brought to my attention that I shouldn't give evidence. I wonder if the same principles might be directed to my learned friend. If he wishes to put the London Charter to the witness, I have no objection.

THE COURT: Crown counsel can make a suggestion to the witness concerning the date, if any, of the London Charter. Put it to him.

MR. GRIFFITHS: Thank you, Your Honour.

Q. Was the London Charter December of 1942, Mr. Zundel?

A. Have you got it here? Can you show it to me?

Q. Do you know?

THE COURT: Mr. Zundel, answer the questions. Don't ask questions.

THE WITNESS: I don't know about the London Charter at this moment.

Q. MR. GRIFFITHS: Do you know of any accusations against the Germans of mass murder of Jews before 1943?

A. If you say it was in the London Charter, I believe you, because I don't think you would be lying here in this Court. So it must have been. {4299|4300}

Q. Well, do you know of any other accusations? We've had a hundred exhibits here, material that you've read, and there was something about mass murder in Dachau that was alleged, a book in 1934.

A. Oh, yes, but not the mass murder. It was talking about the murder of Jews. There is a difference. When you talk about genocide of an entire people, Mr. Griffiths, that takes on different proportions. If you talk about the murder of individual Jews, we have had stories about that already in 1933 and '34.

Q. You read "The Hoax of The Twentieth Century" before you published that booklet?

A. In the German version, yes.

Q. In the German version. All right. And we have the English version here. Does it talk, in "The Hoax of The Twentieth Century", about the Riegner telegram being sent out of Geneva in 1942?

A. Yes, to the President of the United States.

Q. That's right. The Riegner telegram.

A. Well, it's a mass murder, you see. That's the difference.

Q. I see. You made that distinction before you distributed this?

A. No, I didn't make that distinction, but I think it is an important distinction if you accuse Germans of murdering Jews in concentration camps. As we know, people were beaten to death by kapos and political prisoners and so on, but the major propaganda campaign, from what I understand it, started in the middle of the War. And you know, what {4300|4301} you say, 1942, is pretty well the middle of the War.

I don't know when Rafael Lemkin's book came out in 1943. He must have written it in 1942, so maybe you are correct.

Q. I am not trying to trick you here, I am suggesting to you that you knew at this time that there were earlier allegations than '43. If you didn't know, please tell me.

A. No. Of a smaller number of murders, yes, but the mass murder is something else.

Q. All right.

MR. CHRISTIE: Could the Clerk provide me with the London Charter, Your Honour? I am trying to check the date. I believe it is in evidence.

THE COURT: She will try.

MR. CHRISTIE: Thank you. It's Exhibit 134.

I think my friend has misled the witness. If my notes are correct, the Charter of London is August 8th, 1945.

COURT: Go ahead, Mr. Griffiths.

GRIFFITHS: Thank you, Your Honour. When Mr. Christie is ready.

MR. CHRISTIE: I am correct. London Charter, 8th of August, 1945.

MR. GRIFFITHS: That is not the one I am referring to, Mr. Christie.

MR. CHRISTIE: Well, it's referred to as the Charter of London. I don't understand this statement of my friend, then. I don't know of any other {4301|4302} Charter of London, I'm sorry, Your Honour. And I think I have a right to make that point, because it seems to me that's what my friend was putting to my client.

THE COURT: Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

MR. CHRISTIE: Your Honour —

THE COURT: Members of the jury, excuse us, please.

— The jury retires. 10:25 a.m.

THE COURT: Mr. Christie, from here on in, you will catch my attention and not say anything until I give you permission to interrupt cross-examination. Do you understand? And please stand up.

MR. CHRISTIE: Your Honour, I understand that the right —

THE COURT: Then you will do it. Now, please sit down.

MR. CHRISTIE: Your Honour —

THE COURT: You have plenty of opportunity to re-examine. Do not interrupt. That was an uncalled-for interruption. You will cease and desist.

MR. CHRISTIE: I would like to put {4302|4303} on the record, Your Honour —

THE COURT: Put it on the record.

MR. CHRISTIE: — at this moment, my understanding of the right of counsel during cross-examination.

My understanding is that it is the right of defence counsel, in the cross-examination of the witnesses of the defence and the right of Crown counsel in the cross-examination of witnesses for the Crown to object if improper statements of fact are made to a witness, and it is put to him that such and such is a fact when it is not the fact. That is what I understand to be misleading a witness.

I have been in many courts of law in which that has been regarded as a serious offence of counsel. It apparently is not Your Honour's view, but nonetheless, if on occasion my learned friend should put to a witness that the Charter of London was in December of 1942 and my understanding of that term, and as it is listed as the Charter of London Agreement of August 8th, 1945, to the International Military Tribunal, which is in evidence here, Exhibit 134, then I would like the opportunity, as any other counsel would have, {4303|4304} to rise and object, to then ask the Registrar to produce the exhibit to examine it, as I have sought to do.

If Your Honour is directing me, and I think you are, not to object at any point during the cross-examination, then I certainly shall not do so. You have told me that, and I will not do so.

THE COURT: I have not told you that. I have indicated that you will stand up and get my attention before you interrupt a cross-examination.

Now, that's number one. Number two, it was the 1942 or '43 London Conference that he was referring to and not the London Charter. You know it, he knows it and I know it.

MR. CHRISTIE: He referred to, Your Honour, the London Charter. I heard him say those words.

THE COURT: Then perhaps you might have had the good courtesy to stand up and catch my attention, and when you do, if I consider your standing up on the point worthy, don't worry, your rights of your client will be protected.

In the meantime, please sit down and let's get on with this. {4304|4305}

MR. CHRISTIE: May I say, Your Honour, that I would like the opportunity, when I stand up —

THE COURT: You will get it if it is worthy. If not, you can appeal it.

MR. CHRISTIE: May I finish my sentence?

THE COURT: No. Please sit down. You have interrupted long enough.  
 MR. CHRISTIE: Your Honour, I would like to put on record that if I am in the process of phrasing an objection, I be allowed to do so.  
 THE COURT: You may do it with my permission.  
 MR. CHRISTIE: How do I get your permission?  
 THE COURT: I shall watch you every step of the way. You will.  
 MR. CHRISTIE: I am sure Your Honour is. Do I speak when I stand up?  
 THE COURT: You will catch my attention and I will give you permission or not, as I choose, to speak. {4305|4306}  
 MR. CHRISTIE: Then I will remain silent when I stand until Your Honour gives me permission to speak.  
 THE COURT: Please do.  
 MR. CHRISTIE: I am in the habit of speaking when I rise to object.  
 THE COURT: You will speak when I give you permission to speak.  
 MR. CHRISTIE: These rules will be understood, Your Honour.  
 THE COURT: Bring back the jury, please.

— The jury returns. 10:30 a.m.

THE COURT: Yes. Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

Q. Mr. Zundel, before the jury left Mr. Christie pointed out that the London Charter was in August of 1945, and I apologize. It's the London Conference I am talking about, if you were confused.

A. I was a little confused. We call {4306|4307} that in German Statute of London.

Q. Well, now, the London Conference of December 1942, are you aware of that?

A. Well, it was a discussion where the Allies were nailing down what line they were going to use against the Germans in the propaganda. And that was one of the components that the extermination of Jews was going to be one of the propaganda point.

Q. Did they call on the Germans to do anything [sic] at that time that you are aware of?

A. Well, from what I remember, they were told if they didn't stop mistreating the Jews, they were going to get the wrath of the world on their neck, in summation.

Q. Were you aware, did you think of that conference when you read that sentence?

A. No. I thought he was talking about books, books or stuff like that.

Q. Column 2, still on page nine, second last paragraph dealing with Mr. Gerstein:

*"Gerstein alleged that during the war he passed on information concerning the murder of Jews to the Swedish Government through a German baron, but for some inexplicable reason his report was 'filed away and forgotten'."*

Are you aware at the time this was printed that he had spoken to the British diplomat, Baron von Otter (ph)?

A. I had read it in some German books, yes. And then, later on, Dr. Faurisson explained {4307|4308} to me that the whole Baron von Otter-Gerstein statement was rather convoluted, and there are some doubts still as to whether he did or didn't.

Q. All right. Page 12, column — we are now in the Nuremberg Trials and the comment of the pamphlet on the Nuremberg Trials. Column one, it's not a complete paragraph, it's the first paragraph, and it's below the heavy type there. It says:

*"Most incredible of all, perhaps, was the fact that defence lawyers at Nuremberg were not permitted to cross-examine prosecution witnesses."*

You studied this matter. Who was not permitted to cross-examine?

A. In the National Archives, which was introduced into evidence yesterday, mentioned that very fact, that about fifty per cent of the people, that some of the lawyers, depending on which judge it was, could not be cross-examined. You will see that in Mr. Mendelson's article.

Q. Mr. Mendelson's article. What is that?

A. The National Archives.

Q. Do you remember the name of the article?

A. National Archives something or another. I can find it. It's by the President, head of the National Archives Division. It's the very last paragraph. Also there was one more case where a German defence attorney —

THE COURT: Yes, Mr. Christie. {4308|4309}

MR. CHRISTIE: If it is of any assistance to my friend, I believe it is Exhibit 131.

MR. GRIFFITHS: It is of enormous assistance, yes, Mr. Christie.

Q. "Prologue", the Journal of the National Archives, Winter 1975.

A. He is talking about documents rather than defendants. There was one instance in the blue series, I think we covered it early in the trial, when a witness was in Nuremberg. The defence knew that he was in Nuremberg. It could have been in the Oswald Pohl case. And he was not produced. Defence counsel asked him to be produced, and it turns out that he was denied by some legal manouvre [sic] that this witness was produced, even though he was in Nuremberg that time.

Q. Well, I am going to suggest to you there was something earlier in the proceeding, an affidavit, I think, by a William Hoettl.

A. I know what you are talking about. Right.

Q. Is that the one you are thinking about?

A. Yes.

Q. And that was the affidavit that was subsequently withdrawn and not used by the prosecution the next day, was it not?

A. It's possible. I'm not an attorney or prosecutor. You thrive on those things. I really don't, honestly, but this talks about —

Q. Documents. {4309|4310}

A. — the difficulties, yes, of having documents denied. Nearly half the documents asked for were denied when the prosecution objected, you see.

Q. Were there any other witnesses that you can think of that were not produced, or that gave evidence in-chief and that the defence could not cross-examine?

A. Well, there were three hundred thousand — there were some three hundred thousand depositions, affidavits and things like that made available to Nuremberg, and very few eye witnesses were produced there.

Q. Well, very few of those depositions were prosecution depositions, weren't they? Weren't a lot of those defence depositions?

A. There is a dispute about that, who would rule upon these affidavits more heavily and who did not, you know.

Q. I see.

A. So it depends on which side's history you read. But this is about documents.

Q. That's about documents. All right.

A. So there was the Hoettl incident came to my mind.

Q. All right. Any others?

A. Not offhand, no.

Q. No. All right. So do you think that's fair, what Harwood or Varrel [sic] or whatever his name is here, when he says: {4310|4311}

*"Most incredible of all, perhaps, was the fact that defence lawyers at Nuremberg were not permitted to cross-examine prosecution witnesses."*

A. I think, Mr. Griffiths, I want to explain something to you which I think is relevant to this. To the German nation the Nuremberg War Crimes Trials were a traumatic experience, and we in Germany, when we talk about all the war crimes trials — now, I know that legal minds like yours and lawyers in this court, you make distinctions between IMT, Dachau and Linsberg [Landsberg] and all kinds of trials. To the German nation, the Nuremberg war crimes trials, when we talk about it in history, about our own people's history, Nuremberg is all-encompassing, so there might very well have been other cases.

At this moment while I am standing here and being somewhat nervous, I cannot remember it. Honestly.

Q. All right. So do you think that's fair what you said there, based on your knowledge?

A. When we look at the overall complex of Nuremberg and the lawlessness, the torture and so on, I wouldn't be surprised at all if that was

the case, yes, because you see, the Allies were in charge of the prison camps. The Allies were in charge of the prisoners. There were cases that I have read in German literature where the defence knew that there were witnesses in certain prisoner of war camps. They wanted to produce them. When they finally were permitted to produce them, suddenly, magically, the {4311|4312} the prisoners had been transferred to another prison camp, and then yet to another prison camp, and by then the opportunity to present them was lost. This was not unique. This is according to Rudolf A[s]chenauer and some of Dr. Zeidl (ph) [Seidl] and some of these defence lawyers. They have written about these things in the German language.

Q. And the trials – or you don't know which ones they are?

A. We talk about in Nuremberg, to us, the whole complex of the war crime scene, when we talk about the Nuremberg Trials, we talk about the tragedy of the Nuremberg, the shame of the Nuremberg. We don't talk about the tragedy of the IMT or the shame of the IMT to our history. It is Nuremberg.

Q. Still on page 12, column one, it then follows the comments of Justice Wen[n]erstrum. We have all heard his comments a number of times that he gave to the press.

A. Right.

Q. Do you know what Justice Wen[n]erstrum did in the trial that he judged?

A. Yes. I believe it was the hostage case, if I am not mistaken.

Q. You are right.

A. And he was quite harsh.

Q. He convicted, didn't he?

A. Yes, he did.

Q. And he sentenced people to long terms of imprisonment.

A. Right. Yes. And I think that is why it was particularly unfair by Dr. Fried in the pre-{4312|4313}liminary to call him an anti-semitic.

Q. Well, sir, you can't say that. The jury didn't hear —

THE COURT: I agree. You can't make reference to anything that happened in a preliminary hearing.

Q. MR. GRIFFITHS: Still page 12, column two now, "Confessions' Under Torture":

*"Altogether more disturbing, however, were the methods employed to extract statements and 'confessions' at Nuremberg, particularly those from S.S. officers which were used to support the extermination charge."*

A. Mm-hmmm.

Q. Now, I suggest to you that what then follows is a discussion of Malmedy that had nothing to do with the extermination charge.

A. And we are already right in there, where obviously the writer of the pamphlet uses Nuremberg as an all-encompassing context, you see.

Q. Would you agree with me he started to, and then went on to say, more specifically, extermination charges?

A. That's right, yes.

Q. So it's pretty clear it is not all encompassing Nuremberg, but extermination charges is what he is talking about, the theme of this pamphlet.

A. I'm not quite sure I understand the point you are trying to make, Mr. Griffiths.

Q. Well, I suggest to you that what {4313|4314} follows in the discussion of trials is a discussion of trials that had nothing to do with extermination charges. Do you agree with that? Nothing to do with Jews.

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: Your Honour, is my friend trying to suggest that Malmedy had nothing to do with extermination?

THE COURT: I have no idea until we hear what the questions are.

MR. CHRISTIE: Well, I thought he – thank you, Your Honour.

THE WITNESS: Mr. Griffiths, am I understanding correctly that you are saying that these tortures or these alleged tortures in the Malmedy trials did not take place of those German prisoners?

Q. MR. GRIFFITHS: My question, sir, is whether they had anything to do with the allegations that six million Jews died, extermination charges.

A. Well, Pohl was certainly an S.S. officer.

Q. Pohl, where are we now, next page?

A. No. You say here, "confessions' at Nuremberg particularly those from S.S. officers".

Q. Yes.

A. Now, there were S.S. officers tried at Nuremberg.

Q. Right. We will come to Pohl. I promise we will get there.

A. Okay. Good. {4314|4315}

Q. Right now we are at Malmedy.

A. Oh, you are saying that he is —

Q. He is misleading us, isn't he?

A. I see. That is what you are driving at.

Q. Yes.

A. Well, we will maybe settle that when we get to the Pohl case or to the forged confessions under duress.

Q. So you are not prepared to say at this point whether or not that's misleading.

A. A prosecutor in a court of law like yourself, looking at it, with legal training, you could make that case, yes, but writers and artists and people who talk about those things don't work exactly by these, in the legal categorization and the kind of precise thought that you people apply to it. I have noticed that in this courtroom. It has been a great lesson to me, believe me.

Q. So it doesn't appear that way to you?

A. No, because, like many millions of Germans, when I say Nuremberg, we immediately think of all that the entire tragedy of Nuremberg, anything to do with the Nuremberg Trials – Malmedy, Dachau, the van Roeden [Roden] Commission – this is one vast complex, and there are books with titles exactly like that. It is all-encompassing to us. We don't make emotionally, certainly the fine legal definitions that you make, Mr. Griffiths, but I will grant you that the way you put it, it certainly could tend to put a different inference on {4315|4316} what is being said here, yes.

Q. Okay. Now, the Simpson van Roeden [sic] Commission was a three-man commission, was it not? Simpson, van Roeden [sic], and there was one other.

A. Yes. Possibly.

Q. You said that you read extensively in that area.

A. Yes. It was a commission set up by the United States Senate. There are some 1,800 pages all told altogether. We have an article by Judge van Roeden [sic] in evidence. Maybe we can have a look at it and see if there was a third person.

Q. Is that the same article that was quoted here from the Sunday Pictorial, January 23, 1949?

A. I'd have to see the book that was submitted backing up the quotations, Mr. Griffiths.

Q. I am not questioning these quotations. I am not questioning whether or not he said these things. My question, initially, is whether you had read extensively in the area of the Simpson van Roeden [sic] Commission.

A. Yes. But there are so many articles of the Simpson [van Roeden] [sic] Commission – in The New York Times, The Chicago Tribune articles, the reports themselves, and then the Senator McCarthy's Senate Speech which is quite long, some twenty pages.

Q. The report itself is not quoted here. These are van Roeden's [sic] personal comments, are they not?

A. Let me read that again. Where {4316|4317} are you exactly?

Q. Well, I am three paragraphs down, page 12, and the allegations are set out there by Justice van Roeden [sic] about posturing – it is all in heavy type.

A. Right. Now I got it.

Q. My question is whether that is what the report said not what Van Roeden [sic] said, but the findings of the Commission.

A. I don't think that in the Commission Reports there were these specific – like matches driven under fingernails, for instance. I don't think this was in there.

Q. Was there anything in there about only two out of a hundred and

thirty-nine not having their testicles damaged beyond repair? Do you know whether that was in the Simpson report?

A. It was not in that specific term, no.

Q. No. Do you know, after van Roeden [sic] wrote this article, do you know if he ever subsequently had anything to say about this to the Senate, this article and these allegations particularly?

A. You mean, was there a follow-up after the controversy in the press?

Q. Did he ever retract what he'd said?

A. It is quite possible that political heat was applied to him. I remember there being quite a controversy around it, and there was actually a split between van Roeden [sic] and Simpson on this. And this is {4317|4318} what I think led ultimately to the, can I say, burying of the Simpson van Roeden [sic] Commission findings.

Q. Do you think, then, that that fairly represents that report, this column here?

A. Well, this column? It certainly fairly represents what must have been the opinion of Judge van Roeden [sic], and led him to state in numerous articles these things. It is perfectly possible, as it very often is in political things, in the Royal Commissions, that there has to be a consensus [sic] reached, and that a minority view has not been represented and therefore members of the Commissions quite frequently go to the press. We have seen that in Canada on the statutes of women's conferences, for instance, where some women were not satisfied with the official reports and then they go and write articles and appear on T.V. shows and so on.

Q. Do you think it would have been fair for this to have said that this was a minority opinion of the Simpson Commission?

A. Well, you will say it would have been fair. I will say that there was a huge document that the writer had to cover in the column, because, what he was writing was in abstract. And this is a problem, and it is admitted by every writer, by every book reviewer, every film maker. That is the difficulty with having to boil down huge documents and events covering months into a few short paragraphs, or in this case here, a column.

Q. In any event, if it was unfair, it wasn't so unfair that it couldn't be included and {4318|4319} distributing the pamphlet.

A. Well, Mr. Griffiths, anything that – any writer writes, at least I hope so, has a thesis, and naturally, everyone of us who says something you are doing it to me right now – you have a thesis that I published false news so you buttress all the little facts and figures that you think can point out to this jury that I published false news, so you are selecting. This writer selected from a vast body of selection. You are selecting twenty-five years of my writer's life, and all you have produced are a few paragraphs that is so damaging to me that this jury is going to convict me and send me to jail for a few years. So this is life.

What this man says here is, he martialled [marshalled] thesis, facts, quotations. Now we have a whole box in evidence that the Crown agreed are ninety per cent accurate. I think if we check it through, quotation for quotation, there were some printing errors, there were some transpositions of Red Cross Reports numbers, there were some typos which every book has – I think it was Walendy who said the booklet is flawed.

Ernst Zundel agrees with it, especially in light of having gone through a seven-week trial. The booklet is flawed, that is why I ceased distributing the moment that Sergeant Luby and Sergeant Williams came to my house, because I thought there was obviously a serious problem. So I ceased, and when am through with this trial, if I am not going to go to jail, if I am going to re-issue this booklet, you can be sure that I will make the proper corrections. {4319|4320}

Q. And on page 13, column one, and really it carries on the thesis of confessions under torture, there are a number of people that are alleged to have been tortured. I wonder if you can tell us who was tortured and what you have in support of that belief. We've heard something about Rudolf Hoess from his memoirs [sic] printed in fifty-five, and we've heard something about Julius Streicher.

A. That's right.

Q. From the International Military Tribunal.

A. That's right.

Q. Anybody else?

A. Well, you are talking about Wisliceny here. From what I understand about the man, he was a kind of a whimpering, trembling man when he was produced as a witness, and that's not surprising when you have gone into custody and have been in custody for a while and have been subjected – we have, for instance, the German –

Q. What is Wisliceny?

A. Wisliceny?

Q. Was he Eichmann's assistant, Peter [Dieter] Wisliceny? Have I got that right?

A. Yes. That is what it says.

Q. Do you know, or –

A. Sure.

Q. From your reading? Is that right?

A. Mm-hmmm.

Q. And that is the extent of what you take as the proof of Wisliceny's torture that he was {4320|4321} limping and sobbing when he was in the courtroom?

A. Well, we have Julius Streicher's specific statement in the court in Nuremberg that he was made to kiss the feet of negro guards.

Q. This is torture?

A. For a man like Julius Streicher.

Q. He was a renowned racist?

A. I was going to come to that. You could say that this would be certainly, to him, degrading. Then he was kept for four days in a cell without any clothes on while people looked through the peephole. We have all seen the photos of American G.I.s looking twenty-four hours through the peephole.

Now, that is degrading. I don't want to be seen naked. Then he said his mouth was forced open and they poured saliva in his mouth. Now, that is not very nice. None of us wants to have that done to them. Then he said he was beaten. Then he was taken when he was thirsty to the latrine. His head was pointed to the latrine and told, "Go drink."

Now, you remove for a moment propaganda from these people that are made out as devils in disguise and look at them as human beings, that, to me, is degrading and torture. Now this is Streicher.

Now that the Court in Nuremberg would have this particular testimony expunged, and that we were lucky that there was The Times of London reporter there to take it down, and we were even more lucky that an author called Belgion (ph) published a book called, "Epithat Nuremberg" where I found the portion, because this allows us today to understand that Nuremberg and {4321|4322} the methods employed there were not all above-board. When Germans say it was symptomatic for it, it was a typical example of it, and in the Oswald Pohl – excuse me –

Q. Just before – we will get to Pohl. I promise. Julius Streicher, he was a newspaper publisher, wasn't he?

A. Oh, yes, he was.

Q. In the newspaper Die Sturm.

A. That's right.

Q. And he was very creative and vicious in his racism; do you agree with me?

A. Mr. Griffiths, you are absolutely right, but I want to say to you that he was deposed by Hitler in his post of Gauleiter. He had absolutely no function or interest in the German Government from 1941 on. And if I understand your inference, are you intimating that this man was so nasty, and because he had written inflammatory articles during his political career, that then these guards in that prison in Nuremberg should take the law into their own hands and mistreat that man?

Q. No, sir. I am saying he made it up.

A. Oh, he made it up. I see. Well, now, see, that is where we – okay. Good. Now, this is what this is all about, why I am here today, you see. You have grown up in this culture in Canada. You never went through the War. You only know the stuff from the history books like most of the younger generation.

Q. Like yourself. {4322|4323}

A. But you have one frame of reference. I introduced a schoolbook that

is now still being current in Canada where children are taught that the Germans made soap from human cadavers – 1980, '84, '85. Now you see that the context you are looking at me standing up defending Germans' honour in some cases, I am looked at as some super-Nazi, but look at the context. I was born in Germany, raised in Germany, educated there. I lived among German people. I received my sensory input from German people forever. As long as I am going to remain in this country, I will carry, like a snail[-]house, my German ethnicity and background with me like you carry the Canadian one. The contest is now, is the thesis of the booklet correct, or is it not correct, or are errors made in this thing here. So that is what we are discussing here. You come at this from a totally different vantage point than I, myself. You see? I come from the German side. Half my intellectual life I was reading only German books, Mr. Griffiths. I had only influences from German newspapers, German television stations, German radio stations, German war veterans. I interviewed hundreds of Germans who were in the Second World War in all kinds of capacities. So obviously, I reflect a totally, maybe diametrically opposed viewpoint to you and this court. I understand I am working at a disadvantage, but if you are thinking that this is a diatribe or unfair thesis, I don't think it is. It is one thesis. My appeal in the back of the book was this: Let there be diversity. Have we Germans no right to submit to the people and legislatures of Canada, {4323|4324} to the politicians, the media our viewpoint? Why should we be beaten down and vilified in the public without having a right to defend ourselves? It is a sacred God-given right.

Now, the booklet you have already pointed out during the last seven weeks has flaws in it. Let me know the publisher that doesn't have errata sheets in his books or didn't correct things in second editions, Mr. Griffiths.

Q. You have a second edition. Did you correct anything?

A. I was not aware at the time that there were errors in it.

Q. That is what we are inquiring into.

A. Well, the third edition you can be sure will have changes or additions to it.

Q. Were the allegations of Streicher investigated in court before his comments were struck from the record?

A. I was not there, Mr. Griffiths.

Q. You don't know.

A. No.

Q. And was there anybody else that was tortured, you say, who testified before any of the Nuremberg Trials [sic]? Wisliceny because he cried, and we heard the torture of Julius Streicher. Anybody else?

A. Well, I have seen a Life Magazine story and some news reels about how these men looked in Nuremberg. The Life Magazine article and the Chicago Tribune articles tell that they all had lost {4324|4325} a tremendous amount of weight, that they could not concentrate, that their minds were wandering.

Now, I am saying to you that there are many forms of torture. One of the favourite tortures was, in this trial, I believe, from what I have looked into and also in the famous sedition case in 1944 in the United States, to deprive the prisoners of food to which they had gotten used to, and the quality they had gotten used to.

For example, the prisoners had an American diet which we Germans call cotton batten bread, not black bread, which is not very nutritious. Apparently they had no green stuff. The sedition trial, I know people who were part of the trial and it makes one's mind wander. You cannot remember. And of course, you put a man like that – I mean, I am nervous enough standing up here today, and I eat my regular food; I can imagine how these men felt with all this propaganda around them. There are many ways of torture – eating a lousy diet, lack of proteins – so their mind wouldn't function properly.

Q. Is this the kind of torture that this book is talking about – testicles punched, jaws broken, the old rubber hose in the back room?

A. Are you saying –

Q. I am asking who it happened to and what your basis for belief is.

A. I believe from personal interviews which I have conducted from many Germans, notably S.S. men who became prisoners, especially of

the Americans and the Russians, that they were brutally {4325|4326} treated. And many of these men have the scars to show it.

Q. All right.

A. War was not some Sunday-school picnic. When will the world allow us also to tell the world that we have suffered as a nation, pain. The soldiers that the Allies sent over to Europe came as conquerors, as President Eisenhower said, and Mr. Griffiths, in many cases, unfortunately, they behaved that way.

Q. Did Ohlendorf – he testified quite a number of times. Did he ever say he was tortured in any of his testimony? He testified both before and after he was convicted in his own trial, did he not? Did he ever say he was tortured?

A. No, not that I am aware of. Can we go back to Hoess for a minute?

Q. Yes. Certainly.

A. You see, Hoess had an opportunity to write about it in Polish captivity and say that he was convicted – was tortured by beating with his riding crop and by feeding him alcohol and that he was I forced to sign a confession, that he couldn't read, you know, or didn't even understand what was in it.

Now, I have carried on a lengthy correspondence with the brother-in-law of Rudolf Hoess and with Mrs. Hoess who are very much alive today. Now, they were only relatives of Rudolf Hoess and they were confined, after the War, and I have a sixteen page letter in my files how the brother-in-law – not Mr. Hoess – the brother-in-law was mistreated to the {4326|4327} point that he was a physical wreck when he was released after his confinement. So it is not

Q. Did he confess under torture?

A. Pardon?

Q. Did he confess under torture?

A. The brother-in-law or Mr. Hoess?

Q. We are talking about confessions under torture.

A. It was the norm in Europe in 1945 and 1946, it was the norm. Fritsch, the assistant to Goebbels, wrote an article in Life Magazine about it. I don't know if you studied the article how he was tortured in La Bianca prison by the most refined mental torture, brainwashing and so on. It is incredible the harm that can be done to a person's mind or soul, and I am not a person to accuse somebody that I wouldn't break under torture, believe me.

Q. Arnold Pohl, did he ever complain that he was tortured?

A. No. He never complained.

Q. All right.

A. Which does not mean that he wasn't.

Q. On page 13, "The Case of the Einsatzgruppen", there is a paragraph there. It seems to indicate that there is very little factual evidence for the deaths attributed to the Einsatzgruppen. Do you agree with me on that?

A. Are you talking about the sentence just before and below the picture?

Q. No. I'm sorry, no. I am in the {4327|4328} paragraph, "The Case of the Einsatzgruppen".

A. Okay.

Q. Page 13, column one.

A. Mm-hmmm.

Q. I am directing you to this. Do you know of any documentary proof, German documents that are put forward to substantiate that the Einsatzgruppen did, in fact, kill hundreds of thousands of Jews?

A. The way I understand the Einsatzgruppen

Q. Well, first answer my question. Do you know how many German documents –

A. That prove?

Q. Yes, sir.

A. German documents. German documents like Dr. Walendy's type-written sheets, without any proper genealogy [sic] to them? You see, you talk about German documents. German documents, all German documents, were captured. Every document that we look at today had a chance to be doctored. So if you are saying to me, have I seen photostats or sections printed in books about documents that the Allies

returned back to Germany were used, everyone of those documents, as far as I am concerned is suspect.

Q. So we can't trust any documentation

A. That the Allies produced?

Q. Yes.

A. In their one-sided kangaroo courts? No. {4328|4329}

Q. Or anywhere else. There are a great number of documents seized, I guess, in the Archives in Washington.

A. And many of them are still being held and many of them we don't have access to. We know that, too. So number one we are only talking about partial documents. For instance, we have the West Berlin documents centre where there are files on, I don't know how many, one and a half million or two million S.S. people, the whole background, where they were, what they were doing, have never been released by the Allies.

Q. We can't trust any documents that are in Allied hands right now?

A. It is not a matter of trusting anybody. It is a matter of treating them with a certain amount of suspicion and reserve.

Q. Well, I guess, is it fair to say that you reserve your suspicion for those documents that tend to support that millions of Jews were killed during the War, and you have less reserve for those documents that tend to show something else?

A. That's where you are back at the thesis thing. You come at this problem from a totally different viewpoint. You are a Canadian in Canada in a Canadian courtroom.

Q. Can you answer my question?

A. I'd be happy to. I think that the jury is still out on the Nuremberg War Crimes Trial. No international committee has investigated this. So far we have seen victors' justice over the {4329|4330} vanquished with all that it implies where the judges, the prosecutors were, in fact, supplied by the victors, and even the laws were written retroactively by the victors, Mr. Griffiths.

Q. Do you remember my question?

A. Can this be justice?

Q. Do you remember my question?

A. I do.

Q. Can you answer it?

A. I am suspicious of Allied documents, and I would hope that I have the detachment to also be suspicious of German documents, yes.

MR. GRIFFITHS: Is this a convenient time for the morning recess, Your Honour?

THE COURT: Yes.

— The jury retires. 11:15 a.m.

— The witness stands down.

— Short adjournment.

— Upon resuming.

— The jury enters. 11:50 a.m.

— The witness returns to the stand.

THE COURT: Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

Q. Page 14, Exhibit I, column one, under the heading, "Action Group Executions Distorted", the first sentence there, it says: {4330|4331}

*"The Soviet charge that the Action Groups had wantonly exterminated a million Jews during their operations has been shown subsequently to be a massive falsification."*

Is that true that there was never – the slightest statistical basis for the figure?

A. There was a publication on Manstein where the figure was reduced from thirty thousand people killed to a considerably less number. And that was in the trial when the heat of the agitation had died down.

Q. That was dealing with one particular answer. One of the group was Ohlendorf's testimony that was referred to by R.T. Paget in his book, "Manstein", which is now Exhibit No. 74. I am showing you page 170, which Mr. Christie read. Is that footnoted at all? Is there a footnote in that book referring to Paget's source in his belief, or is that, in fact, Paget's opinion?

A. I cannot see a footnote.

Q. Okay. Would you agree with me it's an expression of Paget's opinion?

A. Based on a trial which he was conducting, a defence he was conducting for Field Marshall Manstein where he looked through all the documents that were presented to him, and the charge specifically that many thousands of Jews had been killed, in effect, ten and twenty thousand Jews in two or three days. In other words, the charges were against Manstein that he killed many thousands of Jews {4331|4332} and that could not be substantiated.

Q. Stopping where Mr. Christie stopped reading, page 171, there is a paragraph that begins, "Nobody ever will know what really happened. I think that Ohlendorf probably told the truth when he said that before the campaign he received verbal orders directly from Himmler to exterminate the Jews of the Ukraine and that it is probably also true that these orders were so secret that they were known only to a few officers of the Einsatz Kommando. I think that Ohlendorf probably started off with the intention of carrying out his orders but very soon realized that the task was enormously beyond the capacity of his command. I believe also that while it was relatively easy to order the murder of the Jews in the abstract it was psychologically difficult to murder women and children in practice. Even the S.D. thugs discovered a loathing for the task. One went mad in Simferopol and started moaning, 'The eyes, the awful eyes.' This shook the others. At about this point Ohlendorf whose figure even before had been enormously exaggerated, reported that his area was clear of Jews. The extermination policy worked in the extermination camps where every individual could be given a particular job. It broke down in the field where the same body of men had to be entrusted with the whole operation from capture to murder. Human beings were just not wicked enough to go on doing the whole job. The Nazi devil had nearly but not completely obliterated the Christian tradition of childhood."

Have you read that, sir? {4332|4333}

A. I have.

Q. Thank you.

A. So if the one opinion on the left page doesn't meet your approval, then we quoted it out of context, then if the opinion on the other page, if it meets with your approval, it is a good quote. That is what this trial is all about.

Q. Well, do you agree with what's on the right page and on the left page?

A. They are certainly, in your opinion, both opinions.

Q. I am not asking for my opinion, sir. I am asking for your opinions.

A. They are his opinions. They are his opinions. On the left side, his opinion is that instead of Manstein having been responsible for the killing of twenty thousand or thirty thousand or ten thousand Jews, suddenly it was more like three hundred. You see. Now you say that is just an opinion. If he is such a faulty thinker, who says that on the right side he is not also a faulty thinker?

Q. Well, if he is a faulty thinker on the left and on the right side, why do you bother quoting him?

A. Because I consider Paget, the trial that he conducted in 1953, a far fairer trial, because by that time the propaganda, the heat of battle, the tempers had cooled in the world and the verdict in the Manstein case bears me out, and that Paget was able to feed this particular accusation is proof of this. Cooler heads remained. {4333|4334}

Q. Is there a footnote for either one of the contentions?

A. No, there is not, but I think the man is entitled to his opinion?

Q. And you accept Paget's opinion over documents.

A. Of the type proffered [sic] at Nuremberg, any time, yes.

Q. All right. Have you had an opportunity, Mr. Zundel, to read a book by Helmut Krausnick published in 1981 – and I'm sorry, but you are much better at the German than I am.

A. No, I haven't.

Q. You didn't read that.

A. No, I didn't read that.

Q. All right. Page 20, Mr. Zundel, column one, and there are two com-

plete paragraphs there, one partial paragraph coming down from the top. One sentence starts, "Reitlinger acknowledges", and that is not the paragraph I want. The next paragraph down, "A review of the Hoess 'memoirs'", and the last two sentences of that paragraph start with a review of the Hoess memoirs:

*"Of course, no Jew would ever be found who claimed to have been a member of this gruesome 'special detachment', so that the whole issue is left conveniently unprovable."*

Do you have that, Mr. Zundel?

A. Yes, I do.

Q. Is that true? {4334|4335}

A. If by 1975, when this booklet apparently was written, there was no Jew who came forth to say he worked in a Sonderkommando – is that what you are saying?

Q. Yes, that is my question.

A. I really don't know.

Q. All right. You've put into evidence a book by a Dr. Nyiszli.

A. Yes.

Q. And is he one who claimed to have been a Sonderkommando?

A. Well, from what I recall, he was a doctor in Auschwitz, was he not, Nyiszli?

Q. You read the book?

A. Yes, but a long time ago. If you will point it out to me, I will be happy to do that.

Q. Well, it is your belief we are concerned with, Mr. Zundel.

A. Oh, that there might be people who claimed to have been part of the Sonderkommando?

Q. Well, whether or not you knew that there were people who claimed to be part of the Sonderkommando.

A. I regard much of that, these claims in testimonies, propaganda and lies.

Q. I understand that, but do you know that the claims were made?

A. Without-refreshing my memory in the Nyiszli book, I will take your word for it.

Q. What about Filip Muller?

A. "My Three Years in the Gas Chamber"? {4335|4336}

Q. Yes, sir.

A. Well, that's true, but my mind boggles at such a claim that a man could claim what he did.

Q. I understand that. That is your testimony. We have your evidence on that. But my question is whether that's true that no Jew would ever be found who claimed to have been a member.

A. You are staying to the word "claims" as being a bone of contention. Well, in that case, if Mueller is taken as gospel truth, he was there. He said he was three years in the gas chamber.

Q. So that's false, then.

A. Is it false that Mueller was lying, or is the word "claimed" false?

Q. Well, what is here is false.

A. Speaking like a lawyer, the word "claimed" in that case is false, yes.

Q. Well, how do you read it, Mr. Zundel?

A. I start out from the context that Filip Mueller is lying, because he tells an incredible tale.

Q. What does it say here?

*"Of course, no Jew would ever be found who claimed to have been a member of this gruesome 'special detachment', so that the whole issue is left conveniently unprovable."*

Is that true or false?

A. If you speak like a prosecuting {4336|4337} attorney, the word "claim" is false.

Q. Why don't you speak like Ernst Zundel? Is it true or false?

A. I have just answered your question, Mr. Griffiths.

Q. That's the only answer you are going to give?

A. That is the only answer I can give.

Q. All right. We have your evidence on that.

A number of different pages here make specific references. There are references to Dachau. We've put in some twenty exhibits about the concentration camp at Dachau, and as I remember your evidence you

said, having seen Dachau, you have seen one concentration camp you have seen them all. Is that fair?

A. I was referring to the construction of the camp.

Q. All right. Not to the conditions of the camp.

A. That's right.

Q. And at Dachau can you tell us whether that was a camp reserved for Jewish detainees?

A. There were Jews detained.

Q. Was it primarily a camp for Jews?

A. No, it was not. There were priests there, Poles there, we have heard, from Mr. Tomaszewski [Tomaszewski], I believe, he passed through that.

Q. Political prisoners. {4337|4338}

A. Mm-hmmm.

Q. All right. And in that regard it is different from most of the other camps, isn't it?

A. Not really. Auschwitz had other prisoners.

Q. But Dachau was unique. It was the first one and it had a special position in the concentration camp hierarchy. Would you agree with that?

A. Well, Mr. Griffiths, everything has the property of being unique, of course, if you want the prototype —

Q. And was the use that Dachau was put to, the type of prisoners that were held there, different from the other camps?

A. Marginally. Marginally.

Q. Page 30, column one, the heavy typed paragraph above the words, "Conclusion", it says:

*"Perhaps I may be allowed to recall here that the State of Israel was only founded in May 1948 and that the Jews were nationals of all states with the exception of Israel, in order to underline the dimensions of a fraud which defies description in any language; on the one hand Germany pays to Israel sums which are calculated on six million dead, and on the other, since at least four-fifths of these six million were decidedly alive at the end of the war, she is paying substantial sums {4338|4339} by way of reparation to the victims of Hitler's Germany to those who are still alive in countries all over the world other than Israel and to the rightful claimants of those who have since deceased, which means that for the former (i.e. the six million), or in other words, for the vast majority, she is paying twice."*

Dr. Faurisson in his evidence indicated that was not true. Do you agree with that?

A. The Treaty of Luxembourg, which was negotiated between Konrad Adenauer and the Israeli Government of the day, talked about millions of Jews. So if you are saying that the six million that is mentioned here, then that is erroneous. He talks about millions of Jews.

Q. He talks about recognizing the death of millions of Jews in the Treaty of Luxembourg. Is that right?

A. Yes. That Germany does penance and settles financially.

Q. And does the Treaty of Luxembourg base the payment of monies on the numbers dead – if there were five million it would have been less, if there were seven million it would have been more?

A. The financial reparations, as understand it, to the State of Israel, are based on a lump sum payment for each Jewish person. I don't know what the exact figure is, but I have here from the {4339|4340} Canadian Jewish News —

Q. Dead or alive Jewish persons?

MR. CHRISTIE: May my client —

THE COURT: Yes, I agree. He can finish. Go ahead and finish.

THE WITNESS: Jewish individuals dead and alive. I mean, Israel is getting and has been getting lump sum payments as a State. There are Israeli organizations that have been getting lump sum payments. Then there are Jewish individuals, then there are Jewish firms. Remember we talked about reparations, indemnification, the different categories that there are, and according to the Canadian Jewish News, December 11, 1981, it says that the German Information Centre in New York says that 99.8 per cent of all claims had been settled by January 1st, 1981; the number of successful claimants was 4,344,378; payments have

reached 50.18 billion marks, and about forty per cent of those live in Israel, twenty per cent in West Germany, forty per cent elsewhere. And then there is an article from the Canadian Jewish News called, "Diary of a People" where it says that compensation under the first protocol was in the form of a gradual transfer of more than 715 million of West German goods to Israel. Sometimes that is overlooked – transfer of goods. That was part of the deal. And let me hasten to say that I am not at all in disfavour of paying people who worked in German concentration camps, paid, who had lost their businesses, who couldn't teach in universities. I think they ought to be entitled to fair compensation. But I think it {4340|4341} should also be understood that after someone has been fairly compensated, that the hate propaganda mills ought to stop, and that these people should have the decency not to keep harping away at how nasty the Germans were, because my generation of Germans – and I was a German taxpayer, I was born in 1939 – yet from my paycheque money was deducted for crime that my generation of Germans did not commit.

Q. Mr. Zundel, is this an enormous fraud that is indicated here?

A. Is it an enormous fraud?

Q. Yes, sir. Are people getting money they are not entitled to?

A. Absolutely. I can give you an example. We have the Estevan collection, and it was reported for years in the European press that the Nazis had stolen that very valuable collection, and the value of it was set at about sixty million, a horrendous sum. And a Jewish attorney, an office of attorneys in Basil, Switzerland specializing only in this restitution and settlement claims, he went to bat in order to get the money for the Estevan collection. An agreement had already been struck of, I believe, eight billion German marks, had been paid, when suddenly an embarrassing thing happened. The Soviet Union had announced that they were going to return to the people of Hungary this very valuable collection of paintings. A fraud? The German nation had been made to look for fifteen years as the despoiler of the cultural treasurers of Europe in all the media. The Soviets, in the meantime, had done the evil deed, and {4341|4342} the German taxpayers had been robbed already of an amount of money which had not been paid because Mr. Dauch (ph) ended up in jail. One point, and there are others

Q. Who is Mr. Dauch?

A. He was a reparations attorney from Basil.

Q. And he was charged and convicted of fraud in relation to this?

A. Absolutely

Q. As he should have been.

A. Right. One man who was found out. How many others are there which were not found out?

Q. I see. So the numbers, the imaginary slaughters that's indicated here, it gets figures from three hundred thousand up to the millions, is that a fraud? Is that a conspiracy, a hoax?

A. Well, okay, if you doubt what I am saying, we have a book in evidence called, "The Jewish Paradox" by Nahum Goldman, who was the chief architect – no, no, Mr. Griffiths

Q. I would like you to answer my question as to whether it was a fraud or a hoax.

A. I am answering it in my own words, and if you read this book of Nahum Goldman, he will tell you how enormously he was surprised at the staggering amount of money that he was ultimately able to talk out of the Germans. And he describes the methods which were employed, illegal methods, may I say, on the part of the German negotiators as well as on his own part, where, for example, Konrad Adenauer {4342|4343} did not inform his own Parliament where he was dealing behind the scenes with Nahum Goldman.

Q. The German negotiators were involved in this hoax and fraud, were they?

A. The Germans were given a choice, Mr. Griffiths, whether or not they were going to be allowed to trade on the international market, and that the German mark, which was an occupation currency, was going to be accepted as an international currency which could be used in trade. That is the way I understand it. The price demanded for Germany by the then military governor of West Germany, I think it was John J.

McCloy the other day said, the man who pardoned John J. McCloy, he was the man in charge, and he – so I read it from German history text, he gave the Germans a choice: Come to terms with the Israeli Government, settle, make a generous settlement, and then we will allow you to trade on the international market. That's the way we see it.

Q. So the Germans opened the negotiations with Israel, not the other way around? The Germans approached the Israelis?

A. It's like starting a hockey game. I really don't know. I don't recall. I remember that Menahin [sic] Begin was, for instance, as a member of the Knesset, against accepting money from Germany. There was a furious debate in Israel. Who initiated the first steps, Mr. Griffiths, at the moment, it may well have been the Germans because of the condition of the Germans at the time.

Q. It could have been. {4343|4344}

A. Yes, it could have been.

Q. And if it was the Germans, would this pamphlet have been misleading at all to say that the numbers have been inflated to gouge money out of Germans?

A. I don't think so, no. I really don't. I think you are impugning an intent which I think is not there.

Q. The question that I asked you, sir, was whether, call it the inflated number, the difference between millions of people dead and three hundred thousand people dead, whether that comes about because of an enormous fraud or hoax or imaginary slaughter perpetrated by someone.

A. Are you asking my viewpoint on that?

Q. Yes, sir.

A. Oh, okay. I believe what we are looking at here is World War II propaganda, which claimed outrageous losses. For instance, the British, after the War, had revised their number of aircraft shot down because the German figures were more precise than the British figures, and this is not unusual in wartime. These propaganda claims against Germany were made. Germany was in ruins, defeated. The entire German leadership of that particular time was either rotting in jail, was either executed, was starved to death, or was somewhere in the Soviet Gulag[s], so the German people were virtually abandoned. What was left was emigree [sic] leadership that had left Germany in the thirties, largely Jewish, communists who came {4344|4345} back with the communists or quizzlings [Quislings] who occupied positions and were given the positions by the Allied powers.

Q. Could you tell us what a quizzling [sic] is?

A. A quizzling [sic] is properly understood to be a person who is appointed by an occupying power doing the services of somebody else. And the constitutional conference that was held in Bonn to set up the West German State was hand-picked by the occupying authorities, and they rejected people when they didn't toe the line that the Allies had laid down for Germany. So therefore we started out with an occupational government, and it has been self-perpetuating, however much they want to cloak themselves in democratic trappings.

Q. So there is still an occupational government there?

A. In West Germany?

Q. Yes.

A. Definitely.

Q. Why do you say that?

A. Because it is. We have a loss in West Germany that we had to sign, that Konrad Adenauer signed when they called what they called the limited sovereignty, that the Allies are still allowed to inspect German mail, intercept German phone calls, look into German parcels. You see? Now, what kind of freedom can be fostered in a state when people are unable to communicate and have their thoughts held sacred? {4345|4346}

Q. There are free elections, aren't there, in Germany?

A. Free election where the very government and the very people for a good twenty years dominated German history are ruled out and declared illegal. Up until the seventies, the German Communist Party and the Socialist Party and all other manners of other parties are outlawed. What we have in Germany is occupational government approved pa-



rating around in what is called a dichomocracy, no different from Hungary, Latvia, Estonia or even the Soviet Union.

Q. And it is an approved government and the National Socialist Government is outlawed.

A. Yes. And the millions and millions of people who voted for it and its tens and hundreds of thousands of functionaries who were working in it were outlawed. Therefore the German people were robbed of a whole generation of trained, capable people which had given Germany a very stable and prosperous government, and suddenly we lose the War and tens of thousands of people are made homeless, jobless, removed from universities and so on. A terrific purging took place. And if you are wondering why German affairs are in such – why we enjoy in West Germany and East Germany this tranquil scene, we have there the pacification and the quiet of a graveyard, a cemetery. It is a political cemetery where decency is stifled, where people like myself not only are put on trial, but actually grace the inside of jails. So there is very little political dissent and therefore very little political creativity, Mr. Griffiths. {4346|4347}

Q. And I understand the dissent that you are talking about is people who would like to see National Socialism return to Germany, made lawful again.

A. Mr. Griffiths, either we have a democracy where all spectrum of political opinion is allowed, or we shouldn't lie to generations of children in school books that we have freedom and democracy where everybody can say his piece of mind. It's the same with this particular thing. Why should I not be able to offer one thesis while tens of thousands of authors and museums, hundreds of thousands of books have been written about the Holocaust, [sic] and I am here because I have written some thirty pages?

Q. You would like to see the National Socialist Party – are you working for the return or legalization of the National Socialist Party in West Germany?

A. The National Socialist Party in West Germany and East Germany is as much a part of history as De Gaulism is in France.

Q. Are you working for the return of the National Socialist Party in Germany?

A. I am not. I never did so. I was cleared of this charge in the court in West Germany in 1981 and was found totally innocent of it. The State dropped the charges and paid me for the expenses I had to pay because of it. You see?

Q. Sir, I show to you a German two-page article.

A. Yes. {4347|4348}

Q. Can you identify that?

A. Yes, I published that.

Q. When did you publish that?

A. 25th of March, 1981.

Q. Where was that distributed? It is written in German.

A. It was in West Germany.

Q. In West Germany.

A. That's right.

Q. I have a translation there. Would you take a moment, or however long it requires, and look at that and tell me whether this is an accurate translation or not?

A. It's rather lengthy. Excuse me. It's a pretty good translation, Mr. Griffiths. Now, may I give you the context of it? Since it shows a Canadian news article in here rather inaptly, "Metro Man branded a Nazi", am I permitted?

Q. Sure. Give the context and we will read it.

A. You would like to read it?

Q. Give the context and then we will read it. And let the jury share it.

A. Okay. Good. This was written in response on the 3rd day of the largest police raid which ever took place in West Germany, and as a matter of fact; in the history of German people where approximately two thousand homes were raided, and where it is said in the media ten thousand policemen, three hundred prosecutors and fifty judges took part in this operation.

The chief target of these raids on {4348|4349} these German people's

homes which took place at five o'clock, six o'clock in the morning, some people were as old as eighty-six years old, the misfortune of these people had been that they had bought from me some books, some tapes, some letters, who had donated money for my work.

Q. You weren't the only target, though; there were other people, other materials and other reasons for going in there?

A. No. Which they found.

Q. I see.

A. Which they found. I mean, I have seen many of the search warrants were sent to me, and I have them here on file in Toronto.

Q. Mm-hmmm.

A. Now, of course, you cannot raid two thousand homes and not find all kinds of literature. There's people who were raising rabbits, they had rabbit breeders' literature, and others were raising chickens, they had chicken breeders' literature, and naturally, people who were politically inclined had political literature, and my own.

Q. What kind of political literature?

A. They were looking for material which I had written, and these people had bought from me, or had donated money for tape cassettes and so on. And the operation netted, I am told, if you will pardon the pun, garbage bags full of my material, and it was all taken to a central place in Stuttgart, Germany.

Then there was an investigation, and the German judicial system is slightly different from the {4349|4350} Canadian one. And I was represented by a German attorney, and after one year's investigation, looking at all the material that I had sent over there, no charges were laid, although the State prosecutors proffered these charges against me, especially under promoting the revival of Nazism in Germany, the revival meaning the recreation of it, and also our paragraph similar to s.281.1 in the Criminal Code.

Now, a panel of judges looked at this material, the State prosecutor asked that I should be charged, and the judges turned it down. Then, the next level of the State prosecutors which is called Oberstaatsanwalt (ph) [Oberstaatsanwalt], a higher authority, went to another level of the German legal system and again offered this material for perusal, and again it was turned down, whereupon my postal chequing account, which is like a bank account I had in West Germany, was freed, the Government paid my attorney all the expenses, and many of these people received their material back, and it is interesting in the reasoning for that decision they said that the accused, meaning Ernst Zundel, cannot legally be charged with (a) the attempt to revive or to restore, which is an unconstitutional activity in West Germany, and also not the charge of s.281 similar to it, meaning the distribution of hate literature. I was completely exonerated [sic] in that.

Q. All right. Now, the two pamphlets, so we are all clear before we read this, that are before the jury today, were not part of the material that was seized, Exhibits 1 and 2. {4350|4351}

A. I have sent this material to West Germany, this one here.

Q. Exhibit 1. All right. And what about Exhibit 2?

A. As I said, that went to Arab addresses.

Q. All right. Now, let's read the letter.

THE COURT: I'm sorry, I missed. Were these two seized or not seized? I missed that.

THE WITNESS: Your Honour, this one was among some of them being seized.

MR. GRIFFITHS: Exhibit "Did Six Million Really Die?", but not Exhibit 2.

Q. "This material is sent to the addressee unsolicited and free of charge.

*The Bonn Police State: Bankruptcy of the Bonn Moguls Circular No. 21 March 25, 1981".*

A. That's right.

Q. "In the night from March 23-24, 1981 I received telephone calls from all parts of West Germany, telling me of house searches and arrests of comrades. Today, March 24, 1981, I was telephoned by the Canadian media, and then visited for interviews, because here, too, this hysterical mass raid has {4351|4352} attracted much attention. The first newscast with my interview on Canadian public TV has already ended.

The interview, [sic] which was shown all over Canada and which also reached millions of US viewers, ended with the following important sentence: 'Zundel claims, 'The six million Jews allegedly gassed are a swindle, and the Diary of Anne Frank is a fraud. Tonight at 11:15 p.m. the other Canadian television network showed a detailed report which also brought a lot of plain truths to light and acknowledged our work.' What work is that?

A. My work supported by my friends around the world. The people that are receiving them?

Q. Yes.

A. Yes. Meaning we speak as a collectivity. All I am responsible for is writing some of the stuff and my name is on the paper, and that is why I am on trial and they are not on trial.

Q. "Tomorrow the largest and the second largest Canadian daily newspapers will bring articles about it. Total circulation: 1.3 million. We will have to wait and see how these turn out. In any case, the sacrifice of those who were victims to those {4352|4353} police raids has already led to the first positive result, namely that millions and millions of people in Canada and the US have been confronted with the truth about the Jewish swindle; other operations have already been set in motion. The following comments on the actual searches: If a government that constantly boasts of being more democratic than all others in the world tried to defend itself with judicial and police chicanery against ideas, this is a declaration of bankruptcy that cannot be expressed more clearly. Bonn's henchmen of the occupation forces are at the end of their wisdom. Once again the moguls and their Zionist manipulators behind the scenes have gone too far with these searches, and even the most stupid and dull German citizen must slowly wake up. The great turning point has come. The occupation system and its henchmen have unmasked themselves. The dishonourable and downright shameless behaviour of the Bonn moguls during the funeral of Grand Admiral Donitz and in the case of Rudolf Hess have been the low points in Bonn's self-defilement. Willy {4353|4354} Brandt-Frahm's ..." That's a hyphenated name.

A. Yes. Because he travelled under aliases. It seems to be a German tradition.

Q. "... Willy Brandt-Frahm's genuflection in Warsaw, and the present system's DM 500 billion indebtedness to the international financial Mafia that once again delivers our people into the hands of these crooks and gangsters, are of the same calibre. Other events to the credit of the re-educators and henchmen of the occupational forces were the screening of the Holocaust movie in 'Rest Germany' as well as all the other anti-German hate and self-defilement films, as well as the mendacious history and school books for our young people, which incite the children against their own parents. Decent people find it revolting even having to deal with such subjects. Well, we have been dealing with these traitors for years, and they may as well know: that everyone of them has long been recorded, and that all of them, every single one of them, will be made accountable this time. The state-attorneys and judges who on {4354|4355} behalf of the Bonn moguls drag 80-year-old men and great-grandmothers before political tribunals for the benefit of the Zionist manipulated world press, will some day have to answer to German courts themselves. In the words of Mao Tse Tung: 'Justice will be dispensed from the barrel of a gun'. The same federal German political parasites believe that their occupation regime supported by American bayonets and Israeli secret service organizations will last forever, but these dreamers and naive provincials do not even realize that they have already missed the boat of history. The world has undergone mighty changes in the past few years. Israel is financially and politically bankrupt. Tens of thousands of Jews are leaving the terrorist state every year, and the Diaspora Jews are talking louder and louder about the Israeli millstone around their neck. Rabbi Meir Kahane, leader of the Jewish Defence League, even wants to establish a second Jewish state named Judea because Israel no longer suits him. The Bonn traitors should therefore no longer count on too much help from {4355|4356} down there. The USA with its drug infested garrisons on German soil and its negro troops will also some day

either pull out voluntarily or be forced to withdraw, and then may God have mercy on the tormentors of the German soul!

But all of us, those arrested and those still free, are now united by an ever closer bond of comradeship. No police or judicial chicanery can silence us forever. Neither confiscations nor the seizure of donated funds will stop the flow of information material, tape recordings or demonstrations. On the contrary, these infamous and insidious manoeuvres [sic] will only strengthen us in our goal. Ideas cannot be conquered with handcuffs, jail terms or searches. Another element of this large-scale raid is positive for us, but extremely dangerous for Bonn: Thousands of German police officers, state attorneys, judges and journalists will now have to deal extensively in detail and officially with our publicity material – a readership which our material would have never reached otherwise. These people have often experienced for the {4356|4357} first time the decent manner and philosophy, the inner discipline and loyalty of our comrades, while engaged in the search operation. This, too, is publicity. For every confiscated circular and for each stolen tape recording 10,000 new ones, better and stronger, are already on the way. The Bonn moguls and their henchmen may torture and beat us, steal from us or slander us. Who cares? We Germans have withstood more and survived more already. If I think of the mental and physical anguish of our soldiers at Stalingrad, In [sic] Siberia, and of the sacrifice of the refugees, the horror of the bombing raids, if I picture the state of the accused and tortured of Nuremberg, Dachau, Werl, etc., I feel that none of us has the right to complain or even to let our heads hang low unless it is in shame or in reverence of those who came before us and who have fought for Germany.

Every one of us has to do his duty where he lives, works and stands: I here, you there. No one can escape his fate, not even our enemies. It is up to us what we want to do with this new state and situation. {4357|4358} Personally I have reacted immediately and consequentially. With this action Bonn has given me and our people through me the possibility to tear the democratic mask off its face for all the world to see. What the whole world can see emerge from under this mask is a morally and politically degenerate occupied state, financially ruined and without ideas for the future, whose means of power and finance have been and are always used against and never for Germany. We are without fear of and without respect for the Bonn moguls; all we have for them is disgust and total contempt. Hold out! Keep calm! Stay level-headed and cool! Bonn will get its surprise.

Please do not send money to the Stuttgart account for the time being. A good German lawyer is taking care of Bonn's highwayman and robber baron methods. Donations by registered mail are safer! In comradeship solidarity – long live our Germany!

(Signed:) Ernst Zundel."

And then there is, as you indicated, a newspaper clipping that was included with that letter.

A. That's right. {4358|4359}

Q. Is that an accurate translation?

A. A couple of spelling errors, but since I am guilty of the same offence, we will let it pass.

Q. Were you a pacifist then?

A. I am still a pacifist. What I appealed for was, and said, that one day the quizzlings [Quislings] of Germany will suffer the same fate that the quizzlings [Quislings] of other occupied countries, like in the Second World War, suffered.

Q. Justice will be dispensed from the barrel of a gun?

A. After they have been sentenced by courts. It says that very clearly in the article, does it not, Mr. Griffiths?

Q. We have heard the evidence.

A. Yes.

MR. GRIFFITHS: May that be the next lettered exhibit, Your Honour?

THE COURT: Yes.

— EXHIBIT [sic] "CC" (For Identification): Newsletter from Ernst Zundel dated March 25, 1981.

Q. MR. GRIFFITHS: Are millions of people involved in some effort to dupe the rest of the world to gain reparation from Germany?

A. Millions of people have become the beneficiaries. Whether they were personally and actively involved in a conspiracy to defraud the German {4359|4360} nation, that stands open to be examined. However, that they are accessory to this fraud, there is no doubt about it, because the monies have been paid like in the Estevan collection.

Q. And would Raul Hilberg – he would have to be one of the conspirators; he has been working in this area since 1948, he said.

A. I cannot look into the head of Raul Hilberg, but he certainly is a man that looks at history from a rather frog-eyed position, I would think. He has never been to any of the concentration camps, you know. He strictly relies seemingly uncritical on all these documents from the Second World War that the Allied produced and even uses quotations out of context, or selected quotations from a man that he, himself, admits has a fairly vivid imagination, was unstable, like Gerstein, and with much relish, although he discounted the rumour here in this courtroom, cites in page after page the soap rumour.

Q. Well, now, he is citing it to disprove it, is he not, in this book?

A. Well —

Q. He says in this book that the rumour is unsubstantiated.

A. Well, he states it in all its glory. If it is only a rumour and he knew it in 1960 when his book first came out, all he would need to say flatly is that this was only a rumour, but oh no, he goes and gives somebody else that might not have as vivid an imagination a chance to buttress his own thing.

Q. So he says it is a rumour. {4360|4361}

A. He does, yes, but are you saying that I consider him one of the global conspirators?

Q. I am asking you, does he?

A. No, he doesn't strike me like that at all. He is just another tunnel-visioned – and I am looking at the changes he has made and how he has matured in 1960 from his book.

Q. You gathered from scanning his book in 1960 that he was immature in 1960?

A. No. But he said himself that the second edition will reflect further researching.

Q. You are thinking of scanning the second edition, too?

A. Yes, of course, Mr. Griffiths. This remark indicates that I am some frivolous character. There are some hundreds of books out on the Holocaust. If I was to read everyone from the beginning to the end, I think that I would never have gotten around to get myself into trouble with this pamphlet.

MR. GRIFFITHS: Excuse me while I sort through some of this.

Q. Okay. The books here that you have put into evidence are books that you relied on for various beliefs – Exhibits 71, 79 and 89, the Louis Nizer books, the Rudolf Vrba book and the book by Nyiszli. The Vrba and Nyiszli books, they support, the Holocaust.

A. That's right.

Q. And the Lillienthal [Lilienthal] book, I guess we could more properly combine that, although I don't see the material here to come to hand, with the material on Morgenthau ... {4361|4362}

A. And "Germany Must Perish".

Q. And "Germany Must Perish". Thank you. And those are books that were written during the War, and Morgenthau, you told us, had a plan that would starve half the German nation.

A. One-third.

Q. I beg your pardon. Was that plan ever put into effect?

A. Partially, yes. But then, the falling-out came between Stalin and the American Government, and it was ultimately halted.

Q. When the Marshall Plan came in which rebuilt Germany.

A. Yes, because there were political considerations. A new President was in the White House and a new wind was blowing. Korea was on the horizon, the Berlin air-lift had taken place at that time, so political considerations, not human love for the Germans, believe me, because the military troops were, the executions continued in West Germany of people.

Q. What was the plan for Hitler for conquering countries? What was his plan to do with the English after he conquered England, during the

War?

A. It depends on what Allied source are you quoting.

Q. I am not quoting any Allied source. Give me a German source. What was the plan?

A. Germany lost the War because Hitler loved England. He was an Anglophile.

Q. So what was the matter with the Poles? {4362|4363}

A. There were millions of Poles working in Germany. What are you saying, that there was a German master plan to exterminate the Poles?

Q. I am asking you what was his plan?

A. Ridiculous. Certainly not the extermination of Poles or anybody else, whatever the propaganda has said since the War.

Q. What was his plan, if he had one, for the Slavs?

A. Are you saying or trying to get me to say that Hitler was going to go on a rampage to exterminate half the population of Europe? No such order was given. There was no planned genocide of people, be they Jews, gypsies, Poles or anybody else by the German Reich, Mr. Griffiths. That is a malicious propaganda lie oft repeated, and it doesn't make it true therefore.

Q. So that's just – he had no plans for what he was going to do with the conquered countries?

A. Oh, undoubtedly, he was going to incorporate large parts of them into Germany, and like many other people, for instance, after the Second World War, the Poles found historians, why they should have half of the German territories in the East. The Russians even found historians to say why they should have Kernsburg (ph) [Königsberg], that Kernsburg [sic] has always been Russian, and so on. Politicians always found academics, and I should say judicial systems, to support their causes.

We have trials in the East too, you know. So this is not new. This is life.

Q. You are not implying this is a show {4363|4364} trial, are you?

A. No, this is not a show trial. I am happy if I were to have a trial anywhere in the world, let it be Toronto, Canada, believe me.

Q. Now, we have some other books here. Nahum Goldman, that is a book that he doesn't deny that there was a Holocaust, does he?

A. No, of course he wouldn't, otherwise the very basis of the swindle would blow up in his face.

Q. Okay.

A. Of course, who was the person that said that he was a man of – I think it was Dr. Hilberg who said that Nahum Goldman was a man of action, and he was indicating he was senile when he wrote this book. I have seen some televised interviews with Nahum Goldman. If anything, he was a cultured, very sharp man, well into his eighties before he died.

Q. Exhibit 75, "The Disposal of the Dead," that is a book that deals – it is your book, isn't it?

A. Yes. It is about cremation.

Q. It looks like it is written for funeral directors. Is it true?

A. Yeah, for people who have an interest in this macabre subject.

Q. There is also burial, exhumation, embalming and funeral direction.

A. Sure.

Q. Is there anything in this book on mass cremation, more than one body at a time? {4364|4365}

A. You mean like burning in pits and so on?

Q. I mean burning more than one body at a time.

A. Nobody talks about cremation, and since we were talking about crematories and how they function, and since I obtained the plans of Topf & Sons who built the crematories in the concentration camps, they were basically the same kind of crematory, so I went to this source book which talks about no smell being associated.

Q. No smell in a crematory designed to burn one body at a time.

A. That's right.

Q. And from that you extrapolated to the conditions in the concentration camps.

A. Because of the authors. One, for instance, is Professor Dr. Bouchner [Buchner] from California who is now back in Germany, and who has done an extensive study on the burning of bodies. I thought this

was a good book; it was in English; it is an authoritative book; but he says the claim, for instance, made of putting three bodies into an oven designed for one body, and by looking at the photographs that Felderer took, for instance, in Auschwitz, where you see the enclosures or let's call them the alleged enclosures on the human body on these, what do they call them? These trays where you put them into the oven, that you couldn't put three bodies in at one and the same time. You either had a breakdown of the system, or the bodies would not burn unless you chopped them up and you heaved {4365|4366} them in piece by piece, and not even the exterminationist writers have ever claimed that the Germans or Sonderkommando were this ghoulis.

Q. Professor Bouchner [sic]?

A. Yes.

Q. And he was a professor in California?

A. Yes. For many years he was.

Q. And taught what?

A. I think he was a political historian in California. I don't have his curriculum vitae with me, Mr. Griffiths.

Q. Here is a great stack of books that you are relying on: "Debunking the Genocide Myth" by Paul Rassinier.

A. Yes.

Q. That's Professor Faurisson's book, is it?

A. I read the original version.

Q. This isn't the book that you read?

A. No. It's for the Court's sake, since it doesn't accept French books here, I brought this and I also brought the German book.

Q. This is published by Noontide Press?

A. Yes.

Q. And who controls Noontide Press?

A. Institute for Historical Review.

Q. Thank you.

A. Is there something in your thinking, Mr. Griffiths? It has come out repeatedly because I {4366|4367} have so many experts from the Institute for Historical Review. Are you questioning their credentials, or is it automatic that a publishing house that publishes books, they become untrue?

Q. I am asking the questions, Mr. Zundel. The jury will draw their conclusions.

"Germany Must Perish". That is George Deeth? (sic)

A. Yes, but I have the original book in my library. It is a very rare book, so for the sake of this jury I submitted a paperback copy.

Q. "The Dissolution of Eastern European Jewry" by Walter Sanning. That is published by the Institute of Historical Review?

A. Yes. Again, I studied the German language —

Q. Also published by the Institute?

A. Yes.

Q. Exhibit No. 70, "Hoax of the Twentieth Century", Arthur Butz, published by ...

A. Institute for Historical Review.

Q. "'Holocaust' 120 Questions and Answers", Charles Weber, published by ...

A. Institute for Historical Review.

Q. "The Guilt Question of the Second World War Truth For Germany", published by?

A. Institute for Historical Review.

Q. "War Crimes and the Military Professional, Doenitz at Nuremberg: A Re-Appraisal" published by ...

A. Institute for Historical Review.

Q. "The Myth of the Six Million" by {4367|4368} Anonymous, Exhibit 75, published by ...

A. Noontide Press, which is associated with the Institute for Historical Review.

Q. "Gruesome Harvest Costly Attempt To Exterminate the People of Germany", published by ...

A. I have the original version, but it is published by George Deeth, Liberty Bell.

Q. Liberty Bell. White Power Reports.

A. Am I guilty of the sin of reading too many books by one publisher, Mr. Griffiths, or what?

Q. Exhibit No. 86, "Atrocity Propaganda 1914-1919". That doesn't say anything about the Holocaust in there, does it?

A. Well, but we were talking about propaganda. And since I insist that the Holocaust is just one more lie in an ongoing campaign, to see how lies are generated, how they are promoted, who promotes them, what governments do, what things and how they do it, this is an excellent case study. Do you know why? Because you can go to the reference library here in Toronto and any other library and although the media says that the Second World War was most reported with cameras there, it might come as a surprise to you, that is when I was there the last time, that one or two books dealing with propaganda — and I have it here if you'd like to deal with it, you see? Now, there, this is one of the books on propaganda that is in there. So there's about forty very good books analyzing the propaganda in the First World War, but the media and many of the writers have been confused into believing that the Second World War produced no {4368|4369} propaganda except Dr. Goebbels' propaganda. So the only propagandists in the Second World War, apparently, was Dr. Goebbels, and Hollywood didn't figure at all.

Q. Exhibit 93, "Atrocity Propaganda Is Based on Lies Say The Jews of Germany Themselves". Does it say anything about the Holocaust there?

A. It is a very significant book, because it is by Dr. Trachtenberg. It is an entire — it is an English, French and German book, and it reproduces notarized statements by leading Jewish personalities like The Treaty of the Jewish —

Q. When was it published?

A. 1923.

Q. Do you think Hitler coming to power had anything about the Jewish making those statements?

A. It was in response to the atrocity propaganda, Mr. Griffiths. If, for instance, you now have the hindsight of the forty years of history, all the brainwashing and the propaganda that has gone with it, naturally you, as a prosecutor standing here, you can say, this is ridiculous. These Jews were forced to do it.

Q. I am not saying anything. I am asking you a question. Do you think that publishing that book had anything to do with Hitler coming to power in Germany. Yes or no?

A. It is to Jews in the World to cease and desist from maligning Germany, because they were making life difficult for the Jewish community in Germany. It has to do with the Holocaust.

Q. All right. {4369|4370}

A. It is the beginning of the whole lie.

Q. We have some books, other books that you relied on: "Advance to Barbarism" by F.J.P. Veale, that distinguished English jurist. That is what they call him in the book, anyway.

A. You would be offended because you are a prosecuting attorney, but sometimes people refer to people who are in law as jurists. You know? In Germany, for instance, this is the law. You would be a jurist in Germany, even if you are an attorney.

Q. Well, this book, "Did Six Million Really Die?" wasn't written by a German.

A. No. But are we quibbling about this when we have so much at stake?

Q. I lost my place.

A. What did Veale have to say? I have to talk to that man.

Q. It is going to be good, though. I will tell you what. We will come back to Veale. Lillienthal [sic].

A. Yes. Well, this is my, if you will pardon the looks of this book, in radio talk shows I can rely on that, and quickly done so. I have somebody doing that work for me.

Q. A well-used book.

A. Yes.

Q. And he is not a Zionist.

A. No. He is a non-Zionist Jew.

Q. All right. Page 404, which was not marked, the paragraph between

two yellow-marked paragraphs. {4370|4371}

A. All right.

Q. It is not marked.

A. Yeah. Right.

Q. It says: "That there are bigots and haters, that there was a Nazi Germany whose unparalleled genocide still stings the conscience of Man, and that there is still anti-Semitism, no one but the most irrational would deny."

You are not irrational, are you?

A. I hope not: but he is entitled to his opinion. I like him as an author. He has given me tremendous food for thought and source material.

Q. But that is not one of the foods that you choose to eat.

A. Well, if a person calls me irrational in print, I would be a fool if I were to quote it. I have a certain amount of self-esteem for myself, Mr. Griffiths.

Q. All right. Exhibit 81, "The Decadence of Judaism in our Time", it deals with Moshe Menuhin, and again it is well-used here.

A. Yes. He is a source book that I used because I consider him a Jewish man, but a very honest man.

Q. And not a Zionist?

A. No, he is not a Zionist.

Q. No. Page 95, again, not marked by you, half-way down the page it says:

"The End of World War II. 1945. Catastrophe of European Jewry Revealed Only a Small Remnant Survived National Redemption Versus Individual {4371|4372} Salvation."

That is the chapter or sub-chapter heading.

A. That's right.

Q. "Of the six million Jews that Hitler and his gangs of murderers could lay their hands on, only about 125,000 were left alive, or half-alive, in the Displaced Persons camp among hundreds of thousands of non-Jewish victims of torture and persecution."

A. Right.

Q. That is more food that you don't choose to eat?

A. Well, certainly, because I know that many people who are writers approach the subject with an uncritical mind, as uncritical as I was for the first half of my life, Mr. Griffiths, you see; but there are many authors – you have had some here, for instance, like Dr. Betting, who is a professor at a university, and it took him some thirty-five years of his life before suddenly something in his Holocaust course began to jolt his memory and made him look at the Holocaust in a new light. All kinds of people go on believing for all kinds of years all kinds of stories.

Q. Dr. Betting didn't say that he found the Holocaust didn't happen.

A. He was not allowed to give the expert testimony that he was intending to give here. If he had been, he would have said that.

Q. I am sure he would.

A. I had conversations with him {4372|4373} before I brought him here.

Q. On the back page, Mr. Zundel, of your pamphlet, in heavy type it says, "Zionists Dominate Media. Germans are denied equal time". And this is the part written by you.

A. It sure is.

Q. And the first paragraph, last sentence, it says:

"When Jews disagree as I do with the official Zionist version of Auschwitz, are they accused of 'racism' or 'hate'?"

What is the official Zionist version of Auschwitz, Mr. Zundel? Alfred Lillienthal's [sic] version in the non-Zionist?

A. No. But just because Dr. Lillienthal [sic] in this one instance adopts one of the Zionists' favourite platforms doesn't make him – are you trying to say that people independent of Zionism cannot also believe in the Holocaust? Millions of people do. For all I know ninety-nine per cent of this entire room believe in the Holocaust.

Q. Well, I suggest to you that what that implies is that the Holocaust is a Zionist conspiracy.

A. Am I implying that in this pamphlet there?

Q. That is what I am suggesting to you, sir.

A. Let me look at it again.

Q. You have it there, Mr. Zundel. {4373|4374} I didn't think I took it

away from you.

A. Oh, there it is.

Q. Last sentence, first paragraph, "When Jews disagree".

A. Right.

"When Jews disagree as I do with the official Zionist version of Auschwitz, are they accused of 'racism' or 'hate'?"

Do you want me to answer this question?

Q. No, I am not asking you to answer the question. I ask you questions. It is my question I want you to answer not yours.

A. Good. Then what is the question?

Q. My question was whether you are implying in that that Zionism or Zionists have conspired to put over a hoax on the rest of the world.

A. No. I think that the Zionists are great exploiters of political situations. If they are known for anything, these people, they are terrific tacticians, as we have seen in this country with the Mengele affair magically being launched at the moment Ernst Zundel goes on trial being accused with the Holocaust thing, and every night a spokesman who sits in this room being a representative of the Wiesenthal Centre going to Ottawa and so on, and there are many people, believe me, who think that the Zionists are exploiting this trial to their own end. So that is what I am saying.

MR. GRIFFITHS: Thank you. Is this {4374|4375} a convenient time, Your Honour?

THE COURT: Yes.

Q. MR. GRIFFITHS: Are you one of those people, Mr. Zundel?

A. I am what?

Q. Who think that the Zionists are exploiting to an end?

A. I wouldn't be surprised. I wouldn't put it past Mr. Littman at all.

Q. And are you exploiting this trial for your own end?

A. This trial is going to cost me a hundred thousand dollars. It has ruined my reputation in this country, and townspeople are threatening to kill me because [sic] of it, and believe me, one thing I would like to have out of this courtroom and that I have with the exception of the restrictions that I can't use German texts and books which I understand, I certainly hope that I have had my chance of explaining that I am not the monster and the ogre and the irresponsible man that would pit Canadian against Canadian, which is totally untrue.

I am entitled to my political opinions. As a German I am entitled, I believe, before God, "Dieux est mon Droit", to believe in the history of my people which I know is another version of the history to what is being taught in Canada. I am entitled to it under this country's every law of this country, and if I am not getting convicted under this s.177 of the Criminal Code, I will be continuing to be entitled to tell my side of history, and that's the reason why I like this {4375|4376} country.

Q. And are you exploiting this trial?

A. I think that His Honour would be the first person to step on me, or you yourself would kind of be on your feet very fast if I was unduly exploiting the trial. This is a forum where we are thrashing out whether I am a crackpot or whether I am not a crackpot, and to that extent I think you could say that I am getting a benefit out of the trial, yes.

Q. Thank you.

THE COURT: Adjourn till two fifteen.

— The jury retires. 1:00 p.m.

— The witness stands down.

— Luncheon adjournment.

— Upon resuming.

— The witness returns to the stand.

MR. GRIFFITHS: Before the jury comes back in, Your Honour, there is another pamphlet that I have just given Mr. Christie that I would like to be able to put to Mr. Zundel. The pamphlet is problematical, Your Honour, in that it was written during the course of this trial, and the reason why would be putting it to Mr. Zundel relates to the last {4376|4377} exchange before the break as to whether this trial was being used by Mr. Zundel.

THE COURT: Do you have it there?

MR. GRIFFITHS: Yes, sir.

THE COURT: Yes, I read it. To what issue, the issue of credibility?

MR. GRIFFITHS: Yes, sir. That is the only issue.

THE COURT: Thank you. Anything else?

MR. CHRISTIE: Well, I don't see how it goes to the issue of credibility at all, Your Honour. It goes to the issue of how the accused felt about the trial. It is not something the Crown can allege, that I have heard him allege as published. I understand from my information it was sent to supporters of his to help him, to let them know what happened.

I don't know if it went any further than that. If it did, I would be surprised; but even if it did, I would suggest that my understanding was that I was restricted to putting to the witness anything that arose prior to the date of the charge, and in the case of Exhibit 1 prior to the publication in 1983. Now my friend seeks {4377|4378} to use in cross-examination something published in the course of the trial, which I understand was sent to his friends to explain what happened.

I think it would be unfair to put to him something that arose after the time in which I was allowed to introduce documents. It's up to Your Honour how this matter be dealt with, but I suggest that the same principle would apply in respect to anything that he published. I don't think there's any allegation that there's anything incredible in what he published. What he has written is what most newspapers have written. Nobody suggests they can't write about the trial. I don't understand why he isn't allowed to – I don't know what the suggestion is as to credibility. My friend doesn't specify and I am left to specify as to what degree of credibility is to be placed in issue.

Maybe I could have my friend's assistance

MR. GRIFFITHS: I would be pleased to assist, our Honour. Just immediately prior to the break I had indicated and Mr. Zundel denied most vehemently that he was deriving any benefit or any {4378|4379} propaganda benefit out of this trial, and that is not part of his thinking about this trial; he suffered nothing but losses as a result of his trial. And I take the position that there are paragraphs within that two-page letter that indicate that there were benefits that Mr. Zundel perceived to the prosecution, and that that was very much a part of his consideration during the course of the trial.

Had Mr. Zundel not raised the issue by talking about issues that were going on during the trial with Zionist propaganda and what-have-you, then I wouldn't have raised it.

THE COURT: Anything further, Mr. Christie?

MR. CHRISTIE: Yes. I don't recall the accused saying that he vehemently denied benefitting from the trial. It was put to him that he enjoyed publicity from the trial, and he qualified that to say, he said there was some benefit that he was able to communicate to other free citizens in a free society when they are on trial being free to speak. I don't recall his precise words; they are on the record; but I don't recall that he said there were no benefits to {4379|4380} him from his point of view.

THE COURT: I agree with you.

#### RULING

THE COURT: The witness, in the closing moments of his cross-examination before the luncheon break, in response to Crown Attorney's questions, indicated that there might be some indirect benefit to him from this trial being held.

I have now been shown another piece of writing, if I can dignify it with that name, in which the accused apparently is reporting to those who are loyal to him. In it he makes comments on every conceivable subject concerning this trial. That includes the lawyers. He aggrandizes his own counsel. He appears to denigrate the Crown. He has little, if anything, complimentary to say about the Bench. He then proceeds to refer to the ethnic background of one of the jurors in what could be interpreted, on reading the total context, as a not too complimentary fashion. {4380|4381}

Crown counsel seeks to cross-examine the witness on this document. I must say that this is the first, and I hope the only time, that I have to rule on such a subject as this.

It seems to me that the issue upon which the Crown wishes to question the witness may come under the total heading of credibility. However, really, the specific issue is as to whether Mr. Zundel, here in the box, is benefitting or not benefitting from the mass of publicity that perhaps he may think, or others may think he is getting from this trial. That is collateral to the issues that the jury must try.

In addition to that, if the document were employed, it would have to be made an exhibit. If it were made an exhibit, the one juror of apparent Oriental extraction might not be able to follow my instructions which I intend to give.

Juries in this country consider the evidence, and only the evidence, when they reach conclusions as to the guilt or the innocence of persons charged with criminal offences.

In exercising my judicial discretion, {4381|4382} ensuring that that uncalled for comment which I consider to be totally racist, does not get to the jury, you may not cross-examine on that document.

MR. GRIFFITHS: Thank you, Your Honour.

MR. CHRISTIE: Could I, for the record, in view of Your Honour's comments, either read in that portion that refers to the —

THE COURT: No, you may not. Please sit down. I have ruled, and it's over. If you want to read it to the Court of Appeal, read it. You will not do it here.

MR. CHRISTIE: Can I —

THE COURT: Please sit down. The answer is no. No.

MR. CHRISTIE: My question, Your Honour, has not yet been asked. My question is, may it be an exhibit for identification purposes for the record?

THE COURT: Not at all. It is not going to be further referred to at all. {4382|4383}

MR. CHRISTIE: May I keep it, then, Your Honour?

THE COURT: It's your property. Bring in the jury.

MR. GRIFFITHS: I'm sorry, Your Honour, just one other matter. I don't know whether this is the appropriate time to do it or not, but the exhibits that I have put to Mr. Zundel – and there are about four pieces of what are lettered exhibits at this time, if they are going to remain lettered exhibits rather than numbered exhibits, then I would deal with them in a different manner in cross-examination. I wonder if we might have argument and a ruling on that at this time.

THE COURT: I will hear from the defence.

MR. CHRISTIE: May I see the exhibits in question?

The Exhibit, I believe, first mentioned in this series is "Z", which is "The Hitler We Loved & Why", the accused testified he provided photographs and is not responsible for the copy.

It would be my submission that that {4383|4384} should not go before the jury because the accused is not responsible for the copy. Therefore I suggest that its prejudicial effect would outweigh its probative [sic] value.

The Exhibit "AA", I suggest, has little probative effect.

THE COURT: What is "AA"?

MR. CHRISTIE: "AA" is the pamphlet called, "Achtung. Samisdat Truth Squad". It involves a number of things that are quite irrelevant to the issue at bar. Its prejudicial effect may outweigh its probative value. That I cannot decide, neither can I decide on anything else for that matter, but my submission is that my client, I think, has acknowledged – I think, if I recall correctly, he's acknowledged authorship of this publication.

In respect to "BB", I fail to understand, other than for the prejudicial purposes, why these exhibits are being introduced. Perhaps they have some bearing on credibility in that the accused has been examined on them and has admitted authorship.

Now, "BB", if I recall correctly, Your Honour, is an advertisement and a statement about {4384|4385}

"Forward Germans. The others have begun to retreat".

MR. GRIFFITHS: Sorry, Mr. Christie. The German part has become detached.

MR. CHRISTIE: Yes. I see now that the full pamphlet is produced. "BB"

is a translation of a very small portion of a larger German document. The Crown, apparently, does not seek to either put the small portion in context, or translate the rest of the document. I find it somewhat difficult to understand how the jury can perceive the proper context without the translation of the rest of the document.

THE COURT: Then perhaps we should do the same to your exhibits if they are partially transcribed.

MR. CHRISTIE: Perhaps that's true.

THE COURT: Would you like that done?

MR. CHRISTIE: I wouldn't mind at all.

THE COURT: How many pages are there, Mr. Christie?

MR. CHRISTIE: I don't recall books in German being introduced by me. The only books {4385|4386} I attempted to introduce in German were not allowed. The pamphlet is four pages. It's very closely typed and the portion translated is two paragraphs, which are very small, minutely on the bottom of the front page.

THE COURT: I have your point.

MR. CHRISTIE: Yes. Then, "CC", I have no objection to that. That was read in its entirety to the jury in any event. So my major objection, if it please Your Honour, is in respect to the booklet.

THE COURT: "Z", "AA" and "BB".

MR. GRIFFITHS: Your Honour – Mr. Christie, I'm sorry, Mr. Zundel in cross-examination, on the book, "The Hitler We Loved & Why" adopted the copy contained within the book, notwithstanding that he did not write it or provide all of the photographs. Most of the photographs came from him, and in the second referred-to exhibit, "AA", "Achtung. Samisdat Truth Squad" is an advertisement for "The Hitler We Loved & Why" written by Mr. Zundel in which he adopts the contents of the book. It is a book that he received some consideration for, whether it was monetary {4386|4387} or in kind. And I would submit that given that, he can be held responsible for the publication of the book.

He was also on the editorial board of the publishers that published the book at the time it was published. The second edition, Your Honour, "AA", the prejudicial effect may outweigh the probative value says my friend. I would suggest that it may well be prejudicial, but it is also most probative to Mr. Zundel's true beliefs and his racist beliefs as demonstrated by that pamphlet. And it is considerably at odds with his testimony in-chief.

"BB", Your Honour, is the four-page German document. The part that is translated, Your Honour, is not lifted out of the body of the text, but is a separate —

THE COURT: May I see it, please?

MR. GRIFFITHS: Is a separate paragraph at the bottom of the page. So it is entirely within context, has its own heading, and its own small signature. It is, if you like, Your Honour, a marginal area, complete of itself. And I've had translated the entire bottom margin including the advertisement {4387|4388} for the Zundel opinion.

THE COURT: Why couldn't it all be translated?

MR. GRIFFITHS: It could be over

THE COURT: Reply, Mr. Christie?

MR. CHRISTIE: Two brief points. It is my recollection that the accused did not adopt all the text of "The Hitler We Loved & Why". In fact, he disassociated himself with some of the remarks in the book.

It is my understanding, too, that in his evidence he said he was never on the editorial board of Mr. Deeth's operation. In fact, he said Mr. Deeth used his name without his consent, and when he heard about it, he said he took his name off the publication.

—— {4388|4389}

#### REASONS FOR RULING

THE COURT: The defence objects to the admission of numbered exhibits in this trial of three documents. The first is a book entitled, "The Hitler We Loved & Why". The evidence discloses that the accused clearly supplied a number of photographs that now form a major portion of the book. He did not, he said, write the copy underneath the photographs.

Exhibit "AA" is a pamphlet concerning "Samisdat Truth Squad" which

purports to name an accused's publishing company in which the book, "The Hitler We Loved & Why" is mentioned.

Exhibit "BB" is an advertisement on which the accused was questioned in part. That document is written in German. There is only a minor portion of it translated into English.

There is, in my view, nothing that is so prejudicial that outweighs the probative value of any of these exhibits. The contents of the book, "The Hitler We Loved & Why" may or may not, as the jury views it, appear to be unfortunate for the accused. Its admission is not unfair. That is especially so in {4389|4390} light of all the evidence that the accused has placed on the record to buttress his profession of honest belief in the issues contained within the confines of Exhibits 1 and 2 which the jury will have to decide.

Defence counsel takes no objection to the introduction of Exhibit "CC". My ruling is that it is all admissible. Anything that is to be said in favour of the accused I am quite satisfied will be argued extensively in front of the jury by defence counsel, as is his right.

The jury will decide what weight, if any, to accord any of these documents. They will now become exhibits in the order of the letters that appear, from "Z" through to "CC". Exhibit "BB" will not, however, become an exhibit until such time as it has been fully translated over this weekend into the English language. If there is any objection to the quality of the translation from German to the English language, that matter can be spoken to in the absence of the jury before me on Monday.

—— {4390|4391}

MR. GRIFFITHS: Thank you, Your Honour.

I'm sorry, Your Honour, there is one final matter which would be very brief which has to do with an earlier ruling that you made about the postal authority hearing. Before I question Mr. Zundel about this, I'd like to not so much clarify that, Your Honour, as address a couple of questions to Mr. Zundel on.

THE COURT: You want to ask him about —

MR. GRIFFITHS: When this particular issue of "Did Six Million Really Die?", when it was distributed by him, Your Honour.

THE COURT: In connection with what?

MR. GRIFFITHS: Well, there is a reference, Your Honour, in the last paragraph, page 3 of the Exhibit No. 1 which says —

THE COURT: Starting, "You can help decisively"?

MR. GRIFFITHS: By saying:

"You can help decisively by sending your contribution to the Samisdat {4391|4392} Legal Defense Fund. Legal fees are costly in the extreme. We anticipate daily expenditures of \$1000.00 in attorneys' fees and in the reimbursement of witnesses who must be flown in from Australia, Israel, Europe and from both American continents."

And I want to know whether Samisdat Legal Defense Fund was for the postal authorities or in anticipation —

THE COURT: Mr. Christie?

MR. CHRISTIE: There seems to be no limit as to how much my friend wants to go into the publication of the accused with respect to the money, and I don't see the relevance. I have never had a case yet where the question of what the accused paid his lawyer was a question of liability, but it is about to be.

THE COURT: No, I don't agree with that. If it was, I wouldn't permit it.

MR. CHRISTIE: What's the purpose of these questions? {4392|4393}

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour. Whether or not, Your Honour, there was a charge in existence — certainly this charge wasn't in existence at the time the Samisdat Defence Fund was incorporated, and preparations that Mr. Zundel was making for a prosecution and that he was inviting a prosecution, and the benefits that would have occurred therefrom to him.

THE COURT: So your question would be, I presume, along these lines: Does that paragraph refer to this trial or some other matter?

MR. GRIFFITHS: Yes, sir. I will say it at the outset. This was not, according to Mr. Zundel's testimony, distributed till after this charge.

THE COURT: I recall him saying postal privileges, or something like



that.

Maybe now, Mr. Christie, that will assist you.

MR. CHRISTIE: I take it my client is going to be cross-examined on whether he was preparing {4393|4394} for some kind of aggressive, not war, but litigation that he is accused of, or this will be the allegation, that he was looking forward to prosecution.

This is not unusual in cases where people are testing the validity of certain legal principles. I suppose it could be said that it occurs in many cases where people believe their rights are at stake. I don't know how that is somehow going to the issue of credibility, and is it to be supposed that he is being dishonest when he says that he doesn't benefit from the trial because at some time long ago he anticipated the possibility of being charged by seeking and soliciting funds?

There may be some very remote nexus, but I think it is rather strange. Does that really have some benefit on credibility? It is for Your Honour to decide, but I suggest it is just a fishing expedition on whether he thought he might be charged or whether he was looking forward to a prosecution.

It might be able to do some damage to his credibility by virtue of accusing him of being litigious [sic] or something, but this being the first time he is charged in the Criminal Court, I don't know {4394|4395} whether that is relevant either. I suggest it is really far beyond anything that is relevant.

It is, of course, true that this comes naturally after the date of publication, I would think, because it is included in the publication. It's relevant as to whether it is true or not, but I don't – it's most unusual, most unusual.

MR. GRIFFITHS: The question, Your Honour, is whether the Legal Defence Fund is for the postal authorities in which case I won't ask the question, or some other purpose in anticipation of prosecution.

THE COURT: I think I should hear this in the absence of the jury, so we will all know.

MR. GRIFFITHS: Thank you, Your Honour.

### **ERNST ZÜNDEL, sworn on voir dire**

CROSS-EXAMINATION BY MR. GRIFFITHS: (Voir Dire)

Q. Mr. Zundel, you have the issues. You know the argument. You know what we are referring {4395|4396} to. Was that a legal defence fund for the postal authorities hearings, sir, or was that for some other purpose?

A. The news clipping reproduced on the back page says the request comes after – no.

*"Ontario has been asked to consider charges of promoting hatred against an identifiable group," the spokes man said."*

Okay. That's the sole reason, really, why I published that booklet, in order to lay it before the public, and to let the public decide before the politicians had chosen to censor it. And so it was, in effect, for an anticipated defence fund in case that Mr. McMurtry, at that time, would have laid a charge. And therefore you will see on the back that this has been glued over when it no longer was apparent, and a United States Post Office was used.

Q. So that that pre-dates, then, any legal proceedings you were involved with in Canada. It has nothing to do with the postal authorities.

A. I anticipated a charge by Mr. McMurtry, because if you look at another exhibit we have in here to Mr. McMurtry asking for guidelines on hate literature, a news item carried in the Toronto Sun where Sabina Citron in one of her many attacks against me asked that charges be laid against me and that she was going to meet with Mr. McMurtry, so for the last six years this Democles [Damocles] Sword of having to have, to fight a court case, was hanging over me, and {4396|4397} so it was put on there.

Q. So it was put on in anticipation.

A. That's right.

THE COURT: What do you wish to do?

MR. GRIFFITHS: Well, Your Honour, it is part of the pamphlet, and if it has nothing to do with the postal authorities, I should be entitled to

cross-examine on that as to the rest of the pamphlet.

THE COURT: I think not. I think the jury is going to read this document very carefully. Juries are not stupid. They will take whatever they wish to take from it. I don't think you should do that.

MR. GRIFFITHS: Thank you very much, sir.

THE COURT: All right. Is there anything else? Bring in the jury, please.

——— {4397|4398}

— The jury enters. 3:00 p.m.

Q. MR. GRIFFITHS: Mr. Zundel, Jews and Zionists is the same thing? Are the words interchangeable, or do they have different meaning?

A. Zionism is a political creed usually made up of Jews. However, there are exceptions like in the case of Roy McMurtry, who calls himself a Christian Zionist.

Q. And are all Jews Zionists and some Christians, or —

A. No, no.

Q. Are there some Jews that are non-Zionists?

A. That's right.

Q. "The West, War and Islam", do you have a copy of that?

A. Yes, I do.

Q. How many people was this distributed to, "The West, War and Islam", Exhibit 2? How large was your mailing list?

A. About twelve hundred, possible a few more. Twelve hundred people.

Q. Okay. And it was written in response to an advertisement that shows up on page 4. I understand that was your evidence.

A. That's right.

Q. And we have in evidence a translation of that German which is in here, a handwritten document. It would be in the last fifty exhibits. {4398|4399} Was this printed in a western newspaper?

A. Frankfurt Allgemeine, yes. And also Die Welt [Welt].

THE COURT: A little louder, Mr. Zundel, please.

THE WITNESS: It was also in Die Welt, a whole series of newspapers, as a campaign.

Q. MR. GRIFFITHS: And was it always the same people?

A. Yes. It was obviously one master ad to different publications, and it ran with no changes.

Q. And there is a reference in there, that is why I was looking for the article in the translation, there is reference in there to a lodge.

A. That's right. But it became so small in reproduction in the assembly that it must have fallen off.

Q. Okay. Well, we will wait a minute until we get that, and then I will come back to the lodge.

Let's go back to page one in "The West, War and Islam". And in the first paragraph you deal with stereotypes, both Arabic and Western stereotypes.

A. Mm-hmmm.

Q. And in the second paragraph you appear to do the same. I don't want to go over it too quickly.

A. No. {4399|4400}

Q. Okay. And then, in the third paragraph where you started underlining, you say:

*"Certainly, the West has at its disposal tremendous facilities for the education of the public but until now, these facilities of information, education and entertainment have been used purposely to misinform, to miseducate and to instill hatred against the Islamic peoples."*

Now, when you say "the West" there you are referring to North America or the U.S.?

A. The West generally, the way I see it, is the entire western world, western culture, which includes even England, France, Germany, Italy, America especially because if you are talking about the media of the West, English-speaking media.

Q. All right. And we heard what Mr. Collins said, thirty-five years a journalist in the West, as to his comments on misinforming, miseducating and instilling hatred against the German people. Did you listen to Mr. Collins at all?

A. Well, him having been a journalist and possible having been guilty of doing some stereotyping himself would have a vested interest, and therefore, naturally, would come to the defence of the press.



Q. So he was your witness, was he not?

A. Certainly, but that doesn't mean that, number one, I know the man's entire life story, or {4400|4401} that he agrees with me, or I with him.

Q. You accept that part of his evidence that you like, and you disagree with him on the areas that you dislike?

A. He is a colourful Canadian of English birth with a fantastic past. If I were to know about, everything, there are some points in every human being's life that we wouldn't like to agree with. I couldn't speculate as to that.

Q. In Canada we have a Government owned broadcasting company. In England there is a government-owned broadcasting company. In New Zealand there is a government-owned broadcasting company. In Australia there is a government-owned broadcasting company. Are all these government-owned companies, used to misinform, miseducate and instil hatred against the Islamic people?

A. Frequently.

Q. And is that because of the Zionist control of that government broadcast?

A. Certain branches of them, certainly.

Q. *"Just as certainly," it goes on, "this situation has not come about by accident, for the media by which disinformation is being disseminated are controlled by a small group of unscrupulous men who know exactly what they are doing and who will stop at nothing in order to attain their criminal and murderous ends."* {4401|4402}

Those are pretty strong words, are they not, Mr. Zundel?

A. Yes.

Q. *"This same group of media manipulators and its predecessors broadcast and, published anti-German propaganda in both world wars and included the Japanese as victims in the Second World War. These men are capable brainwashing experts. On their account, millions of Westerners who had never met a German or Japanese were inflamed with murderous hatred, sufficiently so that they killed millions of persons who might otherwise have been their friends. If it can be done against Germans and Japanese, it can be done against the Islamic peoples – and it is being done."*

Now, let's, just pause there for a moment. In order to misinform, miseducate and instil hatred and manipulate the media, it would have to be more than a small group of people involved in that, wouldn't there? Reporters would have to be involved in that. All the people involved in the media.

A. No. You wouldn't need that at all. All it would need would be people who belong to, for instance, a certain kind of a political spectrum, like Marxists, communists, or —

Q. Liberals? {4402|4403}

A. It could also be liberals, sure. Part of the reason why the country is a degeneracy, and abortion, is because there are so many liberals in the media, and why there is rampant talk about dope-taking and this kind of stuff, is because our society is being brainwashed by liberal elements, of course.

Q. It was the Liberal Party that you ran for the leadership of.

A. Certainly was, to reform it.

Q. *"We Germans have learned through this sad experience that a nation's salvation lies in its reputation and a nation's reputation depends upon information – not misinformation and misrepresentation. The same principle is true for the Islamic nations. Let us now look upon the face of the enemy – your enemy and ours who is responsible for endangering world peace and in consequence, your lives and ours."*

Who is the "ours" you are referring to? Is that rhetorical, "your enemy and ours"?

A. No. If I talk about Arab peoples, their enemy, and the people of the Western world as "our enemy", so together it makes two. So that's "ours". Otherwise I would be talking about my enemy.

Q. Well, I didn't know who it was you were referring to.

A. Well, in the two, and naturally I am appealing to the Arab people, and you are being {4403|4404} stereotyped. And remember, Mr. Griffiths, what I said from the beginning. This has to be seen in the context of when this ad appeared, and as a reaction thereto.

If you look at all the magazines and you go back in the microfilms – and by Monday morning I can produce that to you – I have stacks of supporting documents that there was war, tangible agitation for war in the Middle East. The Americans had set a strike force to rescue the hostages, and so on, and I felt things were coming to a head in the Middle East.

Q. You felt it was time that somebody poured a little oil on the troubled waters?

A. Through information, dissemination of information to remove negative stereotypes? I consider this a very unkind cut, Mr. Griffiths.

Q. What?

A. That you intimidated I put oil on troubled fires.

Q. No. Troubled waters. Is that what you were doing – pouring oil on troubled waters; calming the situation down with this literature?

A. That's right. I wanted to prevent rather than to increase the disharmony.

Q. You wanted people to be tolerant, to not go to war.

A. Exactly right.

Q. There is the advertisement, Exhibit 149. And in this larger portion you've got it outlined in yellow, and perhaps I will take a minute and show it to the jury so they can see where it is. And in that small part you've got it translated it here, I {4404|4405} think.

A. That's right. It says —

Q. "Responsible for the content" —

A. *"... of this advertisement is the Janusz-Korczak-Loge Berlin of whom the four signatories are members."*

And the four signatories are G. Albeck, S. Borenstein, W. Schulz, and M. Zuckermann.

Q. And their names are on there.

A. That's right.

Q. Now, before seeing this ad, had you ever heard of a Janusz-Korczak Lodge in Berlin?

A. No, I did not.

Q. And did you hear of it after you saw this ad?

A. No. I was interested in the context, the content of the ad.

Q. How do you know it isn't a retirement lodge or a hunting lodge or a B'Nai B'Rith Lodge?

A. When we talk about "Loge", a "Loge" in German, that is what it says. No retirement home in German is called a "Loge". We don't talk here about "Loge" for old people. A "Loge" in German only refers to Freemasons, nothing else.

Q. Wouldn't it refer to a B'Nai B'Rith Lodge?

A. We refer to in Germany, B'Nai B'Rith is like a Freemasonic lodge.

Q. So you are equating B'Nai B'Rith {4405|4406} with Masons.

A. In Germany we do, yes. There are books out that refer to B'Nai B'Rith Loge in the same way that Janusz-Korczak Loge is being referred to here.

Q. All right. That's fine. I just wanted to check that.

A. And excuse me, Mr. Griffiths. I wanted to answer that so there can be no misunderstanding. In my research for Freemasonry, the beginning of the B'Nai B'Rith Lodge, organization, had many of the Freemasonic trappings, because many of the people that came into B'Nai B'Rith apparently came from the — think you will find it in the exhibit here in the Encyclopaedia Judaica.

Q. Yes. Didn't it say that because Jews were excluded from Masonic lodges that they started their own B'Nai B'Rith?

A. Referring, in Germany and so on? That could well be. But in the Encyclopaedia Judaica it refers to B'Nai B'Rith members coming from Masonic lodges, so they must have been Masons.

Q. Wouldn't it be difficult to control the Masons if you are excluded by religion from being a member?

A. On the continent, in some Prussian countries, in some centuries when Frederick the Great was in charge of the Prussian lodge, you are correct; there was a very serious conflict of Freemasons not being allowed into some lodges and so on. There is quite a body of literature on that. {4406|4407}

Q. Yes.

A. But that changed very rapidly, 1830s, 1840s, 1870s. You will find that Freemasons, by that time, are beginning to be admitted quite frequently in the eighteenth century.

Q. And by that time Freemasonry is how old?

A. That depends on when one puts the date for Freemasonry. One Mason says it goes back to King Solomon's Temple. Others back to the 1770s or 1760s.

Q. Well, the Encyclopaedia Judaica that you have here, Exhibit 164 ...

A. It is on the next page, I think.

Q. Well, you will find some things on the next page, but it starts on page 122. It says, "Freemasons", and it says, "Modern Freemasonry began in England around 1717. In 1723 the London Grand Lodge adopted a constitution formulated by the Reverend James Anderson based on some older traditions."

A. Okay.

Q. Reverend James Anderson doesn't sound like a Jewish name to me.

A. No. But let's read it in context. You say modern Freemasonry began; other Masons believed in the rituals of, the Knights Templar going back to King Solomon. The word here is "Freemasonry".

Q. Is that the boy[ ]scout in mythology about Freemasonry, Knights Templar and King Solomon's Temple?

A. I hardly think that George {4407|4408} Washington was of a boy[ ]-scout mentality, or Staff Sergeant Bassett was, or Sergeant Williams, or anybody else who is a Freemason. These people are part of this group. They take it seriously, and they have a body of literature and belief. It may be a fake history, but there are many Freemasonic publications where the origins of Freemasonry goes at least to King Solomon's Masonry, if not before.

Q. When do you date it from?

A. As it says here, "Modern Freemasonry began in England around 1717."

Q. Okay. "... in 1723 the London Grand Lodge adopted a constitution formulated by the Reverend James Anderson, based on some older traditions."

A. So there we go.

Q. "A printed constitution facilitated the foundation of new lodges on the basis of a recognized authority. During the next decades the lodges spread, in Britain, France, Holland, Germany, and many other countries. All the lodges regarded themselves as belonging to the same fraternity, and a Freemason appearing at any lodge with a certificate of membership was admitted to the work of the lodge and entitled to hospitality and help in case of need. The first paragraph of the constitution stated that anyone found to be true and honest, of whatever denomination or persuasion, was to be admitted. The constitution obliged the member only to hold 'to that religion in which all men agree, leaving their particular opinions to themselves,' a declaration of religious tolerance based on the current Deist trend, which postulated a Supreme Being who could be conceived of by any rational being. It is not known whether the possible aspiration of Jews to be accepted in the lodges influenced the wording of the constitution; yet it is formulated in a way that includes Jews as possible {4408|4409} members. Thus, when a Jew asked for admission in 1732, one of the London lodges accepted him. The doors of the English lodges remained open to Jews in principle, although in practice there was some discrimination."

So we've got about fifteen years after the founding of Freemasonry, modern Freemasonry, before the first Jew is admitted; is that right?

A. That's according to this article. And also you must remember that the people who founded Freemasonry were living in an age when they took the Old Testament, for instance, very seriously. And so that's why there are, I am quite sure, these references to the religion.

Now, there is an interesting book, further to what you have read here, and it's called, "Jews and Freemasons", it's by a Jewish professor. It was first published, I believe, by Harvard University and in that book he mentions the struggles that some national lodges, I think there was especially the lodge in Potsdam, for instance, which was a suburb of Berlin, and was quite important in the context of Prussia, was having

quite an argument whether coming from Paris, or coming from England, businessmen that come through, whether they should be accepted in that lodge or not. So you are right. There was a period of time when Freemasons were excluding Jews from some parts of Europe {4409|4410} just as there now is a struggle in America whether black Freemasons should be admitted to white lodges. There is a tremendous controversy raging right now within Masonry, and I have a Mason acquaintance in Houston, Texas, who has supplied me with much information about Freemasonry who is trying to reform Freemasonry in America so they should not be lily-white lodges.

Q. Okay. The International Zionists. I am still on page one:

*"The International Zionists:*

*The leadership of the West is heavily influenced and often dominated by a small minority of this alien political persuasion."*

"Alien" – "foreign"? Are you with me?

A. Yes, it is. "Alien political persuasion", that is, I think, an important word here.

Q. And does that mean it is a foreign political persuasion in the West?

A. Yes.

Q. *"Political and religious Zionism play a disproportionately large role in the West because of Zionists' domination of the mass media of information, education and entertainment, the banking system, the secret societies and the world communist conspiracy."*

Quite a mouthful, Mr. Zundel. Your {4410|4411} support, you've indicated, for the proposition that Zionists control the media comes, amongst other places, from a book called, "The Jewish List".

A. One of them. The other one that I mentioned of the speech by the Chief of the Staff of the United States Army, General George Brown, at Duke University, in the fall of 1977. There were also statements by Spiro Agnew. I've got a clipping right here where he was headlined, "U.S. Mideast Policy Set by Jews Quotes Agnew".

Q. Well, we are talking about manipulation in the media. You told us that it was based on this book.

A. In part.

Q. In part. "Jewish List".

A. All right. And this book called, "The Powers That Be", by David Halverstein. (ph)

Q. All right, Mr. Zundel. We will get there.

A. Okay.

Q. And you told us that somebody who was Jewish was not necessarily Zionist, and I am wondering how you can tell which people are Zionists and which people are not.

A. That's relatively easy, Mr. Griffiths. "By their fruits you shall know them", it says in the Bible. And it's as simple as that in politics. With people who are in public life and politicians, it does one well to watch not only what they say, but what they do, and what the result is of what they say. You see? And in the United States it {4411|4412} says here, Spiro Agnew, that the national impact media are Jewish, and, with other influential Jewish had created a disastrous United States Middle East policy. And he says, Agnew's interview published in "The Washington Star" talked, about Zionist influence in a series of media interviews designed to promote his new novel about an ambitious vice-president. Now —

Q. Mr. Zundel, what was Mr. Spiro Agnew's fruits?, Was he convicted of fraud?

A. He was. He had access to all the secret service documents in the United States as vice-president, and therefore, I think, had a pretty good idea of who was in control of what. And since he is repeating what the Chief of the General Staff said virtually verbatim, I think we can figure that it came from the same source, his information.

Q. You mean it might both come from the Chief of Staff Brown?

A. Intelligence information that would be available to people at the highest level of the American Government.

Q. So although the American Government is investigating his own media to see who controls this media —

A. During the Watergate problems it came out that President Nixon had asked one of the staffers, I think it was Haldeman to go and investigate

how many he said revolutionary Jews were working, for instance, in the Labour Department. You know? So this is not uncommon. There are references to those things.

Q. And what happened to Nixon? {4412|4413}

A. Well, maybe they were all at the tail end of receiving a fierce and ferocious Zionist pressure. We can look at it that way. Many people have suggested that.

Q. *"Zionists are aided and abetted by millions of brainwashed Christians who suffer from the previously mentioned distortions about the Islamic World and its peoples, whom they believe mistakenly to be 'bad'. Just as mistakenly, the brainwashed Christians of the West have been led to believe that vicious, greedy and militant people who call themselves 'Jews' are 'good' ..."*

And you showed us, you had three files there in support of your belief. One was about vicious Jews and one was about militant Jews and one was about greedy Jews.

A. Mr. Griffiths, I have in my hand —

Q. Is that right?

A. No. A sub-committee report of the Committee on Foreign Affairs of the United States where an Israeli citizen and who happens to be the man in charge of the Human Rights Commission, Professor Israel Shahak (ph) gives chapter and verse of the treatment of people in the occupied area —

Q. We are not talking about people in the occupied areas; we are talking about yesterday when you were talking, you had three files, one for vicious Jews, one for militant Jews and one for greedy Jews, in {4413|4414} support of your views that Jews are militant, greedy and vicious. That is the question.

A. Mr. Griffiths, I am charged with spreading false news. So therefore I will martial my defence in my defence.

Q. Do you have those three files with you?

A. I still have them there. We can go through them sheet by sheet and charge by charge, and in the end I will prove to this judge and jury that there are vicious, militant, greedy people who call themselves Jews, in quotation marks.

Q. And are you telling us that at the time you read this article that you had these files already made up, or you made them up afterwards?

A. Mr. Griffiths, partly the reason why I am separated from my wife is that I have a house[-]full of papers and drive everybody nuts with clippings. Believe me.

Q. Do you have a file on vicious, greedy and militant Nazis?

A. Yes, I do. I have a big file on war crimes, a big file on war criminals, and they are all neatly filed away.

Q. And vicious and militant and greedy Catholics?

A. No, I don't, because this is not an issue in this trial, and I did not specifically glean out my thousands of, maybe millions of clippings for vicious Catholics, in quotation marks.

Q. I'm sorry, I don't want to miss {4414|4415} anything here.

THE COURT: We will adjourn now for fifteen minutes.

— The jury retires. 3:30 p.m.

— The witness stands down.

— Short adjournment.

— Upon resuming.

— The jury returns. 3:55 p.m.

— The witness returns to the stand.

THE COURT: Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

Just before I resume with "The West, War and Islam", Your Honour, I wonder if I could now make numbered exhibits "The Hitler We Loved & Why" ...

THE REGISTRAR: 168.

— EXHIBIT NO. 168: Book, "The Hitler We Loved & Why".

MR. GRIFFITHS: ... the pamphlet, "Achtung. Samisdat Truth Squad"

...

THE REGISTRAR: 169.

— EXHIBIT NO. 169: Pamphlet, "Achtung! Samisdat Truth Squad".

MR. GRIFFITHS: And the letter {4415|4416} regarding the Bonn Police State that's read in.

THE REGISTRAR: 170.

— EXHIBIT NO. 170: German newsletter with English translation re Bonn Police State.

MR. GRIFFITHS: Thank you, Your Honour.

Q. We have finally left off here, Mr. Zundel":]

*"... vicious, greedy and militant people who call themselves 'Jews' are 'good', because the Christian Bible mentions 'Jews' as 'God's Chosen People'. Ever since 1945, the Zionists and their hirelings have used this self-serving myth as a tool for the deception of the Western Christian masses. We see the results of this massive deceit in the many 'Councils of Christians & Jews', so-called 'Brotherhood Weeks', 'Inter-faith Services', conventions and the like."*

Are Councils of Christians and Jews and, Brotherhood Weeks, inter-faith services, is that part of the Zionist conspiracy from what I understand?

A. I believe they are tools, yes, propaganda tools.

Q. Okay. We shouldn't have Brotherhood Weeks, interfaith services? {4416|4417}

A. If they were only meant for fostering brotherhood, fine, but if they are used as forums for hate-mongering, then I think they are just propaganda tools.

Q. All right. And you say here, I understand, you have problems with space as you have explained to us, and you say that this is part of the "massive deceit in the many Councils of Christians and Jews, Brotherhood Weeks, Inter-faith Services" Are most of those bad?

A. Let's go to the top, about the Christian Church, to see it in context. Every Sunday morning, and quite often late at night, I watch programmes like, "Praise the Lord", "PTL Club", or Reverend Gerry Falwell's programme, and I am always amazed how Christians who are alleged to teach or are asked to turn the other cheek, love thy enemy and so on, as tenets in their religion, can show and be so full of praise for the State of Israel. Frequently we have guests appearing on talk shows on these religious programmes which have wide, wide audiences, millions of people, and they unequivocally adopt the policies and identify themselves with the State of Israel.

During the recent war in Lebanon it was almost sickening to see how much Israeli propaganda supplied by Israel, news reels and so on, quite openly admitted, Christian broadcasts were broadcasting.

Q. How many radio appearances have you made, and television appearances — two separate questions, if you know.

A. I do. About a hundred and fifty, {4417|4418} hundred and seventy, roughly, radio talk shows a year, and not that many television shows. Usually in reference to some event like the Court case, or when a place is raided somewhere, or something like that.

Q. Okay. Twenty, thirty television shows a year, is that fair?

A. Maybe in that neighbourhood, maybe less.

Q. And how many interviews to the media would you be giving in a year?

A. As I just said, maybe there's — print media interviews, of course, we haven't covered. A fair amount.

Q. That is what I meant, the print media. Is there quite a few?

A. Sure.

Q. And are you regularly putting out press packages, press releases to members of the public?

A. What I call background information on topics of interest that grab the headlines.

Q. Okay. And you are quoted as a result of those?

A. Not as often as I would like to be, Mr. Griffiths, but sometimes.

Q. So the Zionist-controlled media hasn't stopped you from getting on the air.

A. Quite frequently one typical case in point, I was asked to go on a programme with Sol Littman last fall, and Mr. Shatski, from the CBC, bumped me off the programme. Now, the inside workings I don't know why I was bumped off the programme twenty {4418|4419} minutes before this cross-Canada programme. Somebody managed not to get

me on the programme with Mr. Littman, which would have certainly presented a far balanced view on this war criminals question, and here was Mr. Shatski, Jewish, and Mr. Littman, Jewish, and they dominated the show and had it to themselves. I don't call it balanced broadcasting or reporting.

Q. And that's how many times a year on the radio and thirty times a year where there is a balanced broadcast?

A. That is what you say. Do you know how many regular —

Q. I am talking about your appearances.

A. No. Let's see that in the context for an individual who doesn't get a chance to get on a radio programme that might seem like a lot of coverage. There are, in the United States alone, almost ten thousand radio and TV stations. So if I get on 175, let's say 150 American TV shows one time, one day, can you imagine how many other programmes there are? I am a drop in the bucket. No one person can — you can certainly not intimate that my 150 or 170 shows a year that I am going to the media produce a balanced viewpoint. I am a drop in the bucket. I am, what do they call it? In Europe we call it (German phrase). When Jews were popular, every monarch had one or two Jewish families, and to show their tolerance, they would trot out this Jewish individual to say, "Look how tolerant I am".

Q. That is like Himmler saying, "Everybody had their decent Jew".

A. Yes. So they gave me one programme {4419|4420} a year.

Q. "International Secret Societies". You have indicated this is your hobby, or one of your hobbies — flying saucers and Freemasons.

A. Not quite, but I was interested, yes.

Q. And you've put a lot of books into evidence. Some of them are quite old, go back to 1919, 1920, 1800s, I guess — Captain William Morgan and you have clearly read very extensively on this.

A. I didn't put Professor Katz' book in because it came from the library, you know.

Q. That's all right. You've read it and you indicated that. I am just wondering how these societies can still be secret if somebody like you or me or anybody else go to the library, can read all about them.

A. That's a good question. Maybe it is for the reason that we saw displayed right here in this courtroom that some police officers took their Masonic oath more seriously than the oath on the Bible.

Q. Well, they were both on the Bible. He says he swears oaths on the Bible, his Masonic oath.

A. Mr. Griffiths, I don't mean to be disrespectful to you, this court, or the police officers, but I was shocked. I really was shocked that there was an oath that was so important that it would supersede the oath that I had to take, for instance, in this court. That's why I think

Q. They took an oath on the Bible same as you — {4420|4421}

A. Sure, but I am to reveal everything which I am forced to do here, and do, but they were able to get a special privilege by virtue of them having certain secrets that they would not reveal.

Q. Did you take an oath on the Bible not to reveal something?

A. No. I took an oath on the Bible to tell the truth, and that is what I am doing; but what I am saying is, this is why these secret societies are still secret. I give you as the primary reason that at every level of these oaths, these oaths become more binding, and we heard about one case where they say that if you reveal any of these secrets your tongue will be torn out and your liver will be buried, or something, at sundown at some local beach. I mean, these blood-curdling things, and to these people who reveal oaths, some of these people, as they move up in the hierarchy, I don't know.

Q. And you agree with me that you frequently see ranks of Masons with lapel pins who don't make secret of their membership?

A. Yes. At certain periods of their careers, and this is the reason why they have flourished, because they have an implied allure that if you are a Mason, or a member of this fraternity, it might get you ahead. That is the implied allure of these organizations.

Now, it could be totally fictitious, I don't know about that, but nevertheless, that is the implication that people get, and I have been solicited by people who have been Freemasons with the suggestion of, "Why don't you come and join us?", as a young fellow, {4421|4422} you know. So

the allure was there, and I didn't know much about it at that time, and I thought, "Well, geez, it might be good in business or whatever. So maybe this is why there are so many lower echelon Freemasons which never, ever get to the higher ranks, and that is my point. And what I said yesterday I repeat today. I know Freemasonic members who are decent people and with whom I have enjoyed a good working relationship for a long time. I don't believe that they, themselves, would be part of a global conspiracy; but nevertheless, if it is so secret, how do we know what the leaders at the top are plotting? Maybe these men are used as gullible fools. I don't know.

Q. You say at page two, referring to the rituals of the secret societies, that they come from the Kabbala, that their contents are Jewish, their goals are Jewish, and their masters are Jewish. What are the goals of Freemasonry?

A. One of them is the universal state. The World Republic.

Q. I thought that was a Zionist goal, you said.

A. Pardon me?

Q. I thought that was a Zionist goal.

A. When did I say that? I didn't say that. What I quoted was, yesterday, in the book, where it says one line only, that they are Jewish from beginning to end. I think I read that into the record yesterday. If you'd like to pass me the book, I will be happy to find it.

Q. Well, excuse me, Mr. Zundel, are {4422|4423} the goals Jewish or Zionist?

A. Oh, that's what you're driving at.

Q. Yes, sir.

A. Oh, now I get it. Well, Zionists are only one branch of Jewry, you know? And quite frequently you see an opposition between Zionists and Jews, but quite often there is a conflict of interest.

For example, you read one this morning yourself where you said there was a non-Zionist Jew in this case, Alfred Lillienthal [Lillienthal], agreeing with a Zionist position. So the Jewish people are far too colourful, far too diverse to be fitted into one mo[u]ld you see.

Q. So the Jewish goal that you are referring to there is a world government?

A. Well, David Ben Gurion, giving an interview to Look Magazine in 1958 or '59, stated exactly that, that their goal was a world government with the seat of the government in Jerusalem.

Now, that's exactly right. I was startled myself when I got that. 1958 by David Ben Gurion giving an interview. I didn't introduce it.

Q. Do you think you could file that?

A. No, I didn't — this is not in evidence.

Q. Oh.

A. I am drawing from memory, Mr. Griffiths.

Q. And a world government, I take it, would be contrary to your nationalist views? {4423|4424}

A. You come back to the word "nationalist". This really has gotten to be a bee under your bonnet. Look, Canadian nationalism is fashionable with all kinds of politicians. We had a disastrous economy in this policy, shutting out Americans because we didn't want to have internationalist investment here. Then we wanted to have a restriction on how many Americans can play football here. That is nationalism.

Q. Mr. Zundel, can you answer my question?

A. Repeat it, please.

Q. Whether a world government would be contrary to your nationalist views.

A. Not to my nationalist views. It is contrary to nationalist views, yes.

Q. And are those views you share?

A. I am against world government, yes, as proposed by the proponents.

Q. Are you for any forum?

A. I think that we ought to have a world health organization, which we have already. I think we ought to have a world weather service. I think we ought to have a world organization that regulates aircraft traffic, outer space, stuff like this; but believe in the sovereignty of states, the way nations evolved and so on. I think that much of the problem of today, Mr. Griffiths, is caused by people meddling in other people's

affairs too remote from the local scene, causing havoc among many people.

Q. All right. And one of the things, {4424|4425} understand, that you dislike about Zionism you mentioned the other day, is that they have a dual —

A. Loyalty?

Q. — loyalty. That was the word you used.

A. That's right.

Q. And I assume that means one loyalty to the State that they are living in, and another loyalty to Israel.

A. That's right.

Q. Do you have a dual loyalty, Mr. Zundel?

A. I don't. I am a West German citizen living in Canada, have lived here for twenty-five years, and you can consider me living in exile for the moment. And I have never —

Q. And your loyalties, then, are with West Germany, do I understand?

A. West Germany? An occupation State? No. I was born in that geographic location of the Black Forest which happens to be in Germany, and I happen to be living here as a fairly decent citizen for twenty-five years, and I have obeyed the laws of this country for twenty-five years and respected them. You can see my record. I have never been to jail or charged for anything.

Q. And are you working towards getting rid of the occupation government as you've called it of West Germany?

A. I would dearly love to see Europe united without the borders and the minefields and guard {4425|4426} towers and the dogs in Germany and Europe. I think it is unnatural, and one day we will all rue the day that Europe has not a long time ago found some way of evolving together, yes.

Q. And is one of the stumbling blocks to getting ride of the occupation government the Holocaust?

A. I believe it is. I really do.

Q. And I guess another stumbling block would be the Nuremberg Trials.

A. The Holocaust was derived from Nuremberg. I think that Nuremberg was the root of all evil.

Q. Okay. "The International Bankers". you [sic] have told us you don't know too much about it, so I won't ask you anything about that. "International Communism". It says, about half way down the paragraph:

*"Few Easterners are aware of the contradiction in terms of a so-called 'Islamic-Communist Revolution', for that would be as absurd as to believe in 'idealistic materialism' or 'divine godlessness'."*

A. That's right.

Q. *"It is therefore nonsense, but nevertheless believed by many Westerners who accept many aspects of communist materialism so long as they are camouflaged by labels such as 'capitalism', 'equalitarianism', 'liberalism', 'democracy' and 'progressive'."* {4426|4427}

Do I understand from that that democracy is a communist concept?

A. Democracy certainly is a materialist concept, and communism is called dialectic materialism, because it really does deny the spirit. And so therefore, anything that is materialist in philosophy, as far as I am concerned, has the potential of being communist.

Q. Well, what do we do, Mr. Zundel? We live in — well, do we live in an egalitarian country now, a democratic country?

A. We are trying to, as Winston Churchill said, I think we are muddling through, Mr. Griffiths. We are far from perfect.

Q. Well, are we safer to get rid of democracy, get rid of egalitarianism?

A. No, nobody says, but we ought to fight for democratic rights which, what I believe this is all about, the right of somebody to differ and to have a different viewpoint. I think this is part of the democratic tradition that is constantly threatened by interest which is as natural all around the world. There is this interest by States and so on to suppress certain opinions.

Now, I think that democracy, if you are talking about plurality, is an interesting thing. If I had the chance, I wouldn't change very much in Canada, believe me. I am quite happy with the system.

Q. Okay. So you disagree, then, with Hitler when he calls egalitarian-

ism a Jewish concept designed to aid Jews, and he doesn't have very many nice {4427|4428} things to say about democracy, neither.

A. Mr. Griffiths, Hitler was a personality. Like all people, a child of his times. He had gone through the war. He was still partly with one foot in Imperial days, and aristocratic days, and there was a terrible upheaval in Europe and he was a reaction to it.

I am Ernst Zundel. I am different. Every time a baby is born, there is a new concept of life. I understand this perfectly. I am not Adolf Hitler, and I think I'd let Hitler take care of himself in the history books if he gets a fair hearing with his ideas.

Q. All right. So my question is whether you disagree with him on his definition that egalitarianism is a Jewish concept as is democracy, designed to assist the Jews in their control over the rest of us.

A. The Jewish intellectual Karl Marx —

Q. No. Do you understand my question?

A. Yes. I am trying to answer it. But maybe, correct me if I am wrong, I think the Jewish intellectual, Karl Marx, for instance, was an egalitarian, but he, too, was a child of his age. We have just gone through the French Revolution which had "liberté, égalité, fraternité." "Egalité", big deal. And I understand, Karl Marx got his ideas from the Hurons, because the[y] lived in longhouses; so there was [sic] many ideas under the Sun, and there will always be people among us that are elitist, aristocrat; there will be poor man and rich man, and as {4428|4429} long as there are possibilities for us to live unfettered without doing harm to society, that will be a good society, and I believe that Canada is trying to be that.

Q. So do you believe what Karl Marx said about egalitarianism, democracy and the control of the Jews?

A. That was a long question.

Q. Do you want me to break it down?

A. Yes.

MR. CHRISTIE: Karl Marx, or Adolf Hitler?

MR. GRIFFITHS: Did I say Karl Marx? I beg your pardon.

Q. Adolf Hitler is what I am talking about. And do you agree with his concept that egalitarianism is something that was started and promoted by Jews to enable them to control the rest of us?

A. I think, Mr. Griffiths, that possibly that was the information that he had available at that time. It might have even been popular to say that at that time. I don't agree with it.

Q. You don't agree with it. That is my question, Mr. Zundel. Do you agree with him or disagree when he also says that democracy is another decadent idea of the Jews to enable them to control the rest of us?

A. Hitler dominated the German scene for over twenty years, gave thousands of speeches.

You know, I have two volumes at home that contain two {4429|4430} thousand pages of Hitler's speeches.

Now, unlike every politician, in election campaigns, as agitation tools, undoubtedly, he did what many people do, frequently in debates, and I wouldn't be surprised even courtrooms, we say things to have a certain effect. And he had what he perceived in Germany in the nineteen twenties as a Jewish problem and that is what he said to address that problem.

Now, am I defending that man what he said in 1923?

Q. I am not asking you to defend him. I am asking you whether you agree with him.

A. No, I don't.

Q. Thank you. Did Hitler, in his analysis — let me just backtrack for a minute. What I am clutching here is an English [sic] copy of "Mein Kampf".

A. I have never seen that one.

Q. And Hitler, in "Mein Kampf" and the growth of his political movement came out of it, and he talks about a great deal about it is, what I should say about "Mein Kampf", came out of the First World War. Is that right?

A. The book?

Q. His ideas. A lot of his —

A. Pre First World War, First World War. Yes.

Q. And he was very much concerned with Germany's guilt or perceived guilt by the Germans for the First World War; is that true?

A. Not by the perceived guilt, but by the stated guilt in the Versailles Treaty. I think {4430|4431} it was Article 221 or 229 where the Germans were forced to sign a clause that they, themselves, solely had started the war. And Winston Churchill and many other writers have pointed out the evil that this particular paragraph in that Treaty has caused, because it condemned Germany to be a pariah for twenty years, and ultimately many writers and historians have related the Second World War directly at the foot of that particular document.

Q. The Versailles Treaty?

A. Especially the war guilt clause.

Q. Did Hitler have anything to say about the relationship between Freemasonry, Zionists or Jewish control of banks, and communism?

A. Did he say things about that?

Q. Yes.

A. Oh, yes, he did.

Q. Relationship between —

A. Yes. Like writers of the period, yes. Ludendorff did.

Q. And is, his analysis of the situation similar or dissimilar to yours?

A. I would say that I have the benefit of another fifty years of observing history at work, and having widely travelled, that I am possibly, maybe a little less dogmatic, but nevertheless, there are some truisms in history which don't necessarily change.

Q. Okay.

A. For instance, Zionism wasn't a very big force when Hitler's career started.

Q. But he talked more about Jews than {4431|4432} Zionists, didn't he?

A. In those days. They didn't have human rights in those days, Mr. Griffiths.

Q. Now, you conclude "The West, War and Islam" with an appeal for funds to be made available to you and your organization so you can begin a public information campaign immediately. Did you get any money out of this?

A. You know, this is one of the sore points of this trial with me. I got exactly two book orders out of this mail-out that I sent out. One was from an individual in Amman, Jordan, who ordered thirty copies of Exhibit No. 1, and another one was some tape orders from somebody in Tehran.

Q. All right. And was this letter of yours, you are writing this as a businessman trying to promote some business, bring some more money into Samisdat?

A. It would — the effect of it would be that I could naturally print books and make films and stuff like that, but the thought to me was certainly far less mercenary and far more idealistic.

Q. And you've invited — you've indicated that you will waive all copyrights and you invite the receptors of this to pass it along, or to use it as they see fit.

MR. CHRISTIE: If my friend is going to — I must object. If my friend is going to quote the letter, he should do so, but not misrepresent the letter. It doesn't say, "Pass it along". It says, "to quote this appeal in whole or in part". {4432|4433}

Now, that's my objection.

THE COURT: Go ahead, Mr. Griffiths.

MR. GRIFFITHS: Thank you.

Q. It was your intention that they quote the appeal in whole or in part, or that they pass along the letter, or in whatever way, spread the news?

A. If they felt inclined to do it. I didn't want to get involved in correspondence back and forth from all far corners of the world. I, at the time, felt there was possibly a war coming. There was no time for lengthy correspondence, and I had a sense of urgency attached to it, and therefore I added that.

Q. All right. Were you also trying to make some contact through this with Arab individuals who had some finances that would assist you in this or any other work that you were doing?

A. You mean, like to finance a film or something like that?

Q. No. Whatever else —

A. If that came about, believe me, after twenty years of nickel and diming myself half to death with \$5 and \$10 contributions and \$4.95 book sales, it would be nice to have somebody to say, "I invest in the film with you and you pay me back over a period of time", or something, and that would have made things easier for me.

Q. That would have been in your mind when you are writing this to Arab countries in particular, and oil countries, I presume. Am I right oil countries?

A. I think it is apparent from the {4433|4434} text that I felt that these people, sitting far from the Western media and the Western populations, that had the expertise to do this for them.

Q. All right.

A. Just like I have read some newspapers like The London Times, The Times of London, which is being exported down to the Middle East — always advertisements in there for people who are interested in obtaining Arab financing for various — I think they call it either seat money, or venture capital. That's it.

Q. So in your plans for final victory, I guess Arabs don't figure very highly?

A. Mr. Griffiths, that is a total misconception that you have obviously in your mind. Maybe you have been reading "Mein Kampf" too long.

Q. No. I have just been reading your material, Mr. Zundel.

A. What I am saying to you is this, that the Aryan concept — remember I said yesterday that Brahmins in India can belong too, Italians, French, and so on?

Q. Christian Jews.

A. In the National Socialist government, in fact, and in the National Socialist Party there were quite a number of National Socialist members as long as they became Christian. This is not a concept, the Aryan concept, that is narrow that we have a slide rule that says, "Now, you have ten shades of blue and therefore you are Aryan", and "You are from Southern Italy and you are not." Now, that does not preclude {4434|4435} that we do not love other people just like I love my only two children and my family, but nevertheless, I don't go around beating up on other parents' children. On the contrary, if there is a child in trouble, would go and help that child, too, because I am a parent. And it is the same with a political concept, and this concept of Aryanism.

Q. Well, I thought we said yesterday that Arabs were Semites, and Semites were not Aryan.

A. Well, there is room in the world for pluralism. These Arabs, at this very moment, inhabit huge parts of the world in North Africa and the Middle East. Only Israel seems to want to deny these people the right to live, because they want real estate. I think there is room for Chinese, there is room for Japanese. There is room for Arabs, there is room for blacks. What are you trying to say to me? That I am running around the world trying to deny other people the space to live?

Q. No.

A. Okay. I don't. It is not my intention at all. To have a certain pride in one's heritage does not preclude or deny the right of others to do the same thing. That is what a multi-cultural policy is all about.

Q. So when you refer to Aryan victory, you are not talking about victory over other so-called races of the world.

A. Of course not. I talk about occupiers. I have my pamphlet in there. You read it this morning. I am talking in a victory, a soul victory {4435|4436} that we free ourselves from the shackles of the lies, the Holocaust, [sic] all the other misconceptions. And I say that we have the media, we have the tools, the technology that we could do it in this generation. We could do it in two or three years, and we could create paradise on earth.

Q. And part of what you were doing in this pamphlet, "The West, War and Islam", was to try and get money so you could do that.

A. Try to prevent — I know that some of the members of the media think that I have these grandiose ideas, and maybe I am guilty of overstating the case; but nevertheless, I felt it my duty to prevent what I thought was a catastrophe that was huge on the horizon, and I sent this to other people with whom I had connections in the past, and people that

were decision-makers so I could prevent a tragedy.

Q. And the thing that prompted this was an advertisement that we have on page 4?

A. Absolutely. Coupled with the prevailing mood. Remember what I said to you. And the headline.

Q. And that advertisement upset you?

A. It sure did.

Q. Because it looked like warmongering?

A. Well, number one, once again it put Germany into – and the German history – into a light which I think was totally uncalled for, and that, since there was this, as I said, there was talk of a United States strike force already being in the Gulf of Acapa with troops on board, and Egypt, we had an abortive {4436|4437} attempt of trying to rescue the hostages, that I thought there was war in the air, not unlike the, time of Korea and so on. And so maybe I am guilty of, what can I call it, pan-icking, if you wish. In retrospect it didn't happen, and I am glad it didn't.

Q. Well, Mr. Zundel, my question was whether the advertisement was, in your mind, warmongering by these four Jewish men who put it in the newspapers.

A. Okay. Where is the ad? Let's go through it again.

Q. Can you answer my question about the warmongering?

A. Well, let's refer to it because you specifically referred to the ad. The claim is made that if Europe did not agree with these people's concept of what was happening, that three million Israelis would be killed, and the Third World War would be possible. So I believed that [they] were painting what we call in Germany the devil and the wall, or the devil on the wall. Now, as to the money, I want to come back because you seem to think that I want to become a hireling of Arab interests.

I have no money. The Zionists get from the Canadian Government huge amounts of money. I don't.

Q. And you say here on page 4 that you have included the reproduction of an advertisement of a sort we might place to reach the public via the press. So that warmongering, in that ad, isn't that what you are encouraging the Arabs to do through you? {4437|4438}

A. First of all, an ad of a type, which means an advertisement of this particular type, not of the content, my ad never came to be because these people never send any money or didn't show any interest, so, you know, I can hardly be accused of an ad which I never have written – all it was, to show to these people that there were possibilities that in the Western media where they were not getting a fair shake, I believe, through paid advertisement, that they could make through paid political statements, that they could show their case. And since I have advertising experience, I thought that I could have helped place these ads.

MR. GRIFFITHS: Excuse me just a minute.

Q. And it's your evidence that this was to promote racial harmony, "The West, War and Islam"?

A. Certainly not to disturb it.

MR. GRIFFITHS: Thank you. No further questions.

THE COURT: Yes, Mr. Christie.

MR. CHRISTIE: That's the case for the defence, and I see it's four thirty-five. Do you wish me to address the jury now?

THE COURT: Certainly not. I want to know if you want to re-examine your client.

MR. CHRISTIE: No, sir. I have no further-questions.

THE COURT: Thank you. You can step down, Mr. Zundel. {4438|4439} — The witness stands down.

MR. GRIFFITHS: I am calling no reply, Your Honour.

THE COURT: You are calling no reply. Members of the jury, you are free now until Monday morning at nine thirty.

Please don't come to any conclusions. Please keep an open mind. The case is not finished until such time as it passes into your hands and until such time as you have considered it and returned a verdict. Have a good weekend. Thank you.

— The jury retires. 4:35 p.m.

THE COURT: Gentlemen, insofar as Monday is concerned, Mr. Chris-

tie, will you be ready to address the jury on Monday?

MR. CHRISTIE: Yes, sir.

THE COURT: You can address it as long as you reasonably require. Do you know how long you may be? And if [you don't know or don't want to say, {4439|4440} please say so.

MR. CHRISTIE: Your Honour, I would be hard-pressed to be accurate, but I would say very unlikely that I would be longer than a day.

THE COURT: All right. Fine. Mr. Griffiths?

MR. GRIFFITHS: I couldn't possibly talk for a day, Your Honour. But Your Honour, there are some questions of law having to do with the charge itself. Different judges, I know, have different practices, and I am wondering whether Your Honour would be at some point inviting counsel's comments prior to the charge.

THE COURT: I usually take the position that counsel know more about their respective side of the case than the judge does. What would you like to see done, if you had your choice?

MR. GRIFFITHS: Well, Your Honour, there is one element that I would like to have the opportunity to address you on of the four elements that Your Honour has indicated on a number of times that are involved in this charge, and that's the element of whether {4440|4441} or not there is a specific intent required to cause an injury to the public interest.

THE COURT: Number four.

MR. GRIFFITHS: Yes, sir.

THE COURT: The thought has crossed my mind. I have no fixed notions on that topic. I'd just as soon not hear it now.

MR. GRIFFITHS: No. Thank goodness because I am not ready now, Your Honour. I haven't got my material here.

THE COURT: Yes. If you wish to make submissions with respect to that, I will be glad to hear them. If Mr. Christie wishes to do the same thing I will be glad to hear from him.

Are there any questions of law that you would like to put in the absence of the jury to me before you address the jury?

MR. CHRISTIE: No, sir.

THE COURT: All right. Well, then, you will undoubtedly be inte[r]ested in hearing what Crown counsel has to say and probably want to respond to it.

MR. CHRISTIE: Yes, sir. {4441|4442}

THE COURT: We will do that Monday morning at nine thirty.

— Whereupon the hearing is adjourned to February 25, 1985.

(VOLUME XX FOLLOWS) {4441|4442}

## VOLUME XX

### FEBRUARY 25, 1985

— Upon the hearing resuming.

THE COURT: Yes, gentlemen.

MR. GRIFFITHS: Good morning, Your Honour.

As I indicated in the Court last Friday, just before the addresses to the jury, I'd like to have an opportunity to address you on several legal issues. One that I specifically mentioned last Friday was the nature of the intent required for the causing of injury to the public interest.

The second area that I would like to canvass with you and seek your ruling on, Your Honour, is that of judicial notice. I'd like to renew my application for judicial notice. I advised Mr. Christie, after Court – I had forgotten to say that in open Court, {4442|4443} and I advised Mr. Christie after Court that I would be doing that this morning. I am prepared to do that now, subject to Your Honour. I expect to be no more than an hour for the two matters, possibly less.

THE COURT: You will be an hour?

MR. GRIFFITHS: Oh, I think the argument will be an hour.

THE COURT: The total argument?

MR. GRIFFITHS: Not just me. I am not going to review again all the law we went through earlier on judicial notice. It is before the Court.

THE COURT: Yes. I will hear you now.



MR. GRIFFITHS: Thank you, Your Honour.

If I could speak first, Your Honour, on judicial notice, and just by way of a very brief review, the authorities, McCormack and Fipson and the other authorities that have already been passed up to Your Honour on the earlier application seem to indicate that there are two circumstances in which it is proper for a judge to take judicial notice of a fact. Those two circumstances are, first that the facts that it is requested you take judicial notice of are notoriously {4443|4444} well-known by all reasonably intelligent people within the community. And second, that those facts are capable of accurate and ready determination by resort to sources of indisputable accuracy.

The law that I passed up earlier, Your Honour, in the cases, are the same. What has changed, I would suggest, Your Honour, is that at the time of Your Honour's ruling at the end of the Crown's case the defence counsel, Mr. Christie, indicated that by taking judicial notice Your Honour would be precluding the defence from making full answer and defence, and that the defence wished to and intended to call evidence going to the truth of the contents of Exhibit 1 that we are speaking of, the pamphlet, "Did Six Million Really Die?", that Your Honour, by taking judicial notice, would prevent him from making full answer and defence. As I understood Your Honour's earlier ruling – and I may well have this wrong, Your Honour, but if I have, Your Honour I am sure and Mr. Christie will correct me – Your Honour seemed to indicate that there was an exception, a procedural exception, if I can call it that, to the general rule of judicial notice, {4444|4445} an exception that did not show in the authorities, and this exception was that it should not be – it should not preclude the defence from making full answer and defence when there are issues that the defence perceives as vital to the defence they should call.

Well, Your Honour, at this time the defence is complete. Much of the defence, I would suggest, has gone to whether or not Mr. Zundel has honest belief in the contents of Exhibit 1. If there were no evidence that was called to cast a doubt on the truth of the two areas that I asked Your Honour to take judicial notice of, then full answer and defence would not be prejudiced by Your Honour taking judicial notice, and the procedural objection would no longer be applicable.

The two categories, Your Honour, that I asked you to take judicial notice of were that, first, between the years 1933 and 1945 millions of Jews were annihilated by the deliberate policies of Nazi Germany, and secondly, that the means of annihilation were mass shootings, starvation, privation and gassing. Those are the same two categories that I ask you to take judicial notice of now, Your Honour. {4445|4446}

The authorities indicate, Your Honour, that it is open to a judge to take judicial notice at any stage of the trial, the beginning, the middle or the end, and indeed, in subsequent proceedings, if there are any, before an Appeal Court, it is still open to the Appeal Court to take judicial notice.

So Your Honour, in considering the application, it would be my application now, I would suggest it would be appropriate to look at what evidence has been called by the defence which purports to go to the truth of matters to determine whether there is evidence that can – whether the finding of judicial notice would prevent full answer and defence in light of the nature of the evidence that's been called.

First, Your Honour, was Dr. Faurisson who was qualified as an expert in the Holocaust at large, was not qualified as an expert in the operation and construction of gas chambers. He was specifically asked by the Crown for his comments on the almost million and a half Jews that Dr. Hilberg had indicated were killed by Einsatzgruppen, and he either didn't know or couldn't say anything about Einsatzgruppen. And he said he wasn't an expert in that field. {4446|4447}

THE COURT: He said that was not his speciality. It is part of what he said.

MR. GRIFFITHS: He also, Your Honour, couldn't say anything about the conditions in the ghettos or the conditions in concentration camps. He was concerned with gas chambers, but he was not an expert in that area.

I would suggest that his evidence has very little to say about the truth

of the two areas where I am asking Your Honour to take judicial notice. The next witness, Your Honour, that would have any bearing on these two areas was Mr. Christopherson, and his evidence, as I recollect it, was that he visited the Birkenau extermination camp on half a dozen times during the year 1944. Other than that he was in a satellite camp, small satellite camp called Raisko for that year.

His evidence, obviously, Your Honour, cannot go to the whole concentration camp system. He was not in the concentration camp at Birkenau, working there, or a prisoner there, and could not say anything about the workings of that camp for that reason, Your {4447|4448} Honour. And again, I would say that he also cannot speak about mass shootings by Einsatzgruppen, and cannot say anything and did not say anything about ghettos. He had no personal experience in that area.

Next witness, Your Honour, was Dr. Russel Barton, and his evidence, as I recollect it, was that while he didn't feel that there was a deliberate policy that the Germans at Bergen Belsen, and that was the one camp that he could speak to, the Nazis in charge there were criminally negligent in ignoring the needs of some fifty thousand prisoners and may well have resented the prisoners being dumped on them, but did nothing to feed or look after the physical needs of those prisoners, and his testimony was that he had no doubt that millions of Jews died, although that is not based on his expertise, his field of expertise.

The next witness, Your Honour, was Dr. William Lindsey, and he was the chemist and it was his opinion, expert opinion, that the gas chambers could not have operated in the manner in which they said, it is said, that they operated. And he based that on the chemical properties – his opinion – on the chemical properties of hydrogen cyanide. {4448|4449}

In cross-examination, though, Your Honour, Dr. Lindsey indicated that hydrogen cyanide was only very slightly lighter than air, that it would rise very slowly so that the description that Mr. Urstein gave would be consistent with the properties of hydrogen cyanide.

He also testified that hydrogen cyanide was highly soluble in water and that would be consistent with the evidence also of Mr. Urstein that it had been hosed down, and the chamber had been cleaned after the bodies had been removed.

I would suggest there is nothing in his evidence to disprove that there were gas chambers. His testimony was based in part, Your Honour, I would suggest, on his assumption that maximum care would be taken for the people that were removing the bodies and handling the bodies, that when that assumption is changed, that the people removing the bodies were prisoners for whom the Nazis didn't care whether they lived or died. And then much of his evidence becomes [ir]relevant, Your Honour.

Dr. Weber was not an expert, could not testify. Mr. Walendy was an expert in only a very {4449|4450} limited area, and I suggest was not going to the truth of the matters that I have set out to you.

Mr. Botting was also not an expert, and his evidence couldn't go to the truth of the matters that I've asked you to take judicial notice of.

Any other person, Your Honour, who the defence called who was on the scene, if you will, at least peripherally, was Mr. Rudolf [Rudolph] who was the S.D. Officer in Poland and testified that his superior officer had arranged for a tour of the Red Cross at Birkenau in 1941 I think he said was the year. And Mr. Rudolf [sic] himself never left the office, and his superior officer was concerned with routing the Red Cross, take what inference he may from whatever route may have been taken.

That is the extent, I would suggest, Your Honour, of the evidence of the defence on count one going to the truth of the matters contained therein, and I would suggest that that evidence is not sufficient to overcome the enormous weight and documentation of history that I placed before you on my earlier application for judicial notice.

Subject to Your Honour, it would be helpful, I would respectfully submit, – in other cases, if {4450|4451} in your ruling on this point you would be able to indicate whether your ruling was based on the failure of the Crown to establish the two criteria set out in McCormack and others that it was a notorious fact that could be ascertained by easy resource to common sources, or whether it is the procedure or what I have



called the procedural exception to permit the defence to make full answer and defence, if that is the basis of your ruling.

Those are my comments, Your Honour, on judicial notice.

THE COURT: Thank you. Mr. Christie.

MR. CHRISTIE: First of all, my friend is asking Your Honour to define what is an indisputable fact. It is difficult to say what is a notorious fact. It is difficult to say what facts are capable of ready determination on the wide scope that my friend seeks Your Honour to make a ruling, but it is not difficult to say that this alleged fact of my learned friend's is not indisputable.

So far, in a free society, we are allowed to dispute many factors. And it is my friend's argument that while we haven't, according to him, proven {4451|4452} our case, well, even if that was not so, that is not our duty and we elected trial by judge and jury and proceeded on the understanding of Your Honour's former ruling which you gave on the 31st of January that the Crown must prove the four elements of the charge, and to grant the motion for judicial notice then would, in effect, be, in the eyes of the public and the jury, would not give the defence full answer and defence, thereby eliminating defence.

On the basis of that ruling we brought witnesses, brought them here from Germany, France, the United States to endeavour to prove our case which it is not our duty to prove, but to raise a reasonable doubt on the part of the jury. That is our only burden of proof, if any; and even if we had not raised any evidence going to the accusations and assertions of Dr. Hilberg and Vrba, it certainly would be open to them to find out whether it is an indisputable fact.

The fact was disputed. The witnesses were called and whatever may be my friend's opinion of their veracity, their probative value or otherwise, it is for the jury to decide; and if that premise is still valid, then we operated under Your Honour's ruling with {4452|4453} the understanding that we had the right to raise the defence of truth. In fact, we are not obliged to prove the truth. The Crown is obliged to prove falseness beyond a reasonable doubt of the accusations or the positions stated in "Did Six Million Really Die?"

To discharge that burden, the Crown seeks now, having allowed us to operate on the presumption and the basis of Your Honour's ruling throughout the trial, relying as we have on the truth proven by our witnesses, now to close that avenue of the defence and prevent it from going to the jury.

At this late hour, if that is the case, then we should be allowed to re-open the case and introduce all sorts of more evidence as to the foundation of my client's belief, because we relied substantially upon the right to prove the truth that was left to us at the end of the Crown's case. We operated on that understanding. We introduced evidence on that understanding, and for that reason, did not prove all the reasonable foundations for my client's belief, did not introduce all the evidence that we would have otherwise produced, because we allege and will argue before the jury that we have the right to {4453|4454} believe that they will decide that we have either proven the truth of our belief, or in the alternative, the Crown has not disproven the truth of that belief, because it was still open to us throughout the whole of the trial to operate under that understanding. And so we did.

At this hour of the trial the Crown says that Your Honour should take away from the jury that aspect of the defence which the defence has, to a substantial extent, relied upon.

It is true Your Honour has disqualified some of the experts alleged by the defence, but by no means has it been proven that the fact as he alleges is an indisputable fact.

Dr. Lindsey disputes my friend's version of the fact. My friend put hypotheticals to him, and at the end of his cross-examination I asked one question in re-examination: Have the hypothetical questions put to you by my learned friend changed your opinion? He said no. Now, it is for the jury to decide what is a valid opinion and what is not.

My friend argues that Mr. Lindsey's evidence was merely probative of whether gas chambers {4454|4455} could have operated in the way alleged. He also gave evidence of colours of bodies who died from asphyxiation from hydrogen cyanide, and that was quite inconsistent

with the evidence of Urstein and others, none of whom are described as brick red bodies, and the colour of the effects of Zyklon-B.

It is open to the jury to consider that. It is open to them to say that it is disputing that evidence alleged by the Crown. Surely that should rest with the defence as we have operated on that understanding from the day of January 31st, 1985, when Your Honour made your last ruling on this subject.

We have raised dispute. It is for the jury to decide whether it is a valid dispute. It is not even necessary for us to prove beyond a reasonable doubt the validity of the dispute, but it has been in dispute. Whatever Your Honour may say about the evidence, whatever my friend may say about the evidence, it is still for the jury to decide whether the dispute was a valid one or not.

And as I say, if my friend bases his argument upon the reasoning he put forward, and if he alleges that between 1933 and '45 millions of Jews {4455|4456} were annihilated, I suggest that it is open for the jury to find that he has not proven that point, even now. He has not alleged the annihilation of millions of Jews except in the mere assertion of Dr. Vrba and Hilberg. And he says with a wealth and weight of documentary evidence. Who produced any documentary evidence? What are we relying on for notorious fact? Is that the media, the beliefs held in society? Is that the criterion of the notoriousness of this fact?

I saw no wealth and weight of documentary evidence produced by my friend. Dr. Hilberg talked about a wealth of documents, but he didn't produce a single document. Not one. And as far as documents from Dr. Vrba is concerned, he produced some transparent pieces of plastic that he drew circles on and referred to. I suggest that in this trial evidence has been produced by the defence, and this is a matter of argument for the jury to decide.

The two witnesses the Crown says were called by January 31st have been answered by no less than four recognized experts. To varying degrees, Dr. Faurisson, Dr. Barton, Dr. Lindsey and Udo Walendy were recognized to give opinions, and Dr. Faurisson's {4456|4457} opinion, at the end of the day, is that the figure of dead alleged by "Did Six Million Really Die?" was correct.

It is for the jury to decide whether he is right or wrong, but it is not for my friend to say he did not say that, or that is not an opinion.

My friend can allege, as he does, that Dr. Vrba referred to 1,765,000. If that's proof, the jury can decide that question, but it is not an undisputed figure. Dr. Faurisson did dispute it, gave his reasons, was cross-examined extensively. And for what reason? Why have we been here seven weeks? Why has the defence been allowed to call the proof for the truth of its belief if we are now to have that defence taken away from the jury at this hour?

If such be the case, then of course, the whole of our defence has changed, the whole of our position has been sliced in half, and if we were not allowed to re-open our case with proving the reasonable basis for our belief, half of our defence would be left to the jury after three weeks of evidence.

If it was, in my submission, as it was, not fair and just of the defendant to deny him the {4457|4458} right to prove the truth of his belief by taking it as a proven fact from some inference of notoriety at the time of January 31st, it is all the less so now when he has taken the opportunity, the time, the expense and the difficulty to try and prove his belief. And now my friend wishes to take that from him.

The summarization provided by my friend in the argument of the expert evidence is not my summarization. I don't wish to argue the case in front of Your Honour now. I don't think it should be put in front of the defence to have to justify its position now. I suggest it is open to us that the evidence of the experts is not quite what my friend says it is, and I suggest that having taken all the time and effort to prove what the accused believes to be the truth, then we should be allowed to let that stand before the jury and let them decide whether that is true or not.

I see no better reason now for denying the accused the right to prove the truth of his case than there was on January 31st. In fact, if anything, if the accused has produced any evidence on the subject of the truth or falsity of the belief – and {4458|4459} I say he has produced

four witnesses on that subject who were allowed to testify, then it has placed in dispute far more than my friend or anyone else may have thought possible the position of the so-called notorious fact, incapable of dispute, or so accurate and so easily to readily determine that no one should be able to dispute it.

Well, that may be true, but – it may have been true January 31st, but it is for the jury to decide whether it is true today.

Thank you.

THE COURT: Thank you. Mr. Griffiths.

MR. GRIFFITHS: You have my point, Your Honour.

THE COURT: Thank you.

——— {4459|4460}

### REASONS FOR RULING

THE COURT: At the conclusion of all of the evidence to be heard in this trial on Friday last, with the defence closing its case and the Crown electing not to call any reply evidence, I had presumed that this morning there would commence the address to the jury by counsel for the accused.

The accused is charged with two counts pursuant to s.177 of the Criminal Code. He is alleged to have published false statements in the form of two booklets. The first count alleges that he published a statement or a booklet entitled, "Did Six Million Really Die?"

The subject matter of the booklet, obviously, is the Holocaust. [sic] Crown counsel, during the course of this trial some weeks ago, moved that I take judicial notice of the occurrence of the Holocaust.

For the reasons given at that time, the motion was I. dismissed. The trial proceeded. Crown counsel now renews his motion that I take judicial notice of the Holocaust. He submits that pursuant to the learned writers in some case law, Phipson and MacCormack on Evidence, the {4460|4461} happening of the Holocaust is so notorious and well-known that it falls into one of the categories upon which a Court of law can take judicial notice.

A further submission is that the facts can be and have been sufficiently and accurately ascertained from indisputably accurate sources; that the criterion for taking judicial notice is complete.

I am asked to, in effect, make a judicial declaration to take judicial notice that between the years 1933 and 1945 millions of Jews were annihilated by Nazi Germany; secondly, that the methods of the annihilation included starvation, shooting, gassing and other methods.

The Crown's position is that my ruling previously made was made on a procedural basis. It included the consideration that to remove from contention between Crown and defence in this trial this element would leave the defence with only that of honesty of belief in the occurrence of the Holocaust. If I had taken that judicial notice, the result, in substantial part, and in a practical way, the defence would have been deprived of full answer and {4461|4462} defence.

Crown counsel points to the various witnesses called on behalf of the defence. It is submitted that their evidence on the issue of whether or not the Holocaust, as Crown counsel described it, occurred, is anaemic, to say the least.

I am reminded that the witness, Faurisson, seemed to concern himself with only one facet of what occurred in Nazi prison camps in the years in question. That facet centred upon whether or not gas chambers were employed to kill people.

Christopherson, a serving soldier in German forces, on his evidence, was restricted to his knowledge of what went on, essentially, in one satellite camp near the Auschwitz complex.

Dr. Barton had a thirty-day experience only with one camp located much further west in Nazi Europe [sic] namely Bergen Belsen. Dr. Lindsey was qualified as a chemist expert. His testimony considered, essentially, the chemical properties and proclivities of hydrogen cyanide, referred to in the evidence as Zyklon-B gas.

The witnesses Walendy and Botting {4462|4463} testified in such a way as to make their evidence concerning the subject with which I now deal irrelevant. The witness Rudolf [Rudolph] testified with respect to one aspect only. That concerned the tour of his German superior of-

ficer with the representatives of the Red Cross so far as the routing was concerned in the year 1941.

Not surprisingly, Crown counsel takes the position that this motion is appropriate and should be allowed. It is also not surprising that counsel for the accused takes the position that this motion should not be allowed.

It seems to me that this prosecution commenced with the Crown having the burden of proving certain elements. The accused is not obliged or required to prove anything. Mr. Christie is quite correct in that regard.

The Crown must prove the falsity of Exhibit No. 1 in its essential contents. One only has to look at Exhibit 1 to conclude that what, in effect, it says is that the Holocaust [sic] is a myth perpetrated by Jewish Zionists in order to fraudulently extract money by way of compensation and reparation from West Germany. {4463|4464} The total overall purport, at least in my view of the documents, simply is that the Holocaust did not occur. Crown must prove that it did.

If I allowed this motion at this particular juncture of the trial I would, in effect, be making an indirect ruling or finding requiring defence, in effect, to prove an element of the case that the Crown has to prove, namely, the falsity of a major premise contained within the confines of Exhibit No. 1.

I have no intention of casting any burden directly or indirectly upon the defence in this case. There can be no doubt that all sorts of recognized authorities have stated that the Holocaust occurred. Were I to be trying this case alone, my ruling might be quite different.

I am not trying this case alone. In fact, I am not trying this case at all. The jury is the finder of facts.

The Crown has alleged that the accused published something that was inherently false. The {4464|4465} Crown has the burden of proving the falsity of what it alleges. In the result, and as I repeated before, with some regret, I am dismissing the motion.

The Crown has certainly set out sufficient criteria. My ruling is based, as the Crown puts it, somewhat on procedure, although not entirely on procedure. I have no intention of shifting burdens in a trial in which the burden of proof, at least in so far as it refers to the falsity of the exhibit, remains on the Crown from the beginning to the end of the trial.

Therefore, for those reasons, the motion is dismissed.

MR. GRIFFITHS: Thank you, Your Honour. {4465|4466}

THE COURT: Now, point number four, Mr. Griffiths.

MR. GRIFFITHS: Yes, sir. Your Honour has indicated in a number of earlier rulings that there is a subjective test, if I could call it that, to the intent required for the second part of s.177 that the material that is wilfully published must cause an injury to a public interest, and that the accused must intend, when he publishes, that injury to result. And the subject of intention, Your Honour, was mentioned before.

I would like to submit to Your Honour that, in fact, s.177 is objective in its intent in that regard, that the mens rea element of the offence is encompassed by wilfully publishing material that is known to be false, that having done that, having been proved, at some point that the question of what harm, if any, that did to the public interest does not rely on the accused's intent.

THE COURT: It doesn't rely on the mens rea, but it is something the jury must be satisfied with on the total evidence put in. Is that what you are suggesting? {4466|4467}

MR. GRIFFITHS: Yes, Your Honour. It is not unlike an assault causing bodily harm. When an assault is proven, then the level of assault is determined by the degree of injury. You don't have to intend to cause bodily harm when you commit the assault. It often is the assault, the severity of the offence is determined by the level of the injury.

Section 128 of the Criminal Code, Your Honour, grew out of this common law s.177. That's the public mischief section. And indeed, some of the earlier cases around people laying false charges and are very much in keeping with our modern s.128, public mischief.

The intent required, Your Honour, in the public mischief section, I

would suggest, is that there be an intent to mislead. And with that intent to mislead, for example s.128(a), a false statement is made. So that I would suggest that, while the wording is different, the concept is the same that you have a knowing falsehood spoken by an accused person.

Now, out of that, the second element of s.128 is that a peace officer has to be caused to {4467|4468} enter upon an investigation. There's no specific mens rea required that when you are making that statement you are making it with the intent of having a police officer enter upon the investigation. I am suggesting that is the same in s.177.

In those sections where that intent is required, that is the intent to cause injury, it is specifically set out within the sections. Now, I have provided Your Honour with a number of sections of the Criminal Code where it is specifically, the intent is specifically set forth. Section 262, defamatory libel, matter published that is likely to injure the reputation or that is designed to insult the person. So it isn't enough that it be defamatory, and that it be libellous, but it also has to have the intention to insult, and that is specifically set out.

Section 281, Your Honour, our Court of Appeal has had occasion to consider in the case of *R. vs. Buzzanga and Durocher* (1979), 49 C.C.C. (2d) 369. In that case, the Court of Appeal was specifically referring to subsection (2) of 281.2, which the Court of Appeal said was subjective, that the term "wilfully promotes hatred", in 281.2 (2) means that the communication must have been {4468|4469} made with the intention of promoting hatred, and that recklessness is not a factor, then, in that offence.

THE COURT: The word "and" is not in s.281, but it is in 177: False and that causes or is likely to cause injury and mischief. I'm sorry to interrupt. Go ahead.

MR. GRIFFITHS: Sorry, Your Honour. Section 281.2 (1), Your Honour, I would suggest, is an objective test, and it's in keeping with what we have in s.177. It sets out that everyone who, by communicating statements in any public place, incites hatred against any group where such incitement is likely to lead to a breach of the peace, is guilty of an offence. So that the offence is the communication in a public place, and the incitement of hatred, Your Honour, is not specifically – I mean the intent to incite hatred is not specifically required in 281.1.

The Court of Appeal has set out, Your Honour, at page 381 of *Buzzanga and Duroch*, and that is a decision of Mr. Justice Martin – and I have it underlined, Your Honour, the paragraph I am referring to, the sections I am referring to, of that case. I suggest Justice Martin, s.281.2 (1), unlike 281.2 (2) {4469|4470} is restricted to the incitement of hatred by statements in a public place where such incitement is likely to lead to a breach of the peace. Although no mental element is expressly mentioned in 281.2 (1) where the communication poses an immediate threat to public order, mens rea is, nonetheless, required since the inclusion of an offence in the Criminal Code must be taken to import mens rea in the absence of a clear intention to dispense with it. The general mens rea which is required and which suffices for most crimes where no mental element is commenced in the commission of a crime is either or reckless, which brings about in law the offence it seeks to prevent, and hence 281.2 (1) is either the intentional or reckless incitement of hatred in the specified circumstances.

It goes on to say that subsection (2), Your Honour, there must be a specific intent to promote hatred. On page 382 of that case there is a judgment cited, Your Honour, *R. v. Lemon*, *R. v. Gay News* (1979) 1 All English Reports, page 898, which he indicates is not relevant to a consideration of that section.

I have that piece here, Your Honour. It is a charge of blasphemous libel. There is no good {4470|4471} faith except in the British section dealing with blasphemous libel as there is in s.262. All of the authorities, English authorities, are reviewed in that case, Your Honour, and the Court finds that in order to secure conviction for the case of publishing a blasphemous libel, it is sufficient for the purpose of establishing mens rea for the prosecution to prove intent to publish material which was, in fact, blasphemous.

That is, I suggest, the result if there is no good faith exception and no

specific mens rea set out in the section. So it will be sufficient to prove that material was published in our section, Your Honour, that was false that did, in fact, create an injury to the public interest without that specific intention required.

There are a number of other sections of the Criminal Code, Your Honour, wherein the intent both to publish and to refer – I'm sorry, and to cause some injury are both set out in the sections.

Section 330, everyone who, with intent to injure or alarm any person conveys or causes or procures to be conveyed, etcetera, information that {4471|4472} he knows is false is guilty of an indictable offence.

So there has to be the intent to injure set out in that section. And it is clearly and specifically set out.

Section 162, dealing with material that is calculated to injure public morals, there is the mens rea required, again, different from what we have here. The other sections Your Honour has. I am not going to read them all into the record. That is probably unnecessary. I suggest, Your Honour, that there is an argument that can be made to say that s.177 should be subjective, but that the argument is stronger that on the plain wording of the sections, and an analysis of the other sections of the Code, it should be objective.

THE COURT: You mean objective throughout, or are you suggesting that it should be subjective insofar as the likelihood of causing injury?

MR. GRIFFITHS: I am just dealing with the part for intent, Your Honour, the likelihood of causing injury. The other, what you might call {4472|4473} related sections, Your Honour, are sections 260, 262, 263, which deal with defamatory libel, blasphemous libel, and each of those other sections have a good faith exception to them.

THE COURT: Yes.

MR. GRIFFITHS: Which is specifically not included for s.177. In fact, in the re-writing of the Code in the early fifties, in the '53, '54 amendments, this section was moved, was reworded, was moved away from the blasphemous libel and defamatory libel area of the Code, and put into the nuisance area of the Code.

So I would suggest that we might get some assistance, Your Honour, by looking at some of the other sections in that badly-called nuisance section of the Code which includes causing a disturbance. And I would suggest that the mens rea in causing a disturbance in the same section isn't that you have to intend to cause a disturbance, it is that you do the act, and out of that act flows the disturbance, and you have to intend to do the act, but don't have to intend to cause the disturbance. And that's the part of the Code where we find s.177, similar to common {4473|4474} nuisance and thereby endangers the life, safety or health of the public is guilty of an offence. The intent is to commit the nuisance, not to endanger the life or health. That is what comes out of the delict.

So I would suggest, Your Honour, that while there is some argument that can be made based on the other similar sections of defamatory libel, that it should be subjective, that s.177 really is different on its fact in the area of the Criminal Code, and that the argument that it be an objective test is much stronger, for that part, what we call the part four intent.

Those are my submissions, Your Honour.

THE COURT: Thank you. Mr. Christie.

MR. CHRISTIE: My first reply is that this s.177 constitutes a limitation to freedom of speech as Your Honour dealt with early in the beginning of the trial which comes within the exceptions to that general principle that there should be freedom of speech, and I suggest, Your Honour, that any section which {4474|4475} restricts the right of free speech should be construed in its narrowest and net broadest sense.

This is, of course, a very new question, I think, to consider, perhaps, but I think a very fundamental one to the whole issue of what the implications are of sections which do limit free speech, and a general principle of some great value to interpretation might be derived if one was to say clearly that any section which puts a restriction on freedom of speech should be construed in its narrowest sense, and net its broadest sense.

My friend contends for the broadest possible interpretation of s.177 to.

include these remarks which one knows to be false, which might be not known to cause injury or mischief to a public interest.

I put it this way. Someone might be convicted if this interpretation is applied, who made a false statement in a joke, but he did not know, himself, that it was likely to cause injury – a joke such as was, I gather, the intent of the person who made a parody of a newspaper in *R. v. Kirby* which was a case of 1971 C.C.C. (2d) referred to in Martin's at 286. It was that very situation which generally {4475|4476} prevails where people run afoul of this section where the intent was to be funny, however misguided that intent might have been[.]

My understanding of my friend's argument is that if it was known to be false, which it was in Kirby, it was a deliberate parody, if it was known to be false, whether you intend to cause public injury or not, yourself, if objectively it could be seen that it could or would, then your intent as to its meaning to be a joke is irrelevant.

THE COURT: I don't know that Crown counsel means that. He can speak for himself.

My understanding of his argument is that the effect, or the likely effect of whatever is published is false is not part of the wilful mens rea, but still is part of the Crown's case to prove, but not with respect to the wilfulness of the guilty mind.

MR. CHRISTIE: Yes.

THE COURT: That is my understanding. Is that yours?

MR. CHRISTIE: Yes, Your Honour.

THE COURT: Is that yours, Mr. Griffiths? {4476|4477}

MR. GRIFFITHS: Yes, sir.

MR. CHRISTIE: I interpreted that to mean that subjective intent would not have to apply to the causing or likely to cause injury portion. There would have to be no subjective intent there, and I extrapolated from that to say that one could then impose an objective standard on the likelihood of causing injury and say, well, you may not have intended, by your little prank, to have caused any public harm, but lo and behold, you have. And by an objective standard, therefore, you can be convicted, whether you intended to cause or thought it was likely you thought you would cause mischief or not. And this position would cause intent – this very section might be that humour, misguided humour, perhaps, as was the case in Kirby. It would seem to me to put the broadest interpretation on the section and place in jeopardy those persons who may not have the criminal intent to publish anything to cause harm, but might be creating a parody for another purpose, maybe even humour. It would seem that interpretation would restrict a lot of the other people who would not be caught by the section if their knowledge as to its likelihood of causing or is causing {4477|4478} injury to public mischief was required.

I would ask Your Honour to find that the difference between s.281 (2) (1), which my friend refers to in his argument which he says is the objective test, and I agree, and the difference also between the case of *R. vs. Lemon*, *R. v. Gay News Limited*, is that in neither case is mens rea set out in the section. I think you would acknowledge that in 281.2 (1) there is no reference to wilfully or knowingly doing anything.

Now, then, I think my friend is arguing, well, the knowledge aspect, the subjective aspect applies to the falseness, but not to the words likely to cause injury or mischief.

I would suggest that that would be, perhaps, more convincing if the word "and" was substituted with the word "or" when, in fact, it is not so in the section, because the word "knowingly", in my submission, when followed by the word "and" applies to both the false aspect and that likelihood of causing injury or mischief to a public interest. To have included the words "wilfully", on one hand, and "knowingly", on the other, in a section of this kind, {4478|4479} would surely import the subjective test to both aspects of the offence, that of falseness and that of causing injury. Not included in the same way in any way are those words in s.281.2 (1), or in the provisions as to blasphemous libel.

I think with respect to the decision of Buzzanga and Durocher, which my friend referred to, the very operative and important words which he read but which I think have not been emphasized sufficiently were those referred to on page 381 where it says, and I quote, "The general

mens rea which is required and which suffices for most crimes", and then I suggest I should emphasize "where no mental element is mentioned in the definition of the crime". And he goes on to say, "is either the intentional or reckless bringing about of the result which the law, in creating the offence, seeks to prevent."

My concern here is that this case, this section, rather, does import the words of a mental element mentioned in the definition of the crime. It imports them twice with obvious Parliamentary intent that they should be effective barriers to the prosecution, or shall we say the conviction more accurately, of those {4479|4480} who, though they may have intended a falsehood, had not intended any injury to a public interest; they having, perhaps, a misguided concept of humour should, in the view of Parliament, not be convicted under the section. If Parliament had intended that persons who had only the intent to be false should be convicted, they might very well have stopped the section at the word "false" and not added any other word to qualify that in any way. They do so because an additional requirement of knowledge, in my submission, is important because they did not wish to include in prosecution under this section such persons as might have intended a falsehood, but might not have intended its consequences.

Thank you.

THE COURT: Mr. Griffiths.

MR. GRIFFITHS: Just briefly, Your Honour.

The dissemination of lies in the community is not something which Parliament wishes to encourage. That is part of what this section arose to. So if you wilfully publish a statement, tale, news that you know is false, then you takes your chances. If that statement causes an injury to a public interest, {4480|4481} then you are guilty. If it does not cause injury to a public interest, then you are not guilty. You take your chances. The reason you take your chances is that Parliament did not want the publishing of lies. This is why this is not a hybrid offence or a summary conviction matter. Certainly, the humorous derision that my friend set forth, there has to be an injury to the public interest. In Kirby there was none. In most situations there would not be. If there is, why should that be treated any differently than any other injury to public interest caused by lies if there is some wilfulness and deliberation involved?

That's all.

THE COURT: Thank you, gentlemen. Since this is a pure question of law, I will have some time to deliberate between now and the time I charge the jury, and unless I hear from you to the contrary, I wouldn't think that this would be something that either one of you is going to mention to the jury, in any event.

Am I correct or incorrect, Mr. Christie?

MR. CHRISTIE: I have one difficulty {4481|4482} with that, Your Honour, in that I may be speaking of the issue of whether this in any way offends the public interest, but I will not be making any submission that it is false. I would be making a submission that if there was any error on the part of the author of an unknown nature to the accused, that its public value in terms of freedom of discussion would far outweigh any detrimental social effect.

I don't know if that touches on the question.

THE COURT: I don't know that it does. I wouldn't think that you would be asking the jury to make a legal interpretation of the word "and" and its effect insofar as the matter of law is concerned in the sentence. Would you?

MR. CHRISTIE: No, sir.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: No, sir.

THE COURT: Is there anything further, gentlemen? I am going to take ten minutes now and we will get the jury ready to hear the addresses.

— Short adjournment.

— {4482|4483}

— Jury in 11:03 a.m.

THE COURT: Go ahead, Mr. Christie.

MR. CHRISTIE: Yes, sir.

Ladies and gentlemen of the jury, it's my role as counsel to address

you now and speak to you about the position of the defence. My first observation is that probably never before in the history of your country have twelve people had to grapple with a more all-encompassing and serious issue than you will have to deal with, and when you have finished your deliberations, in all probability your country will be made different for as long as you and I will live by the decision that you will make here about the most serious issues that confront any citizen in any free society.

You and I have spent seven weeks together with my friend and His Honour examining the evidence in one of the most wide-scope cases in the history of Canadian jurisprudence. And I said at the beginning, and I repeat to you now, that this is a case that never should have been before a court of law in a free society, because it is an issue upon which courts will have no end of difficulty in addressing and dealing with. In my submission, if you have a clear understanding of the role of freedom in a free {4483|4484} society, this may never have to happen again, because a clear indication that we permit and tolerate debate and points of view we may not agree with from a jury of twelve ordinary citizens will be the strongest indication to every politician in this country that we are not subject to the pressures of groups and to dictating ideas and to determining how other people will think and act and speak, unless it contravenes the freedom of others to think and act and speak. I suggest to you now that what you have heard in this seven weeks is a lot more information upon the subject of the book, *Did six Million Really Die?*, than you or I might ever have thought at first was likely to occur. I suggest we've all learned something in this process. Tolerance, indeed, is one of the things you have learned by hearing another side to a point that we always thought was so clear and so simple there only need be one side; but to everything we know in life, there are two sides, and many more, quite often, and nobody, no matter how well informed or how expert, have all the truth or ever will, and it shouldn't be for the law to determine the extent of debate in a free society. It shouldn't be forced upon judges and courts that they should have to decide what is the truth about some historical belief. It's nobody's fault in this room that we are here. It is the {4484|4485} duty of everyone of us to do our duty as we are, lawyers, judges, jurors, but really it was, indeed – indeed was a wrong political decision to bring before you and I the duty to examine history 40 years old to determine where the truth lies. But having been placed in this position, every one of us has done our duty as best he could as citizens in a free society to examine the evidence, and that will go down in history, I suggest, as a compliment to everyone involved in this process, that we have tried to do our duty in grappling with an impossible question that ought not to have been placed here in the first place. It has been a strain no doubt on you, on me, on my learned friend, on everyone in this courtroom, because it is an impossible legal question. It is a question that never should have been here. But having been placed in this position, we must deal with it and we must deal with it to preserve important values in our society.

The first and most important value is the freedom to debate, the freedom to think, the freedom to speak, and the freedom to disagree. And this prosecution, through nobody's fault here, has already had a very serious effect on those freedoms. If it were to result in a {4485|4486} conviction, I suggest to you that a process of witch-hunting would begin in our society where everyone who had a grievance against everyone else would say, "Uh-huh, you are false, and I'll take you or pressure somebody to take you to court and force you to defend yourself," even though our society says, as it always has, in this and every other charge, the burden's on the Crown, the burden to prove every ingredient is on the Crown, the burden to prove that the thing is false is on the Crown; but where does the accused stand? He's here. He's been here, like you, at his own expense for seven weeks, and whatever may become of this case, he's already paid a very high price for the belief that he had the right to speak what he believed to be the truth.

Who could deny that he believed it to be the truth? In fact, who can prove it wasn't the truth? If this society cherishes freedom as men and women in the past have, then you and I must very clearly state that to be the, predominant concern of every citizen in a free society, that truth

can stand on its own. In a free society we need no better protection for my opinion and yours that you should be free to express yourself and I should be free to express mine, and no court need decide who's right or who's wrong. {4486|4487} Is that going to be a danger to you and me? Error, if there is such, in my opinion or yours is best determined when you and I talk freely one to another, and you and I can then debate and hear from each other many sources of information which couldn't be produced in a court of law. How many of our opinions could stand up to seven weeks of scrutiny? How many of anything you have ever written or I've ever written could be analyzed line by line for seven weeks, phrase by phrase, with experts from all over the world, and found to be true. There will be errors in anything you and I believe, and thank God for it; we are none of us perfect. But in the thesis *Did Six Million Really Die?*, there is a substantial point of view, a reasonable argument founded upon fact, that many will reject, but many are free to reject. Who denies Dr. Hilberg the right to publish his views? Who denies that he should be free to say there was a Hitler order? Not my client; not me; nobody in society denies him that right. Who denies anyone the right to publish their views? Well, it's the position of my client that he's obliged to justify his publication. And I suggest he has. I'd like to refer to something Dr. Hilberg {4487|4488} said in his book, and I asked him about it. He said:

*"Basically, we are dealing with two of Hitler's decisions. One order was given in the spring of 1941, during the planning of the invasion of the USSR, it provided that small units of the SS and Police be dispatched to Soviet territory, where they were to move from town to town to kill all Jewish inhabitants on the spot. This method may be called the 'mobile killing operations.' Shortly after the mobile operations had begun in the occupied Soviet territories, Hitler handed down his second order. That decision doomed the rest of European Jewry. Unlike the Russian Jews, who were overtaken by mobile units, the Jewish population of Central, Western, and South Eastern Europe was transported to killing centres."* {4488|4489}

Through all the trial and all the arguments and all the discussion, I have yet to see one single piece of evidence of that, of either of those two Hitler orders. If they exist, why can't we see them? No footnote, no identification of source; a statement of very significant fact, without a single supporting document here in that book or there on that stand from a learned and distinguished author.

Am I saying he has no right to his views? Of course not. Am I saying that I should be able to debate his views and disagree with his views? I certainly suggest that ought to be your right, my right, and the right of every thinking person. You see, there is an example, if I was to put Dr. Hilberg or any other person in the position of the accused and say, "All right, justify that", how would he? We all hold opinions which at times we would have a difficult job justifying. But, so what? Is it not possible for people to disagree and be free to disagree when they themselves are not absolutely sure they're right? Have we come to the stage of society where tolerance is so limited that we must prosecute those whose views we find disagreeable?

In this trial, I often wondered and I suggest, so should you, why all this, why? For a little {4489|4490} booklet that published a point of view which some people reject and other people believe. Why? Well, only in the last few hours of this trial did I really begin to see the reason why. It had nothing to do with *Did Six Million Really Die?*; very little to do with The West, War and Islam, a lot to do with Mr. Zundel and his views. Was he a racist? Was he a lover of Hitler? Was he perhaps a neo-Nazi as so often we've been told? What difference would that really make anyway? Certainly not, but what difference would it make? If it was alleged that he had some views of a Communist nature, so what? We tolerate those views. I had to really find it ironic, and I ask you to think of it the same way, when in a newsletter complaining about what had happened to 2,000 friends and supporters and subscribers of his newsletter, their homes being entered in West Germany with warrants in the middle of the night, many of them old, he was angry and he wrote a letter, so out of 25 years of writing letters they found a sentence which implied some deep anger and the resort to violence. Clearly in the let-

ter it says after trials, but it was so angry that it resorted to violence. Never once has there been a suggestion of any violence from Mr. Zundel {4490|4491} at all. No suggestion he ever owned or had or would have had a gun. None of that is suggested. But you know who he actually quoted and paraphrased? You know, it was the man who said, "All legal power comes out of the barrel of a gun." That was – if you know history, as I think we often do, that was Mao-Tse Tung, a man who was eulogized in the Parliament of Canada upon his death. And yet, Mr. Zundel used it, and is cross-examined as to its deep-seated significance, as if it was some sinister intent.

I began to see, as I suggest you should, that the real reason for this prosecution was his views, which, if any of us are subjected to that kind of scrutiny, will mean that freedom really ceases to have any meaning. You will be free to agree but not free to disagree. That's the kind of society which will result if a conviction can be founded upon a prosecution of this kind.

I suggest you don't have to believe what it says in *Did Six Million Really Die?*, but you'd probably have good reason to. There's a lot of truth in that pamphlet which deserves to be considered and deserves to be considered by rational men and women all over the world, not because they're academics, not because they have duties, but because they're thinking human beings, like they want to hear {4491|4492} different points of view. What are we, lobotomized idiots that we only have to accept the point of view of the majority, in quotes? Or are we free, should we be free, to think of views that are not majority views?

How do you think change occurs in society? Do you think all – once the whole of society decides, "Oh, we were wrong about the world being flat," and all of a sudden bang, the whole of the world decides, "Oh, it's round now"? Ask Galileo [Galileo] how difficult that was. In his time he was a heretic; he was totally contrary to 99 per cent of the population's opinion; but who was right?

Now, change has to occur in everybody's thinking from time to time. Everybody grows. I've learned something here; you've learned something here; we're all growing. And it's in the process of hearing points of view that we grow. But if we decide that somebody's point of view ought not to be heard because somebody else says it's false, we've terminated all significant discussion, because significant points of view are always regarded as false by somebody, and if they're controversial, my goodness, they create lots of heat, more heat mostly than light. So if we are going to keep for our children and grandchildren {4492|4493} and for the future of our country the possibility of progress and the possibility of exchanging ideas in a free society, we'd better respect the rights of others who honestly believe that they are right, even though we may think they're wrong.

And I don't suggest for one moment that you or I have any right to determine from the evidence before you that Mr. Zundel is wrong. I would say to you that the case is unproven as to falsehood. Unproven. In Scotland there used to be a verdict – you see, we have to decide guilty or not guilty. In Scottish law there was guilty, not guilty, or unproven. Well, you don't have that verdict here, but it's an interesting point by analogy because in the case at bar it hasn't been proven beyond reasonable doubt that there's anything false about *Did Six Million Really Die?*, not a word. It's opinion. Dr. Hilberg says, "Oh, I think it's all misquotes and half truth and misconceptions." That's his view. I respect his right to his view. But he hasn't proven any of that. He says, "I've read documents for years." What documents did he produce? I didn't see any. Who produced documents, who produced books, who produced maps, who produced photographs? The defendant. He comes before you because he believes what he says is the truth {4493|4494} and he wants to prove it to you. Why else would he waste a hundred thousand of his dollars and seven weeks of his life if that was all there was? It would be short time indeed, but it's far more than that. Why do you think he does all this? Because he believes in the truth of what he says. He believes in it so passionately because he loves his nation. Is that a sin? He didn't say he hated anybody. He didn't say a word against anybody when he was on the stand. He was attacked; he said that he loved his race, he said that much, he did. But he said, "I love

my children, but that doesn't mean I hate other people's children." Is there something wrong with that? If our society is to be so scrupulous about what people's opinions are, who among us will be safe? If I or you were to have to reveal all our opinions on the stand, how many of them would stand public scrutiny? How embarrassed would you and I be if some of our views, maybe written sometimes if we write ... If the right decision is made here, seven weeks will have been well spent in that never again will someone have to defend their position in a court of law on a statement of opinion, really.

You don't have to share all Mr. Zundel's {4494|4495} opinions. He has a right to his; you have a right to yours. He's not questioning your right to yours. But there is a power that's questioning his right to his, and you are the only hope of the freedom of citizens to hold views that disagree. And if you can't hold views that disagree in a free society, what is there? There's two things. If you can't have freedom to disagree, then there's either violence or there's silence, neither of which are traditional in our country, neither of which are necessary in the future. Our country has been a peaceful country because we have tolerated points of view with which you and I might not agree, not because we express them or we have some hygienic method of extracting and eliminating bad views. That's never been done before, and it should never be done now, and it should never be done again.

But there is a force in our society that wants that to happen. It has brought this state of you and I standing here or being here for seven weeks, and if there's a means to stop it from carrying on and creating a situation where everybody has to stand before courts and justify themselves to their neighbours, you're that means: "A quick courageous decision to say freedom deserves our support, we'll terminate here an injustice and we'll {4495|4496} certainly indicate that that type of process should not go on elsewhere," as it is already going on and will increase if you do not. So I think, ladies and gentlemen, that you twelve people have more power in your hands for good or evil than any other twelve people I've ever met, and thank God for the right that you should be free today to defend freedom tomorrow, to make freedom a real thing, when you and I have never really known that kind of power before, because we've never been put in this position before. A clear answer from you without doubt, without fear, without malice, will put an end to a process which, if it continues, will lead us to the destruction of all freedom in society.

In his brochure, *Did Six Million Really Die?*, he presents a thesis, a thesis that men have paid a very high price for believing in. No witness for the Crown needs fear for his job, for his security, for his family, but is that true for the defence? Then why are they here? They are here because they love the truth and believe in what they say, and already I can tell you the prices are being paid. So much for freedom in society, that men and women might have to fight to get into courtrooms to give their evidence, to testify under fear. Well, with the right {4496|4497} decision from you, that fear will be diminished. What little we know as ordinary citizens about Communist societies indicates that where there is an official truth, where there is a state religion, of belief, people become more and more afraid to speak. That should not happen here, and that's because there is what Orwell referred to as an official truth in some societies. Is that what you wish for your society? You will have more power to answer that question today and in the near future than any other twelve people in our society so far, and with a clear answer to that question you will do some service to your descendants in the preservation of their rights.

I don't know how many of you have controversial views. Maybe none. But will your children have none? Would you like them to have the right to their opinions? That's a question you, too, will answer.

The booklet, *Did six Million Really Die?*, is more important for German people than it is maybe for others, because there is a real guilt, daily inculcated against German people in the media every time they look at the war. You know, most of us are from a background of the Allied side, I think, and so when we have Veterans' Days we love our {4497|4498} country, we love our – people sacrifice for it, we remember them, but what of the Germans? Are they always to bear the label of

the villains? You see, for them, of course, they had an interest to look into this question. There are many people in our society who come from that background who desire to know the truth and don't believe everything they have been told. They inquire, they have a motive, they indeed have a reason, more than you and I, perhaps, to inquire, and their views may be in diametric opposition to yours and some others. But if they have some truth, let them tell it. Let them reason, let the public decide whether they are right or wrong. Let not the courts make a decision, let not people be forced to justify themselves in this way, but let the public decide. That's all Mr. Zundel has asked for his views, and that's all that anyone has a right to, I suggest, and it isn't too much of a right for anyone to desire.

The German people have been portrayed for 40 years in the role of the butchers of six million. Oh, I'm aware that in this case there was repeated efforts to distinguish between Germans and Nazis, but is that really the way they're portrayed? Is that distinction always kept? {4498|4499} Is it justified to believe what we have been told so often? You have heard some reasons which prove that the story of six million is not correct. Those reasons are given to you by sincere, honest individuals who have made diligent research.

You have heard the evidence of many witnesses, and I'd like to briefly capsulize some of the significant things about their evidence. You remember Arnold Freedman. He was transported in cattle cars. He constantly smelled smoke in Birkenau and saw it belching from chimneys. I want you to consider a very significant question which occurred to me and has troubled me in this question all along which you should think about. To create belching chimneys, day in and day out, 24 hours a day, seven days a week for weeks on end, one needs coal or coke, large quantities of coal or coke. I've heard all the evidence, as you have, of the process of unloading of the people into the concentration camps, into the dump [trucks, it was said. Why would all those people be unloaded by the helpless prisoners like Dr. Vrba, and the coal be unloaded by the SS? Keep in mind, in the days of 1940 to '44, we didn't have backhoes, right? We didn't have caterpillars unloading {4499|4500} these trucks, coal cars. Everything apparently was done by hand. Well, you know, it makes me very, very interested, to put it mildly, that all this smoke and burning chimneys and flames shooting forth should occur with nobody unloading coke trains. Did you hear anybody say of unloading coke trains? I didn't. You're the judge of the fact. But I ask you to analyze the evidence and tell me if you did – not tell me now, but you will have to decide that.

Dr. Barton talked about brainwashing; you know that? He said the brainwashing happens with people who are told the same thing over and over again. Who has been told in effect in our society more times than this business of six million? Do you want me to test you on the issue of brainwashing? Think for a moment of this question. How many Canadians died in the Second World War? How many Catholics, Mohammedans [sic], British, French or German? How many Jews? Everybody knows the answer to the last question, because we've been told it over and over and over again in a thousand different ways by a thousand different media personalities and means. It indicates that no single fact is more proliferated in our society than that, and so naturally, no significant fact in society will be more {4500|4501} easily accepted, and look what happens to people when they question it. Look what happens. For seven weeks. And what happens if you do in any other part of society? Well, you would question that? You'll be accused of being a neo-Nazi, an anti-Semite, to question it.

To question should never be anti anything. Why should it be? To think is not against anybody. To reason, to question, is the free right of a thinking human being. So I wonder, where do all this – where does all this right to think go if we can't ask the question, where were the coke trains? Where was the coal? The evidence of Mr. Zundel was that 80 pounds of coal is necessary to cremate a human body. I suggest if you look into the evidence you'll see a book on cremation, and the amount of energy to turn a human body into ashes is a morbid subject, of course, but it doesn't change. The laws of physics don't change for the Germans, for the Nazis, for the Jews, or anybody; they're all the same,

the laws of physics. Now, 80 pounds of coal or coke, rather, for 1,765,000 people is nearly a hundred and sixty million pounds of coke. Where does this all come from? Nobody bothers to answer that, but they say that Did Six Million Really Die? is false. Well, if Did Six Million Really Die? {4501|4502} is false, which is like saying a question is false, did Six Million Really Die?, question mark, that's false; how is that question false? How is questioning anything false? Except if you take a line by line knit-picking analysis with a legal mind to see if everything is in its proper context, that might be possible. How many scientific theses, how many editorial opinions in this country could stand that scrutiny? Why should the editorial opinions of our writers be any different than Mr. Zundel? How many editorials contain false new every day? How many newspaper stories, how many books, how many movies? What are we doing here? We're crucifying one man's opinion because they say he's not a nice man, when every day in all of our society there's a thousand misquotes, misstatements. Well, what's the difference?

I'll tell you what the difference is. This man has no political power, and big newspapers and big television stations and big radio stations and big politicians do. That's the difference.

When John Turner quotes Brian Mulroney, do you think he does it to approve of him? Vice-versa, do you think they – they quote each other out of context because {4502|4503} they wish to point out inconsistencies of their opponent. But my friend, in his analysis, will no doubt say there are statements in Did Six Million Really Die? that are out of context, that the Red Cross did not say there was no extermination when they wrote their report, but it is true they said there was no extermination during the War, when they were in the camps. He will no doubt say the Red Cross report, which is quoted in Did Six Million Really Die?, refers to seeing shower stalls in Egypt. That's true. But why should their processes of examining camps be any different when it's dealing with civilian internees in Egypt or in Poland, in France or anywhere else? It's an example of the process. It's an example used to show that when the Red Cross visited in September, 1944, which they did, and they said very clearly, "We heard rumours from the British at Teshin (phonetics), but the prisoners themselves said nothing and we could find nothing." Now, you can say, "But there's a reason nonetheless to believe it." What reason? Where's the evidence? They don't produce for you a shred of evidence of a gas chamber, but they say 1,765,000 people died, by going between two buildings, remember Dr. Vrba's evidence? Well, how do you accomplish {4503|4504} that without a gas chamber? What, do they disappear and they're all shot? No, you have to justify the claim that millions died, you have to have gas chambers, and there's no evidence to support them.

Now, we have tried, the defence has tried to show that the alleged gas chambers that you see in Auschwitz today are impossibilities, scientific impossibilities. We have called evidence, witness after witness, to show they have tried to find the bottom of this story, and they have found nothing that makes sense to their experience. That's pretty significant stuff. That's pretty important analyses. Look what Dr. Faurisson has paid for his inquiries. He's been beaten; he's been beaten while he talked; he's been subjected to quite a bit of ridicule; but does anyone deny the sincerity or honesty of his inquiry, or his intelligence or his detailed analysis of what documents there are? I suggest not.

People want the right to ask these questions, and there some people who don't want anyone to have the right to broadcast what they find, and I consider that, I suggest you should, a very suspicious situation. When any group of people want to silence an individual, you'd better {4504|4505} ask why. When benefits from this story? Not just Jewish people, not just the State of Israel, but there are some allied events which might not look quite so good without the story of six million. It might be a little more dubious as to why we bombed Dresden, Hamburg, and demanded unconditional surrender, and had the effort made to so-called try war criminals. If it wasn't for the six million, there is some doubt about the whole process. We might have second thoughts as to whether we were all right and they were all wrong. But is that a bad thing, to examine maybe 40 years later whether we ought to have



gone out and slaughtered each other? Maybe it's a good thing, maybe it's beneficial to social tolerance that we should ask these questions. Maybe it's time to do that now. Maybe the way to peace is not through silence and coercion on these matters but through open discussion. How will that change the world? Maybe it will be a better world when we can look at ourselves more honestly in the cold light of reason rather than the heated passions of a war just ended.

That's what revisionism is all about. After the First War there were many revisionists, many people who said, "Well, we really don't have all the answers on our {4505|4506} side." We used propaganda. We told people that Germans killed Belgian babies and boiled cadavers to make soap. That's not a Second World War story at all. And, you know, as a result of that, I suggest world peace and tolerance was better off than it was since the Second World War, since this story has been repeated and expanded and expanded and repeated again and again until it has caused us to be brainwashed. If we want peace, there must be freedom to discuss whether or not the morality was all on one side. That's really the social effect of the booklet, *Did Six Million Really Die?* You don't have to accept it. To see even that in its value, that it puts some of the things that happened after the Second World War in a different context, that would be a redeeming value in itself, but the booklet has a great deal more. It has truth, a lot of truth. It's for you to decide, for the public, indeed, too, to decide how much truth, measured as they ought to with their right to read everybody else's opinion. Error needs the support of government; truth stands on its own. In fact, what is occurring here is the endeavour to silence one opinion, one side of the argument. "But the world is no more justified in silencing the opinion of one man than that one man would {4506|4507} be if he had the power in silencing all the world." Those aren't my words; they're the words of John Stuart Mill. But they're as true today as when he spoke them.

Do we have to learn the same lessons all over again every generation? Do we never entrench and understand from one generation to the next the right to differ? Do we have to always go over these battles time and again? I guess we do. I guess it's always going to be a struggle to have a different point of view, but I'll tell you, it has always been the history of man that good men and women have valued freedom, sometimes to the extent where they would risk their lives to save it, and if anything could be done to honour the memory of men and women who died in war for the sake of freedom, it would be to recognize that freedom now for someone whose opinions they might not have agreed with, because in time we will know the truth; but nobody knows it all today. If anybody has a duty to admit a fact about ourselves, it's that we don't have all the answers. Anybody who thinks they do, well, then they're already perfect, and I don't know those people.

I would ask that you, having suffered and endured all the boredom and difficulties of this trial, the {4507|4508} forefathers' intolerance of views. Let our society from the date of your verdict be known for the safety with which we tolerate divergent views and opinions when truth is left free to combat error in an open arena of a free society unfettered by the heavy hand of the state. That is a simple statement of principle which has been true for many, many years, and I guess it's necessary for you and I once again to make the little sacrifice that you and I have to be here and fight for that principle all over again. Thank God, no one was really hurt. Thank God that we can do this in a rational context with respect for each other, with understanding, with charity to our many errors, without having to go to war, to discuss controversies. Maybe there's progress, but there won't be if everybody who wishes to bring forward a controversial view will have to do so in a court at their expense. If you convict, that process will only just begin, because in society there are always conflicts and there are always people who would like to put their enemy right there. That's where a lot of people {4508|4509} would like to see somebody they disagree with, right there, and if you convict I can say to you that's a very likely situation, and there are some rather nasty politicians who would like to put their opponents right there, and if we follow down the road that this prosecution will lead, if there was a conviction, there will be no stopping those

types of politicians who wish to put their opponents right there. And then where will we be? And don't think that they wouldn't have the power, because they can find that. There's pressure groups today who can find that power. Just ask him.

The book-burnings of the Nazis was wrong, but what's going on here? A book's on trial, two books, if you like, pamphlets, tracts, if you like. But every day in our society people say a lot more controversial, dubious things than are written there. Why are these people so afraid of such a little book? If it was false, would they be afraid? Who has the power to answer what *Did Six Million Really Die?* says? Every day in the media the answer is obvious, isn't it?

You've heard a witness, Doug Collins; he's been a journalist for 35 years, and he says there's power in {4509|4510} Zionists in the media. Do you really need some proof of that? How many publications today criticize Israel very strenuously? Is that the kind of society you want, where one view is the only legitimate view? Even if it was said, and it's so often said, the smear word of anti-Semitism is so easy to put upon anyone and so difficult to disabuse oneself of once it's labelled onto you; but is criticism of Israel or the point of view of Jews any more evil than the criticism of Americans or the criticism of British or the criticism of French points of view? Why should it be?

It's my submission to you that that may be the basis of the Crown's attack, that the accused has chosen to criticize a very obviously Jewish belief. Now, I don't question the right of any group, Jews, Gentiles, Greeks, whoever, to hold whatever views, but why deny him the same right? And then let the public decide, as every time they will, between who they believe and who they don't believe. The future of the right to hold beliefs is at stake because the truth is never self-evident. There's always going to be a debate about the truth, especially in history. How many believed, as I did when I grew up, that Christopher Columbus discovered America? Well, they don't always agree on that {4510|4511} today. But I suggest if I'd have written that in my test papers in Grades 2, 3 and 4, I'd have failed – or disputed that fact, rather. But what's wrong with the changes of view? They happen all the time. History is controversy, today is controversy, yesterday is controversy, and tomorrow will be controversy, but so what? Nobody is going to be able to write the history of the world until God does. And if anyone man or one group of human – or men and women anywhere think they can tell you what this history of the world is or the history of this trial was, they'd be very presumptuous because we will all have our own views. You'll have yours and I'll have mine, and no doubt they won't agree, so how do you expect that history should agree to hold his view false on a matter that took place 40 years ago, involved millions of people and involved thousands of events? How ridiculous to think that anybody can know the whole story on those things. Dr. Hilberg said he knew it all. He told us – this book, *Did Six Million Really Die?*, oh, he didn't have very complimentary words to say for it. I don't mind. So what? When I got to the point of saying, now you remember, just take a little part out of the book, you know, "The book, the whole thing is just such a piece of half truths," he'll {4511|4512} say. I said, "What about Wenersturm [Wennerstrum]?", just a little point like that. Wenersturm [sic] had something to do with the I.M.T., the International Military Tribunal, Nuremberg, where this story was enshrined as truth, did Wenersturm [sic] really say that, that which is alleged here? "Yes, he did. Yes, – he did." "Well, but he's all wrong. I don't agree with him," Dr. Hilberg said. Well, that's fine if Dr. Hilberg doesn't agree with Wenersturm [sic]. Wenersturm was there. Wenersturm was a judge. Wenersturm heard the evidence. Wenersturm heard the situation. Wenersturm could be wrong, and Dr. Hilberg could be wrong. So what? And, finally, I remember Dr. Hilberg up there saying, "All right, it's all correct." Do you remember that? I remember those words. You think about that. What it means is this: Dr. Hilberg felt that he disagreed with the book. Well, that's okay. He then went so far as to say that it was all false. What does he mean by "false"? Incorrect? . No, he means that he disagrees with the thesis, that's all it really means, because if you analyze what he says about the facts, he's never been to a camp, never until after he wrote his book and then for a day, with the President's



commission as a reward. I don't know what for; {4512|4513} I guess he's popular. So what? I don't blame him being popular and I don't blame him for being unpopular; everybody makes their choices. But do we have to be in a court of law to argue about them? Does that make him false and Dr. Hilberg right?

I'd suggest that what it amounts to, when you come to the bottom line of this question, is that people will always differ, but the danger is that if you silence one point of view you won't get a balanced argument. When I'm through speaking, it will be the last time you will ever hear from me. I'm not allowed to ever speak to you again, I guess, under the Law of Canada; certainly not about this case. But there will be a Crown argument and you will hear his point of view, and no doubt guess that he will take parts of the trial that supports his thesis, it won't be the whole of the evidence, don't expect him to do that; how could he? I can't either, nor really can His Honour. Everyone has a biased view; everyone will inevitably pick and choose in what they believe. That doesn't mean that I'm a liar; doesn't mean my friend's a liar. It means that we will have differences of view. Now, that's the way the world turns. That's the way we live. And thank God that so far we're free to disagree {4513|4514} here, at least, although allegedly he's not free to disagree by publishing this.

Has Dr. Hilberg proved a single thing here to be false? Well, no, he hasn't. He says he has documents. He produces none. He talks about train tickets and schedules. What train tickets and schedules? If we're talking about a criminal case, we should have evidence. There isn't enough evidence here today to convict one person for murdering one person. But they want you to believe that six million died, or millions died, and that this question mark is false. Yeah. Where is the evidence to support one murder by one person? There is no Hitler order; there's an alleged order somewhere by somebody alleged to be heard by somebody else. There's no evidence.

Let's look at the evidence. Dr. Vrba says he's an eye-witness. Dr. Vrba had a little problem here. You have plans, you know, put in by the defence, of crematoria. Now, let's make sure we understand each other. There certainly are crematoria. We all know. But that doesn't mean there's gas chambers to gas people. But the issue, were 1,765,000 or millions gassed, killed by a systematic plan to do so? There's no evidence of that. Dr. Vrba gave {4514|4515} evidence of burning pits. Well, we know these places were no Sunday picnic. We know these places were unjust. Concentration camps are unjust. Deprivation is unjust. The Jews suffered terribly, unjustifiably. The Jews were in concentration camps for war reasons, and war is not justified, really. We had people in concentration camps here. They lost a lot, too. Thank God we didn't lose the war and couldn't feed the people in our concentration camps. What would have happened in our country if the Eastern half had collapsed, the governments had collapsed, the railroads had collapsed, the food system had collapsed, the Western half had collapsed and we had people, Japanese, for example, in concentration camps around Ottawa, who would we feed first, our troops or our prisoners? Thank God, we didn't have to answer that question. The Germans did. And they were hung for answering it the wrong way, I suppose. What else could they do?

Have you any idea what Germany looked like in 1945? It sure didn't look like Toronto. And when the Russians came from the East, do you think they were a nice bunch of fellows like we're told the Allies were? I suggest to you that there is a great deal to be grateful for in this country, and one of the greatest things to be {4515|4516} grateful for is that we have never faced, so far, that kind of desolation when everything you know, everything you trusted, everyone you believed in, your ideals, your neighbours, your friends, your country, your home, was ruined. Thank God, you'll never know that. I hope you'll never know that. But if we are to understand what happened in Germany, we cannot ignore those facts.

Did Dr. Hilberg know that? Was he there? No. Who was? Thies Christopherson was there. We didn't go into that. It's obvious that this is a question that could only be understood really by somebody who was there. Dr. Barton was in a camp shortly after liberation, and like many

of us who saw the film "Nazi Concentration Camps", he no doubt was as horrified as you and I had every right to be by that scene. That picture, "Nazi Concentration Camps", was put to you for a reason. It was to persuade you that there were millions of dead people. Well, you saw thousands of bodies, thousands of people who died from privation of war. Only once was there a suggestion of deliberate gassing. That was at Dachau, and I have gone into this with detail as much as you could hope to get, I suggest, in a court, to show that now people don't say there were gasings at Dachau. So {4516|4517} to what happened to that situation? How come the Allies said then there were gasings and now they don't? Well, because of the same hysteria with which we have regarded Auschwitz for 40 years, Auschwitz where no allied could go, Auschwitz where the Russians were, Auschwitz where four million or three million or 2.5 million or 1. – 1,765,000, or 1.1 million from Hilberg, or 900,000 from Reitlinger, were killed, cremated, were what?

There are many reasons to say that this book has not been proven false, that's all. It's never been our burden to have to prove it was true, because our law has always allowed the reasonable doubt to go to the accused. He's presumed innocent. This is presumed to be true until they prove the contrary, and I don't think they have proved the contrary now. How have they? Ninety percent of the quotes in the book are proven and accepted. Ten percent are unproven. That's all.

The allegations of torture, there are in evidence before you the statements of Wennerstrum, the statements of Streicher (phonetics) the statements of others, the result of the Malmedy trial. The Crown says, well, the Malmedy trial is not a Nuremberg trial. The {4517|4518} Malmedy trial took place in Germany shortly after the war. It may not technically be a Nuremberg trial. But do you really think that there is no substance to the suggestion that what took place there by the same allies against the same accused, types of people, is going to be different than what they did at Nuremberg?

You also have in evidence that they didn't even allow the press to talk to the lawyers of the accused, let alone the accused, so how do we know what happened to them? Well, we know because some of them said so, and when they said so, like Streicher, they struck it out of the record. Don't want the world to hear somebody complain about us, and we sure don't want the press to hear what the accused say unless we say the accused can say it. Do you call that freedom? I don't. I call that the attitude of war and victor's justice. It works, obviously. The world believes in your cause, but is it necessary that for all eternity nobody should ever think to the different? Can we now look back with a little less passion, a little less contempt for our adversaries? Could we now maybe look at whether they might have had a point, or do we have to believe forever they should be damned in a silence that we {4518|4519} cannot answer?

THE COURT: We will take a break.

MR. CHRISTIE: Thank you.

THE CLERK: Members of the jury, you may retire.

— Jury retired at 12:02 p.m.

Certified correct to the best of my skill and ability.

C.S.R.

NEIL PORTEOUS

OFFICIAL COURT REPORTER {4519|4520}

(Reporter's Note: Jury enters 12:25 p.m.)

THE COURT: Yes, go ahead, Mr. Christie.

MR. CHRISTIE: Thank you, sir.

The main problem with the whole extermination thesis is that in the order, in the absence of a plan, in the absence of a budget, in the absence of any physical evidence of extermination, there is an intended belief, shall we say, that millions of people were exterminated without a trace. The difficulty I see from Dr. Hilberg's, in that regard especially, is that where he talks about train tickets he produces – neither does he produce figures. That's why we end up with a specific crime of genocide with a specific weapon of gas chambers with no proof of gas chambers, and no proof of numbers that can be in any way realistic. That's why we end up with figures that fluctuate from twenty-five million in the case of Gerstein, you recall, to three hundred some thousand in

the book "Did Six Million Really Die", and what I am saying to you is that nobody, in the face of that lack of evidence, can say that anything particularly is false news, if it was ever news at all. It seems to me it is a view of history, hardly news.

I did miss somebody who is still here, Detective Williams. One thing he brought out in his evidence I wanted to touch on. He wasn't so – he read from Chambers[.] {4520|4521}

We've heard from Dr. Barton that in 1945 there was no cure for typhus. So, here's some of those horrible Nazis telling these people in the concentration camps, "If you don't delouse and typhus breaks out, you are going to be cremated." That's the way he interpreted that. There's a[.]lot of truth to it. If you get typhus, you are liable to die, especially there in close confines. That is not to say I don't believe the Jewish people didn't suffer. I certainly do and so does my client, and so does this booklet. That's not to say we lack compassion for the suffering of these people. It is to say that we are prepared to examine whether there was a plan of deliberate extermination process. There's quite a difference.

If people died from typhus, disease, privation of war, you don't have a situation that much different than you had in the Boer War, except on a larger scale or in the American Civil War where concentration camps for prisoners of war were hell on earth. And that becomes a significant question: why, if there was a plan to exterminate the Jews, was there a delousing program at all?

Why were they told that they should delouse, and why were steps taken to provide the means that they could be protected from that disease?

He said something else about hospitals. Dr. Vrba was very down on the hospital. He said anyone who {4521|4522} where people go, because, frankly, nobody makes an effort to announce their directions to the authorities, and movement of people in wartime is much like Dr. Vrba, over borders, in the middle of the night. And I don't think there is anything wrong with that, but I think it becomes a little difficult to be sure with figures when those things are happening.

So, in respect to Detective Williams' evidence, which he read very carefully, his evidence as to why he didn't read more and formed any more opinions is that he was obeying superior orders from my learned friend and that, I suppose, is quite legitimate, but we, as individuals, ought to read more than just the bare words. We also ought to think about them.

Referring, then, Arnold Friedman's evidence, he, the first survivor witness to be called, said something which, I suggest, is very, very interesting and very true. "They told us," he said, "If we don't delouse and typhus breaks out, we'll all be cremated." There's something very telling in those words. "We were told if we don't delouse". Now, if the plan was to exterminate Jews, why tell them to delouse? Why provide delousing facilities? Why provide anything? Why? He says, "We were told if we don't delouse and typhus breaks out ..." Well, obviously the reason for delousing is to avoid typhus [sic]. "And if it breaks out we'll all be cremated." {4522|4523}

Encyclopedia and he pointed out that where the article says, according to Chambers Encyclopedia, the total number of Jews living in pre-war Europe was six million five hundred thousand, he pointed out that in Chambers Encyclopedia he said there was six million five hundred thousand in Nazi dominated lands in 1939. Those are the exact words. You will find them, because you've got them, because I put them into evidence. That really isn't any different, because Nazi dominated lands that became Nazi dominated after 1939, but they resided by 1939, is the way I understand it, because you couldn't tell what happened after the war began – people moved in all directions, they didn't check with border police every time they crossed the border, and I don't think you can tell me or anybody can be sure where everybody went. That's the big thesis argument.

Well, where are all these people gone? Well, if I was a Jew in Poland and I knew the Jews were coming from the west and I knew the Russians were coming from the east, I'd get to the Russian side and I don't think I'd ask too many people permission. And I think that Jewish peo-

ple probably did that, and I don't know how many, and I don't think anybody really does.

The last census of any value in Poland, I think Dr. Hilberg said, was 1931, and the rest is rather unpredictable. I suggest in war it is very hard to tell {4523|4524} went there died or probably died. He went there and didn't die. He even had a surgical operation and didn't die. But, Arnold Friedman said there were hospitals and people came back from it. He spoke of a case of an epileptic who went to the hospital and came back. Why, if there's a planned, deliberate intent to exterminate Jews – and this is said in the book, "Did Six Million Really Die?" – have a hospital at all? Of course, the story is that it's all for medical experiments, hideous medical experiments, such as were demonstrated in the film, "Nazi Concentration Camps", along with the soap story which Dr. Hilberg says is a rumour which originated in the First World War and continued into the Second. But, why, if there was the case of a hospital in Birkenau, would an epileptic go to hospital and come back? Why would Dr. Vrba go to hospital and come back? If the Nazis were as represented to be in the Holocaust, why were they only interested in extracting work and lots of people were coming in to be exterminated immediately, why, when Dr. Vrba is sick, why would he not be exterminated? Not working today? Well, off to the ovens. Really. All these people have survived. I would suggest that some of them have been sick. I'm not suggesting the concentration camps were justified or nice places, but maybe, just maybe, there is a justification for believing that what this booklet says is true. {4524|4525}

He said open flames spewed from the chimneys going on sometimes, day and night. Whether it was fourteen feet high or thirteen feet high he could not tell, but there was – it was in excess of the height of the chimney.

Dr. Lindsay testified that if you had a chimney fire like that, you wouldn't have a chimney. And then, my friend elicited, "Aren't there methods by which you could have special bricks to keep a fire burning like that?" Perhaps. Any evidence of special bricks? No. But you have to have a way to save this thirteen-foot high flame. So we come up with special bricks. But, where do we find the coal to burn like that? Look at the smoke channel in this plan. It is horizontal. Look at the scale. You can read it. You are going to have flames in crematoria, right? And it's a container for a body like there's in downtown Toronto, just the same. And the body is not right in the flames at all.

But you remember Arnold Friedman's evidence. He could tell the difference between skinny people and fat people from the colour of the flames. Honest to goodness. Arnold Friedman is a very nice man. Arnold Friedman has suffered, without question. Arnold Friedman is the kind of person you would like to know. Nothing do I say against Arnold Friedman, except that it's a little bit far-fetched to say that you could tell the colour – from the colour of the flames, the people being cremated. I could understand, {4525|4526} as a young boy, how the stories would go around the camp, and I could well imagine how terrifying it must have been for a young boy to be in a camp like that. I could understand how being separated from his parents would be frightening, it would be horrible, beyond our imagination; but I suggest that when people say things like this, we have to undersand [sic] that when people suffer, and they want to communicate their suffering, they justifiably tend a little bit to exaggerate, because they want us to understand how horrible it was. And I agree that they should be entitled to that. Nobody denies Arnold Friedman or Dr. Vrba, or anybody, to write sort of a historical novel to communicate their suffering. That is justified. But there are other reasons to look at the question not to hurt their feelings, but to look at it realistically and say, as this book says, it's not correct to believe that six million people were exterminated in this way. It's not correct to believe that you can tell nationality of a cremated person by flames shooting from a chimney. That is not correct.

I am not wishing to accuse anybody of being a little bit loose with the facts. Let's realistically consider that that doesn't make sense. Let's not make it a crime, anyway, to disbelieve it. All right? Let's suggest that Mr. Zundel has at least very good reasons for his belief, common sense ones that he wants to believe in. He {4526|4527} wants to un-

derstand that his people are not guilty of this crime. He has a motive to look at this. He is interested for the sake of his people, but realistically, is he far off the mark when he says, "I doubt that"?

I am not trying to do anybody any harm by that. When I asked later, he said he was guessing. He said gypsies were loaded into trucks to take them a couple of hundred yards. He also said, looking at the map, they could have gone out of the far side of the camp. Now, listen, ladies and gentlemen, where do you think all the people came from for the satellite camps of Auschwitz? How do they get to the satellite camps?

Vrba – nobody goes to Auschwitz except through the station, so when they have satellite camps they go to the main camp and they are de-loused and then they go on to the satellite camps. What's wrong with that? Why should we necessarily believe that because they come to Auschwitz, and there's allegedly no counting, that they are gassed and cremated? Why do we believe Vrba's statement that he saw one million, seven hundred and sixty-five thousand people go between two buildings and never come back? And then I asked him, "Are you sure?" And he said, "Oh, it could have been in China." That kind of sarcasm is alright if you are dealing with something superficial, but when you are talking about one million, seven hundred and sixty-five {4527|4528} thousand, you are talking pretty close to the population of Toronto.

Now, if I ask you to see these people go between two buildings and you are sure they did, he says, "Oh, yes", now, let us say – and be charitable – that one ought to be free to doubt that and one has grave reasons to doubt it, when the gypsies were loaded into trucks to go to the, allegedly, to the crematorium, by Arnold Friedman, why would they be loaded into trucks to go two hundred yards? Well, my answer is, it's very likely that if you look on the map, the road through, between the crematorium, goes right out of the camp. It's there on the aerial photographs, too, even though Dr. Vrba said, "No, no. It's not there." – Dr. Vrba who took a compass and went around that way in the dark of the night to make sure they weren't there. Well, all I'm saying is nobody denies you the right to believe absolutely and completely the exterminationist thesis, but what the accused asks is the right to disbelieve it.

I've dealt with the question of the different types of people being cremated that Arnold Friedman spoke about. He said he'd seen prisoners, killed prisoners as well. He didn't know how many went through the camp in the nine months he was there. He had no count, not any ability or even a guess at the [sic] numbers. {4528|4529}

I suggest to you that Arnold Friedman, in that respect, is quite right. I suggest to you that there is no particularly good reason why Dr. Vrba's evidence on that point should be any better, because Dr. Vrba now may be a well-established professor, etcetera, but at the time he was nineteen years old – not a great deal different than Arnold Friedman – and Arnold Friedman said, "I don't know how many were there, how many came in, how many went out. I don't know." Well, that's pretty honest. And somebody who says, "I know that it was one million, seven hundred sixty-five thousand people and you, you impudent little young man, shouldn't even question that." Let's face the fact. He was a nineteen-year-old man himself at the time. Do you want to tell me he counted one million, seven hundred sixty-five thousand people or any people? And I am not saying that even if one Jewish person died, that that wasn't a crime. Of course it was, but we are dealing with an accusation of genocide, a book that questions it and the right to question it. That's all.

I am not suggesting for one moment that that minimizes the suffering, justifies the concentration camps or anything else, but it allows us, I suggest, the right to question even Dr. Vrba, for after all he, too, is not God. If he's going to tell us these things, under oath, I want to know why. Don't you? If somebody tells you the whole population {4529|4530} of Toronto went between two buildings, and disappeared, are you going to say, "Yes, I believe that. I don't question that."

I must accept that because he is a survivor? I have reverence [sic] for their pain and suffering. I am not beyond understanding for that, but if we are dealing with a factual question, why not ask the question? And when you do ask the question, what do you get for answers? Hysteria, emotion, and appeals to emotions, too, justified as they are. But if we

are dealing with facts, let's stick to facts.

And Arnold Friedman's view of the facts was more honest than Dr. Vrba's, even if Dr. Vrba is a doctor and Arnold Friedman is just Arnold Friedman.

He also said that sick older people who came into his barracks did so after the selection, and, therefore, were not killed. And then we came to the question of selection. He describes the selection process in referring to selecting professions, even among the older people. Now, why would they select professions? To kill the people? What do you care if you are just killing people? You don't care whether they are doctors, lawyers, tailors, whatever. I suggest the selections he referred to were selections for work. You don't select people by profession for the purpose of killing them, unless it's lawyers, and then there's lots of reasons for doing that. {4530|4531}

Anyway – well, if you are talking about crematorium in Toronto, or crematoria in Auschwitz, he said they are two different things. Well, there maybe is argument that technology is changed and now there's no smoke and what not, but bricks haven't changed that much. Chimneys haven't changed that much, and fifteen-foot flames shooting-out of the chimney day and night don't work in a brick chimney. Twenty-four hours a day, for weeks, he said, they smoked and flames shot out. And he said capable people were brought in, in a couple of days were sent out, obviously to other camps.

Ignatz Fulop was an interesting witness. He, too, was rather difficult to understand sometimes. I suggest to you why. He was transported in cattle trucks and cars. In May of 1944, he was taken to Auschwitz and, when unloaded, said there was no platform. The documents that you have indicates there was a platform, both in Auschwitz and in Auschwitz-Birkenau that date. His account of selections varies with Friedman's testimony, and he saw Kapos club someone to death. He recounted seeing people going into the showers, women separated from the men. I found it interesting. He apparently was looking across the line at some point and got into difficulty there in the showers. Now, I suppose one could say that was just meanness on the part of some guard, but there may have been some question as to why he {4531|4532} was looking at the womens' [sic] part of the showers, for all I know, but he certainly wasn't killed. He was injured. He was beaten, apparently. He said he never saw his father or mother again. Considering all the camps he was through, I suggest there is an understandable reason for that. There is no doubt that many people died in those camps. There is no doubt that older people would have a tougher time in those camps, and there's many instances of people saying that they lost members of their family.

I remember, for example, Dennis Urstein. He said – and this really, I suggest, is where you've got to look a little bit skeptically at this – he said he lost 154 members of his family in the "Holocaust". I said, "Could you name even twenty?" Could you name twenty? I suggest to you if any of us say we lost 154 members of our family, it tends to be a little dubious. How many members of your family do you know and how many generations do you go back? I asked him to name twenty. He didn't get there and he ended up naming someone who died in the U.S.A. six or seven years ago. What it means is that people, because they suffer, tend to want you to understand their suffering and they sometimes exaggerate, that's all.

Ignatz Fulop said – and you can check your recollection against mine – but he said he saw ten people hung {4532|4533} on a single rope before breakfast. Now that, I suggest, in itself, is dubious. He also said that he had a crematorium or incinerator in Toronto and asked if I'd like to come and see it. There's something wrong there. He seemed as if he had something that he wanted to promote. I don't understand. But, when somebody starts coming out with stories that ten men were hung from one rope by a vehicle being pulled in the morning before breakfast, and it seems at; if he said it was a repeated thing, one wonders why one would see such things. Even the ruthless, bestial Germans, of which he described the concentration camp guards, would need a reason. If they were exploiting labour, which everybody else seemed to say they were, why would they do that? I suggest his testimony is du-

bious. He didn't have anything to say about gas chambers, but it is suggested, in my suggestion to you, an unbalanced mind.

If one wants to advertise a gas or cremation facility in Toronto, it's a strange thing to mention when you are on the stand dealing with the Holocaust. Something strange about that.

Dennis Urstein was another voluntary witness who spoke of the colour of bodies hauled out of gas chambers. Now, Dennis Urstein says he hauled the bodies out of Leichenkeller I, which is an underground mortuary, in Krema II. Now, you can {4533|4534} see on the plan where that is. It may have been Krema III, he said, but I'll tell you something. The two Kremas II and III are identical. No one will deny that. The plans are there. The two Kremas II and III in Birkenau are identical. They are long, underground areas known as Leichenkellers. They are underground because when typhus broke out, bodies, sometimes three or four hundred bodies, would be there, so that they would not affect the rest of the camp. The colour of those bodies, he described as grayish or green, but you heard Dr. Lindsay say that if someone is asphyxiated with Zyklon-B, hydrogen cyanide, their body is brick red. Now, if they were gassed with Zyklon B, why would that not be so?"

There is another question that arises out of Urstein's evidence – now, he is the one who said 154 members of his family, and he couldn't remember twenty – the bodies he said, had no rigor mortis. No rigor mortis. Now, if the bodies were gassed, and then he seemed to imply they were washed and thereby they were safe, but if hydrogen cyanide is, as I suggested, water soluble, then touching water associated with the bodies is associated with hydrogen cyanide [cyanide] poisoning. He survived hauling that many bodies. He alleged the gas chamber, he said, was on ground level.

Now, if you look at the plans, and he is referring to other than the crematoria and he is referring to {4534|4535} the Leichenkeller, he says that it's a closed-in area. That's underground. Nobody can deny that. And if you are hauling bodies, you are not going to forget hauling them upstairs, but he says it was on ground level. I asked him about that several times, and he repeated it several times. This is no minor error, because if he could remember hauling bodies upstairs, it would be hard to forget. Furthermore, he said there were no pillars. Well, look at the plans. If he is talking about Crematorium II or III, and if he is talking about what he says he was talking about, a flat-roofed building, the crematoria is not flat-roofed. The Leichenkeller is, and it is underground with a very small protuberance [protuberance] above the ground. This is where Vrba got himself into a real problem. This is a man who says he is an eye witness. We are supposed to examine that evidence and look at what we know of the facts and see if it conforms. If it doesn't, there's reasons to doubt it.

He says there were no pillars. If you look in the plans, you'll see in the Leichenkeller massive pillars. He said the grounds adjacent to the crematorium were very beautiful, like a retreat. No collection of piles of coke or other fuel to burn large numbers of bodies which, allegedly, were burned in the crematoria.

Now, the story of the exterminations is that {4535|4536} two to three thousand or more bodies a day were handled in these facilities. There has to be an explanation for the figure of one million, seven hundred and sixty-five thousand in two years of Vrba. If there's eighty pounds of coke required for each body, for two thousand bodies – that's what half of what Krema II is supposed to be handling a day, so that's a hundred and sixty thousand pounds of coke a day.

You remember that Vrba said that the railroad spur did not go into Birkenau before he left. Now, where, pray tell, does the whole train come to? Surely you are not going to tell me it comes in trucks, hand-loaded by trucks and off-loaded by trucks. Is that what you want me to believe? Then it has to come on the train. And you remember the dump trucks to pick-up the people and take them to Birkenau? Well, they also have to haul the coal off the coal train, so we also have the story of requiring, for one crematorium, a hundred and sixty thousand pounds of coke a day to cremate two thousand bodies, eighty pounds, a piece. You have no train coming into the camp. You have no backhoes or caterpillars to unload it. You have to have the train coming into the area

between the two camps where Vrba went and unloaded the people. They must then be loaded into the trucks. Somebody has to load the coal into {4536|4537} the truck, haul it to the crematorium, and what are you going to do, put it in a bunker, or what are you – going to do with it? You have to dump them on the beautiful grounds. The grounds are beautiful, like a retreat.

We have a very serious question about this. A reason to question. And if there was no evidence from the defence, it would still be a reason to doubt that this story that was put forward by the Crown's witnesses is true, isn't it. We have logic, common sense. We have to think about these things. We are encouraged to do so, but it is such an emotional subject to pick and you are regarded as callous or antisemitic or something terrible if you asked these questions. Now, if somebody doesn't want us to ask these questions, why? Do they want us to believe without questions? Maybe they do.

Now, Dennis Urstein said the colour of the building was bluish-gray when the building was brick. He said there were lots of lights in the alleged gas chamber, which does not fit with the other accounts where it is said to be dark. His evidence comes down to this. You see, he handled dead bodies, and the people were, therefore, gassed. That's as far as I suggest his evidence can go. Logically, if you want to fill-in the blanks and believe that, therefore, they were gassed and say that's proof of the extermination of {4537|4538} six million people, I don't object to you doing so, but I only suggest the accused has a right not to do so, because he wants to exercise the rational facilities of his mind, the critical facilities that Dr. Barton said were not the things you use when you are brainwashed. You don't believe that? You want to believe that six million died? You are welcome. In a free society everybody is welcome, and nine out of ten people are going to believe it, whatever happens here, and I really don't care what people believe.

All I ask you is to give my client the right to exercise his mind, ask questions and publish his belief founded upon reason that this six million story is not true.

The evidence in Urstein's case, in reality, is quite impossible for a gassing as described at the rate of six thousand per day, or three thousand per day, as other sources indicate. This is really incredible evidence. This volunteer really became dubious, and he was rather clowning at times.

Then there was Henry Leader. He was a very quiet-spoken gentleman. He obviously has suffered, been in the camps. He volunteered to testify. He admits that he wonders why, after forty years, he's asked these questions. Well, it would appear he never asked himself those questions, {4538|4539} and he was never asked any questions as far as I am aware. He cannot identify where he was or the location of the alleged gas chamber. Now, that is not to say there wasn't one. If there was evidence, it could be that he forgot. I am not suggesting that he has disproven anything because he can't remember. Don't think for a minute that I am suggesting that, but if we want to rely on his evidence to find a gas chamber, then we've got to know about something that is a gas chamber, because one million seven hundred and sixty-five thousand people don't disappear without some explanation. And if we've got to say they disappeared, and if we have to believe that, then we've got to know why.

He says there were – he describes, again I think he describes "bluish bodies" when gassed people from Zyklon B would be bright red. When asked how he knew they were gassed, he said he didn't pay any attention. I think one of the most beautiful things I will ever remember is my friend asking him, in re-examination, after cross-examination, "Are you sure it wasn't a bath house?" And he said, "No. It could have been." Because I think, honestly, he is trying to be helpful to the Crown. He is trying to do what he thinks is right, and when it comes right down to it, his evidence is not evidence of real knowledge of something. It's the evidence of some other things that are the moral duty to support the cause {4539|4540} they believe in.

In the final analysis, he says the people were going into a building which could have been a bath house. The evidence would not convict a person for murder, let alone support a charge of six million in a mass

murder.

Dr. Vrba said the railroad did not go into the camp before he escaped in April 1944. So, therefore, every pound of coke had to be trucked into the camp. He gave his evidence of hearing trucks, meaning a hundred persons per truck. Well, there's going to be an awful lot of coal handling that doesn't seem to have any explanation. He says that people were off-loaded at the Cracow-Warsaw line, two kilometers from Birkenau. He said people like him often off-loaded luggage into dump trucks. Did any of you ever ask who off-loaded the thousands of pounds of coke for the one million, seven hundred sixty-five thousand people he swears were cremated immediately from this spur of Birkenau to the crematorium?

He alleges people handled the prisoners, and who handled the coke? We never hear who did that. Perhaps the S.S., because they wore black uniforms. I suggest there is a serious unanswered break in the thesis, especially with facilities for the handling. You need an amount of coke almost equal in mass to the weight of the prisoners. And seeing the photographic evidence from the aerial photographs, you will {4540|4541} not see any evidence of coke at all. You will not see any evidence of lines of prisoners, and if millions of people were forced to go through areas where these guards were supposedly located, how come they are not trampled areas? We see no dump trucks hauling coke. We see no trace of dump trucks around the crematorium referred to by Vrba in the gardens. No evidence for cremation of one million, seven hundred sixty-five thousand bodies, and smoking chimneys, day and night. Bodies are not themselves fuel. Bodies don't burn on their own. It is patently ridiculous to suggest that you can cremate such a massive amount of people without coke and fuel which is visible, transported by trains, or by trucks.

Does the accused have to believe such stories as these to avoid prosecution in the future in a so-called "free country"? If so, why should we have a brain at all? Why should we ever think? Because if you have to believe this, without questioning it, we might as well all have frontal lobotomies and forget about thinking for ourselves.

Dr. Vrba wrote a book and to the end of the day with Dr. Vrba, I could not get a clear understanding of whether it was fiction or whether it was fact. In his book he said he saw Himmler there when he was not there. Then I asked him, "Are you sure?" Well, it could have been somebody else. Looked like Himmler. Could have been Himmler. Could {4541|4542} have been an actor. I want to ask about that book. I'd like to produce it. And I believe the book of Vrba is about Exhibit 71, because it becomes almost ridiculous – here is a man who is telling us that, "This is the story of my experience in Auschwitz-Birkenau." He tells us in the first chapter that he is standing beside Rudolph Hoess, and Heinrich Himmler as they peek through an eyehole into the gas chamber in the first gassing in Birkenau, and he hears their conversation. He's got it in his book right there, like here's Rudolph Vrba and there's Heinrich Himmler and Iw there's Commandant Hoess, and they are looking through the window. If it wasn't a serious subject, if this was supposed to be a joke, I suggest we wouldn't have to worry about that because I've read science fiction myself. I've read novels. There's nothing wrong with that. They could have a [lot of meanings. But this man tells us he is a serious writer dealing with a serious subject, and it should be illegal to disbelieve his point of view.

THE COURT: We will do that at 2:15.

(Reporter's Note: Jury retires for luncheon recess @ 1:00 p.m. Upon resumption @ 2:20 p.m. ...)

THE COURT: Yes. Go ahead, Mr. Christie.

MR. CHRISTIE: Thank you, sir. At the break was going to suggest that I read the part of the first[,] {4542|4543}

Now, as I said before, if you wish to believe it, nobody denies you the right to believe it. There is a good reason not to believe it, but my client suggests that he ought to have the right to disbelieve it. There's reason to disbelieve it.

Now, there's another thing Dr. Vrba said which was his occasion of viewing a gassing from Fred Wexler's crematorium shack where he and Fred were drinking coffee. You remember. He gives us to believe

he's seen a S.S. man, on the roof of Leichenkeller I, put Zyklon down some openings.

He tells us how the S.S. man placed the can on the roof and he was over there at the time, I recall, placed the can on the roof and then he said, "sportily" – he used the word because he thought it was so unusual for the S.S. – "sportily" pulled himself onto the roof.

Well, if you look at the plans of Leichenkeller I you'll find out that the roof is right above there. And when I brought that out to his attention, it began to shrink. I remember he got out of the witness stand and his explanation began to come down and come down, and finally, in the end, I remember his hands were on the witness box just about the height of his waist, and he was sort of bouncing on his toes explaining how it had really been done. This is the eye witness {4543|4544} who knows so clearly that one million, seven hundred sixty-five thousand people were gassed in Auschwitz in two years. Not the whole term of Auschwitz, but the two years that he was there. It was only when he was confronted with the suggestion the building that he alleged where this happened was underground that he began to move his hands down in the witness stand, and by pushing on the witness stand rail he was demonstrating. All this is false. Now, you may believe it if you wish, which everyone has a right to if they wish, but thinking people ought to be able to disbelieve it. My client seeks only the right to disbelieve it.

Now; he says he saw one million, seven hundred sixty-five thousand go between two buildings, and he could tell that number of prisoners from each country gassed, and that document is evidence. It comes from the War Refugee Board Report that he helped prepared – incidentally, not long, after the Secretary of Information for the British Government published through the B.B.C. and to all clergy in England the statement about, "We'd like you to be prepared to promote atrocity propaganda, because the Red Army is moving into the east." You check that and you'll find it was shortly before Dr. Vrba escaped that the British Government was telling the people in authority, "We have some jobs for you to do in propaganda. We don't want you to discuss this with other {4544|4545} people, but we are going to begin to be preparing the propaganda shortly." You will see, that is what happened. He says he identified the origin of this people by country. He says a hundred and fifty thousand from France by the sardines that came with them. He said he could identify the country of origin, and I wanted to know why, and I asked him. And I suggest to you that what you heard was three answers that demonstrate the process of a person who hasn't got an answer, searching for one. The first one he comes up with is so ridiculous, he looks down to see if it's washing. It doesn't wash. Sardines, slivovits. He knows they come from different countries and that is why he knows a hundred and fifty thousand from France, and whatever he says for Czechoslovakia or some other countries. Do you want to believe it? Nobody says you can't believe it if you want to believe it, but if the accused says, "I don't believe that", then he has a right, through reason, not to believe it. And if somebody says, then, "Oh, I remember another reason baggage tags", alright, that was what it was.

Now, you tell me how many times you check baggage tags. This is the story of a man who takes them off the train on to the dump truck. He doesn't touch them. And finally, language. And he has a problem there too because it is a hundred and fifty thousand people from France, but it {4545|4546} isn't that they all speak French. It could be Jews from other places, too, and how does he know they are all Jews? It is a question that always troubled my mind. If they came over the drain [train], how does he know they were all Jews? He said they wore the yellow star, but I don't recall any witnesses saying that when they got off the train. Anyway, those problems are reasons for doubting that evidence. These statements about a hundred and fifty thousand people from France would be forgivable if we were just being in a guess-work game, if we were debating in an academic school about how we come to our conclusions.

I am not suggesting that anybody should not be entitled to say what Dr. Vrba says. Of course they can. But if they take the oath and say this is

the truth, the whole truth and nothing but the truth, I suggest that is not very honest. He is emphatic, and then goes on to tell us the number of Jews from France, gassed from Auschwitz-Birkenau for a two-year period is a hundred and fifty thousand, when Krasfeld [Klarsfeld] tells us it was seventy-six thousand during the war. Well, what [was] it seventy-six thousand? We can throw these figures around. If we are not trying to prove anything, it doesn't matter and you can prove anything you like, but if a Crown has a duty to prove that this booklet is false, which they should if this is the issue, and I suggest it {4546|4547} is, then they haven't proven it and reasonable people should doubt it. His account about the crematoria is not consistent from his book to the War Refugee Board Report. In the War Refugee Board Report he says nine ovens. He even draws the picture of them, with four apertures [sic] each – three hundred and sixty ovens. In his book he says fifteen. Now, fifteen is correct according to the plans. You can see the plans. Nobody denies those. Fifteen. Now, if it takes an hour and a half to cremate one body, and you've got two thousand people in the gas chamber, in one day, what do you have an hour and a half after you begin cremating? 1985 bodies. Well, how do you get two thousand bodies cremated in twenty-four hours at that rate? Oh, well, they'll tell us, perhaps three or four in one oven, or something to that effect. But those ovens, you can see them, they are not very different from crematorium ovens throughout the world today. The technology of heat reducing the body to ashes hasn't changed and it's tragic to think that people died in the camps, but they did and they died from natural causes and that's admitted.

The people in Wexler's shack weren't alleged to have been gassed. They died. So that's what those crematorium ovens were there for, and I suggest to you if you take a twenty-four hour day and operate them all, you still don't have any opportunity to cremate very many bodies, certainly {4547|4548} not two thousand. And that's the story the Crown seeks to prove and that's a problem if you think about it. Fifteen an hour, for twenty-four hours. Now, what do you do with all those that are there for the next day when there are supposed to be another two thousand a day after that, when there are another two thousand? It's not a funny story at all, but it creates some serious logical problems when you analyse it. And if it was just debate, if we weren't in a Court of law, maybe we shouldn't analyse it, just believe it, go ahead. The world can believe what it likes as far as he is concerned, he'd like to have the right to question and believe what he believes.

When I asked about the difference between the War Refugee Board Report and his book, he said, "What's the difference? Thirty-six, fifteen, what's the difference?" Quite a difference. He tells us that he has a special method of remembering all these numbers – one million seven hundred and sixty-five thousand. I remember my learned friend, in re-examination, asking him, "Could you tell us simply how you remembered or calculated one million, seven hundred and sixty-five thousand?" After I cross-examined him for quite a while, trying to find out the same thing, he still didn't give the answer. He is very vague about all other numbers. Mortality of deaths, working at Buna, five to ten percent, {4548|4549} his cellar at Block IV there were three hundred or more, the wooden ramp, it was five hundred to seven hundred long, he unloaded the cars, the Commando that unloaded the cars with two hundred to three hundred prisoners, eight hundred per car. Then he says there were two thousand per transport. The Arrivees [arrivals] were ten, fifteen, twenty percent were dead or dying on arrival. In Kanada, there were three hundred, four hundred, five hundred working. There were hundreds in the mortuary, the size of which he described to the Court as being the size of the witness box.

This seems strange for someone who then turns around and says, "I swear that one million, seven hundred sixty-five thousand people were gassed while I was there." He said his book was a work of literature and not a document. It is an artistic picture, condensed story, to enable a young person, untrained, to understand. Understand what? The facts? Well, read the book and see if it deals with facts. And you remember when I put to Dr. Vrba some portions of Dr. Vrba's book and some portions of Filip Muller's book and we found that they were iden-

tical, although at different times and places the same facts arise, slight variation. He said, "Well, it's so incredible it must be true." Those were his words – "so incredible it must be true". {4549|4550}

Now, I don't find if somebody says that anybody can believe what they like in this world, but if somebody tells me it's so incredible it must be true, my mind says when things are incredible they don't have to be true. In fact, being incredible is not a precondition for being true. It is often a precondition for being untrue.

When I confronted him about the six-meter deep pits, naturally he got a little upset and angry at me because, "Why should you ask me for facts? You don't believe my story?" Well, we are not here to discuss stories if we are dealing with the factual issue and the laws to decide whether one man's view of the truth is right or wrong, then let's deal with facts. And he starts saying, "It could have been four meters. I didn't have a rule. Then why did he say six meters? Because he wanted us to believe that monstrous story. And the whole thing had to be dimensional in order for it to be credible. And that's what a [lot] of people do when they want to exaggerate.

Dr. Hilberg discussed the subject of annihilation. He says he is an empiricist looking at the materials, particularly the small details, and try to come to conclusions from these details about the larger processes and larger issues. He starts from the presumption that it did happen. He never questions that. He asks how it happened, {4550|4551} not why it happened. But, did he ever ask if it happened? That's where the issue, the study, should start from. And his premise is it must have happened because where did all those people go? Well, how does anyone know how many Jews were in Poland in 1939 when the Russians came from one side, the Germans come from another and there is a war on? You tell me they kept track of where people went, you know, the vehicles, the people on the highways, fleeing in all directions? Who knows? Who can say? "Well, I know there were this many Jews in Poland at that time and there's so many returned after the war." I don't suggest to you that there's any way of deciding that issue one way or the other, but I suggest to you that if somebody has got a burden to prove the truth and they rely on information like that, they're asking you to believe more than there is reason to believe.

He talks then, quite frankly, about ball-park figures. Well, how big is a ball-park figure? If we are going to deal with who is telling the truth and who is lying, and if we are going to decide that my client doesn't have a right to his view that this is the truth, then what is a ball-park figure? I guess it depends on where you play ball, but the fact is that that is what he told us about statistics. He says there are hundreds of documents which deal with death dealing operations. So I asked him for one. "Did you see {4551|4552} any?" What one did he produce? He didn't. Not one. He says that the term "final solution" did not mean killing until 1941. You see, until then I guess the term "final solution" meant like the final solution to the unemployment program – solve unemployment. He didn't say it meant killing till 1941. The phrase was not altered. So tell me how, when militaristic people like the Germans are alleged to be, everybody is getting orders to move everything, goods, trains, how does this new meaning come to the term "final solution" without any order in writing? What are these, a bunch of mind readers that all of a sudden a word that meant one thing – deportation – till 1941 has another meaning, and millions of people have to understand this new meaning? Only a few knew. A few knew. But how many people were on the trains? How many people have to arrange the schedules? How many people have to build buildings, and all that sort of thing?

Things don't happen by accident, so where is the plan? He is asked about torture of O[h]lendorf. He says he knows nothing about torture. And I really find it incredible. Fine. Anybody can believe what they like. But when he says that torture is impossible, he said he knows Americans and the Americans wouldn't torture people. That's what he said. Maybe he's right. I don't know. But there certainly was torture involved. with war crimes, trials, and there was torture {4552|4553} involved with those who participated in them.

What Hilberg said about Americans and torture in Malmedy could easily be said by Ernst Zundel about Germans. He said that he didn't think

they were people capable – because he knew them, he lived there – of doing the kind of things that are alleged. So Dr. Hilberg is entitled to give his view of Americans. Isn't my client entitled to his view of Germans? He was asked if there were witnesses to gassing. He said not a huge number. A fair number.

Hilberg's admissions about death camps that "One can find them mentioned in the New York Times during the war" supports the thesis of Zundel about war time propaganda and that, I guess, is really what we are dealing with here. Nobody denies there was some, but now we are obliged to believe it was a matter of fact. And anyone who disbelieves is a prosecutor, so it would appear.

Hilberg quotes "Korherr" report at great length, but he doesn't produce it. Where is it? Hilberg, to come to his conclusions, comes to the following things: railroad transports, from specific areas to death camps with a view to establishing the patterns of deportations. The manner of clothing, lost belongings collected, and to find out in some way as to how far it was, what the mentality was, and indeed how it was financed. This is not {4553|4554} proof. This is an enquiry which is quite consistent with the theory of the defence. There were confiscations. There were deportations. There were camps where people were kept. The thing that makes the difference between a concentration camp and a death camp is the gas chamber. There's no suggestion that there was death camps at any other place other than the eastern regions. I mean, the map you have in "Did Six Million Really Die?" is the map in the book, "Six Million Did Die." That map right there, it describes the death camps in the east, the concentration camps in the west. And with the exception of Dachau, they don't suggest gas chambers anywhere.

Why, then should not the accused be entitled to the view that those alleged death camps in the east were much the same as Dachau in the west, presumed to be with gas chambers, presumed to be death camps, but later found not to be? Is he entitled to think like any other normal human being about these questions and come to his own conclusions?

Regarding the number of Jews that escaped to Russia, Hilberg says, now, how do we know how many people did escape to the Soviet Union? We do not know this directly. We have no figures from the U.S.S.R. We have only the data gathered after the war of those Jews who were able to escape who made it back. Why would they all go back? To what – to Poland? To a war-torn country that we know, for example, the {4554|4555} ghetto was totally devastated? We know for a fact that much of Poland was ruined by war, both ways, going east and coming back. Why would they go back? And if they didn't go back, are they all dead? If you get a one way ticket from Amsterdam to New York, are you dead when you get here? There's lots of places people could go in the east. And I suggest to you that if a person who is escaping from Nazi Germany, they'd probably go to the east if they lived in Poland. Why go anywhere else? Would you like to cross Germany? Obviously not.

In the Soviet Union, is there any suggestion that Jews were persecuted at that time? I don't think so. Our fearless ally on the eastern front?

The Stroop report, according to Dr. Hilberg, said 56065 Jewish dead. Very emphatic about that. If you'll look at the documents we filed yesterday from the International rather the Nuremberg Military Tribunal of the Americans, you'll see that it doesn't refer to them as dead at all. It just goes to show you that what amounts to an interpretation placed by an expert isn't always true.

Hilberg's criticism of Rassinier was that he, "Will say thus and thus must have happened and attached figures to his opinion which come out of thin air." This is what Hilberg did during his testimony, not producing one document to prove what he said. And I don't object in Dr. Hilberg having {4555|4556} his view or anyone, but it shows that everybody comes to these subjects with a preconceived idea which they seek to prove what they believe, and so in the end, to themselves, at least, they do.

Dr. Hilberg disagrees with all other writers on the Holocaust, including alleged eye witnesses and Red Cross sources as well as concentration camp authorities.

Nobody agrees with everybody else on the Holocaust, as it is called. His only basis for disagreement on his thesis is pieces of paper he calls documents, and it is not necessary that he agree or that everybody agree on the Holocaust at all.

Hilberg's life work is his book entitled, "The Destruction of European Jews". It's right here – massive, massive, massive work. The important part seemed to be missing, like the Hitler order. That's fine. It's filled with internal contradictions, such as unplanned plans for extermination, thoroughly prepared, ad hoc programs against the Jews Hitler's program of concentration, disbursement [dispersion], expropriation, delousing, disinfection, to wit: extermination. To him that's what it means, as he chooses, without regard to the actual meaning of these words in English or German.

That's his thesis. He is entitled to his thesis. You may believe it if you wish, but the accused asks to disbelieve it. {4556|4557}

Hilberg has admitted his selective views. For example, Gerstein. Now, there is going to be criticism. I am sure my friend will say this book took the Red Cross Report out of context, and it took this out of context, and that out of context. This part doesn't support what the author says in the book he wrote. Well, did Gerstein say what Hilberg says he said? No. Hilberg took out of context the logical parts, he said, of Gerstein's evidence because it was independently corroborated from other sources. If it was, why quote someone that Hilberg called an unbalanced man? If there was some other source, why not use it, because maybe there is no other source in what he says, especially regarding Treblinka and Sobibor and other camps for which there is no evidence at all today?

We are supposed to believe that this is where so and so many people were killed. Nothing proven. Take it as an article of faith. If somebody wishes that as a religion, I have no objection to that as their choice. Anyone may believe what they wish to believe, but if someone says, "I don't believe it and there is no evidence to support it", don't suggest that they are criminals or that they shouldn't be free to publish.

Hilberg, as a scholar, has worked for many years, wrote a book. Now he is writing three books. Now, {4557|4558} if when you write a book it's the whole truth and nothing but the truth, then why write another one? You never have to revise anything. Authors would have written in stone and the history of the world would be established by now, wouldn't need any new histories, wouldn't need research, wouldn't need new books. One book is all we'd need on the Holocaust. Well, he is writing us some more. I wonder if he'll include the subject of torture? Probably not. It's insignificant. To his thesis it is insignificant. It is irrelevant to his thesis, so he will ignore it.

Naturally, everybody approaches every subject with a bias, and everybody comes upon it with the belief that they're right and the other fellow is wrong. How is that different? What has changed in the world? Nothing. The principle admission in Hilberg's work as dubious comes from Hilberg himself who proudly proclaims that he is revising his work in the light of new facts. That's good. So even Dr. Hilberg, expert that he is, acknowledges that he doesn't have all the facts and didn't have all the facts when he wrote this book.

Incidentally, it might be wise for him to go to the camp and do a little research into the theory presented there, to see if it fits with his book, but I guess he hasn't gone back since nineteen, whatever it was, when he went with the President's Commission and maybe that {4558|4559} would help in the research of his book.

Let me deal with Dr. Barton for a moment. He presents the truth to the best of his knowledge. In his article he said – he agrees that what's in this pamphlet was accurate and that it quoted his article. He was there. He is an eye witness. In 1945 he was there and he was as brainwashed as everybody else at the time, saying the Germans deliberately intended the killing of these people shown in the movie, their bodies shown in the movie. He believed all that. And gradually he began to think about it, looked into the kitchen and saw the food for preparation records and changed his mind. The war was a little bit more than most people comprehended would be possible in the way of destruction.

It's my suggestion to you that he treated the subject more scientifically



than most people of his time. And just look what happened to him. He dared to say that the Germans didn't mean to kill all those people, and you know they accused him of now, on public television, as you've heard, that he killed fifteen thousand Jews. That's what came out in his evidence, right on an interview on television. He is accused of killing fifteen thousand Jews.

What I suggest to you is that when people disagree with the widely held views of their time, they are attacked viciously [sic] and he was attacked in the media, in the {4559|4560} press and everywhere. Why? What did he do wrong? Well, he dared to say that the Germans were not all bad and the Allies were not all good, and that war itself was the cause of the problem. That's what he dared to say. What has he dared to say? He dared to say that the Allies are not all good. The Germans are not all bad. And that war killed people, but not gassing. So what's the difference? I suppose the difference is Dr. Barton was a witness and the accused is the accused. He said there's no treatment for typhus at the time. He thinks, essentially, that views should be challenged. He agreed that the average person, under conditions of being subject to conditions of massive public propaganda, coupled with fears for their family, destruction of their homes, their property, their value system and the desolation of their country, they may be brainwashed and make confessions. They would not be able to respond independently of their captors.

Well, that was the issue in the whole questioning in the Nuremberg process. You don't have to physically torture somebody. Just take their family and homes from them. Tell them that they could be turned over to the Russians – and many were. How many were? Brainwashing, he said, is when someone suspends their normal critical faculties and accepts views they would otherwise challenge. {4560|4561}

Well, if I heard Dr. Vrba, as a man on the street, telling me the story he told me, not thinking that he was Dr. Vrba, not thinking that he was a survivor who wrote the War Refugee Board Report, I will say, "C'mon. You really expect me to believe it?" But he is Dr. Vrba, he is a survivor, and therefore we have to take it that he must be believed. That, I suggest, is the result of a form of brainwashing. We've all been told so many times about the Holocaust, as it is represented, that we don't examine the extermination thesis for what it is. I mean, if you want to believe that a population the size of Quebec can be eliminated without an order, that's fine. But if you ask, where is the order? Where is the plan? How is this done? Show me – that should be your right. Otherwise we have suspended our critical faculties. We have become subject to the form of brainwashing that he described.

In his first reaction to Belsen he said he was brainwashed, thinking the liberators were the white knights superior to the Germans. Later he saw the cooking facilities and food records and came out of the brainwashed state, questioned the brainwashing. He said it is free speech, vigilance, compassion with justice. If debate is permitted, then brainwashing is not present. {4561|4562}

Now, this booklet presents something for debate. You remember it was quoted in books in Bookman (phon) [Books and Bookmen]. Well, what happened there is it was a tremendous debate, letters to the editor, to the publisher of that column. That's fine. It should have. This doesn't mean it says the truth, the whole truth and nothing but the truth and the history of the world is carved here forever, but it is a thesis for debate so people can question and come to their own conclusion. Massive hysteria when independent judgment of right and wrong is impaired by constant media repetition.

Is that what you hear quite often in the media, mass hysteria in the Allies, the Elan [sic], the feeling of superiority, the feeling of the victorious army? Why did he testify? Because when you write something, you have a responsibility to support it or withdraw it. I asked him if he was anti-Semitic. He said it is difficult to find out what a semite is. It is reasonable to err. It sounds logical. It sounds like the attitude of a man who has both compassion, justice and a certain amount of wisdom. Why don't we follow that advice? He didn't think Nuremberg was justice. He didn't try to make the fancy distinctions that Dr. Hilberg made. You remember the distinction? Oh, the war guilt clause was different

from the business of the aggressive war, and that was different from genocide. Well, [sic] {4562|4563}

Well, the trials were not fair. Guilt by association was established in the Charter of London which, in fact, was made the 8th May 1945, and was an agreement of the Allies and how they were going to prosecute their opponents. The allies who became the judges, the allies who became the prosecutors and the allies who controlled the evidence.

No matter what may be said about Dr. Weber's evidence, he was there and was physically in control with others of the documents that the prosecution was seeking to get evidence from. The defence didn't even know where they were. Now if you have control of that much of the prosecution process, you don't need to worry about defence. Hearsay was used.

Now, there will be an argument as to whether three hundred thousand, one hundred thousand or one hundred and fifty thousand documents were introduced. Nobody has proved how many. Opinions have varied. But I'll tell you one thing you should consider is that some documents were introduced without their evidence being cross-examined. That's for sure. And who would introduce them? The defence? Well, how did the defence find them when the Allies controlled the documents? {4563|4564}

Dr. Barton said that he didn't think that Goering was very wise. Defence lawyers [sic] had a terrible time, a nightmare in presenting the case. He said the judges were Nazi-like and he agreed with Taft's opinion, Senator Taft. The defence and the prosecution were both allowed to file affidavits without witnesses appearing, and threats do play a large part. He said nothing in his opinion has changed in regard to his article, and his opinion is the same today.

Dr. William Brian Lindsay testified that the thesis of World War II should be looked at by a scientist. The basic problem is the vast number of charges in the readings about the Holocaust, the various authorities have different answers. He said some of the primary sources of information about the Holocaust had been silent for thirty years, during which time history has been written. He looked at all the so-called murder camps in his research. He went to Belzec, Sobibor, Chelmno, Birkenau, Monowitz. He put himself in the position of knowing what the accusations are and, as a chemist, decided how reasonable the charges are.

In describing the properties of Zyklon B, the container it came in, the special opener that had to be used, the fact that the gas is lighter than air when it vaporizes, it rises, and the best air would be at the bottom – now, my {4564|4565} friend brought out that well, it's not very much lighter than air and it would rise slowly and he brought out that, perhaps, the crystals may have fallen on the ground, enabled people to believe that the gas would come from the ground first; but that wouldn't explain that people would stay where the gas crystals were and stay there so they would climb above each other. They were scattered in other areas, but that wasn't asked by my friend and that's why, when Mr. Griffiths asked him his questions and I asked him mine, in the end he said he did not think his opinion had changed. The circumstances of speculative nature that might have occurred were not that much different, not that possible that he would alter his opinion.

He refers to the necessity of a venting system. No such thing exists in any of the plans. Look at the plans. That's because it is a Leichenkeller, a mortuary, not a gas chamber. They want to call it a gas chamber? Then produce the evidence. Whatever. Where is it? He concluded that it's impossible that gassings happened as alleged. For millions to have been gassed in four crematoria is impossible with the method described, volume considerations of two thousand persons crammed in it, a space in the size alleged, is impossible. {4565|4566}

He refers to those that are put forward as gas chambers, unsealed rooms, the difficulties of unsealed rooms in comparison to the American gas chamber became obvious. A small container, gas, has many requirements, not necessarily to protect anybody, but because it's necessary because of the quality of the gas itself. If it were otherwise, chemistry would change from time to time and place to place, but it doesn't. The fact is that if there is an allegation of this kind, there has to



be a real possibility of it having occurred. Otherwise, we are engaged in fantasy.

He has examined the alleged gas chamber at Auschwitz I. There's no doors between the gas chamber and the crematoria. Vents were not air-tight. The doors are very, very small. The whole thing wouldn't work. And he comes to that conclusion himself.

Now, he communicated this information to Zundel, so why shouldn't Zundel believe him? Why shouldn't it be credible? Who has done more research into the subject? Who has actually made a study into these gas chambers otherwise? And I suppose the Crown will answer that by saying, well, it doesn't matter, it doesn't matter. If there are no gas chambers, we will find some other explanation for the six million. What? What is it – shooting, Einsatzgruppen, {4566|4567} the Stroop Report? It doesn't come to five million, especially when one considers the evidence in reference to the Einsatzgruppen. But we are supposed to believe, anyway. Nobody has to believe it. Nobody is obliged, so far, in this country, to believe those things.

Dr. Lindsay examined the Gerstein statement. He discussed how carbon-monoxide poisoning from a diesel engine is not possible, and yet that is what he says for Sobibor, Treblinka and others, from diesel tank engines, from Russian tank engines. That is the story. Well, if carbon-mon[o]xide is not produced by diesel engines, and that is supposed to be the cause of death. Then we have the stories of eating and drinking after handling the dead bodies. It will be suicidal. Shower baths would be an abysmal [way] to gas people. What story are we dealing with? The same story we had in Dachau, same story altogether. The gas chambers are not showers, and the gas comes from the shower heads and Dachau now has a sign that says nobody was ever gassed here. Lindsay fought for the Allies during the war, and I suggest that he is not really to be regarded as one with an axe to grind.

Dealing with the subject of the evidence of Hans von de Heide, he was a German soldier transported in the same cattle cars that the Auschwitz prisoners were handled in. {4567|4568} He was locked in them for four days, and several of his friends died in them too. He was a prisoner of war. That may have been the war. I suppose from what we can see, what we can hear, from who we know and who we talk to, it wasn't a very pleasant experience for anybody. And I wonder why we should believe that, therefore, six million died and the Jews are exceptionally badly off in this regard. That would seem to indicate that cattle cars were used for more than prisoners, and indeed for prisoners of war. Yet three witnesses, who were called by the defence, Hans Schroeder, Armand Auerswald, Jurgen Neumann, all of German decent, knew Ernst for several years. He lent them books, has a vast library, has studied this subject and is interested in their problems, because of the fact that they suffered from the hysteria type of stereotyping of Germans. They indicate that Zundel was a concerned person who was interested in helping them and their children with this problem. They all said he had a reputation for sincerity and honesty, definitely not a hateful attitude to any group of people. Not once in his evidence on the stand did he indicate hatred for anybody. He was certainly angry about the German government's treatment of two thousand of his friends when there wasn't enough evidence to even charge them. I wonder why? {4568|4569}

How would you feel if the government of the United States, or somewhere where you had friends hauled out of bed in the middle of the night, publicly humiliated them and took anything they get that came from you? How would you feel? What would you think of that government?

Well, I suggest to you that is why he wrote the letter he did – one angry letter that the Crown seeks to use one line out of from twenty-six years of publishing.

Now, I think that the Crown will probably suggest that Tiudal Rudolf [Tiudar Rudolph], who was a translator in the S.D. and a manager at Cracow really wasn't there and just managed an office, but people who were in offices know what goes on in those offices, and he knew that in 1941 there was a Red Cross inspection of the camps. Why isn't that reported now? Why is there no record of that? Well, I'll tell you why. I

suggest the Red Cross doesn't wish to get into any more hot water over the question of whether they support the thesis of the exterminationists or whatever others. They don't because they are political, because they need funds from the government. They don't want to get involved and that's why Rene de Grace was so careful to say, "I don't speak for the International Red Cross. I speak for the Canadian Red Cross and, as a result, I don't know what the International Red Cross knows or {4569|4570} doesn't know." That is why the Tracing Service in Arolsen, which is an International Red Cross Agency, doesn't wish, in its report, to be taken as giving all those who have been lost, they are very anxious to avoid the suggestion they have counted them all even though they accumulated all the evidence of missing persons, which I suggest they have accumulated. They didn't want to be involved because it is a hot potato, and you get into a [ ] lot of trouble questioning the Holocaust, as my client is today.

But Theodor Rudolf's [sic] evidence is of someone who was there and was aware that someone from the Red Cross was inspecting the camps. There is no record of that today in the Red Cross reports. Reverend [sic] Ron Marr was a witness here. He said that he has published since 1970 with a circulation of almost a hundred thousand. He published things similar on the bankers to the "West War and Islam". Not any great difference. So what's wrong with what my client said? He doesn't like international financiers running roughshod over people and countries who own money. It won't be long before we'll find out more about international finance, probably in our own experience. But to express opinions on bankers, I don't suppose that's the main reason why Mr. Zundel is here. It may have very little to do with {4570|4571} why Mr. Zundel is here. We'll see in the Crown's submission just what areas he wishes to make the major issue. Again, there's no doubt that every thesis is selective, and the Crown's case is selective.

You take three – well two, really, pieces of publication out of a man's life and you make a big issue out of that. Then you find that if he finds answers to parts of this one, well, you move on to other parts where he might have a bigger problem. And if you find no problem in this, then you move to the "West War and Islam" and see if he can justify himself there. That's the way things are.

What I'd like you to see and understand is that it's really not right to put people through this process, and that was Ron Marr's view if he had an opinion, which he did, and he expressed, it was simply this: every view is controversial. If two people always agree, then one is unnecessary. He frequently writes against censorship and he doesn't think the Courts come up with the truth in these matters, nor can anybody, nor should it be in Court at all.

Re the Jewish question he was asked and he answered that the extremist attitude that Jews can do no right are no more correct and are just as wrong as extremists' attitudes that they can do no wrong. In other words, some people say that the Jews are to blame for everything, and {4571|4572} other people say that Jews are to blame for nothing. And I don't think we should treat Jews differently than we treat anybody else, any other group of people and that's about what Ron Marr said. Why should there be a taboo on discussing Jews in the media, which "West War and Islam" does? Nothing wrong with Jews or Zionists having lots of information on the media, all they can get. But if they do, why shouldn't we be free to talk about them? Why should there be this great taboo on mentioning who owns this paper and that paper? And frankly, everybody who is here has experience in the media and says it's true that probably in the West, Zionists and Jews have tremendous influence in the media. Not so much in Canada, but in the major media of the New York Times, The Washington Post, The N.B.C., etcetera. There is nothing wrong in pointing that out.

And if the Middle East question is a big one, and it is, why shouldn't someone say to the Arabs, "Hey, you'd better get into the business of putting your views across." And that is what the "West War and Islam" does, and Ron Marr said maybe that is a good idea, maybe we should be free to do that. As a publisher he has an obligation that his reports are accurate, but he doesn't believe that this obligation belongs to the State. {4572|4573}

James Keegstra testified primarily to show what happens if you try to question the Holocaust. He is where he is today, not because of his attitude on anything else, but primarily because he dared to say that there's another view on the Holocaust. That's when it got picked-up by the media. That is when the ball got rolling. That is when everybody got up in arms, and if somebody has an opinion on the flatness of the earth, nobody cares. If somebody has an opinion on politics, that's no problem. But if somebody says anything about the Holocaust, that implies they don't believe in it, hook line and sinker, and then they are in big trouble, and that is a bad situation.

It's bad for people who want to discuss it. It is also bad because it denies the possibility to find the truth for everybody. So there's a man who has been a teacher for twenty-one years, who has been the victim, I suggest, of a massive campaign of vilification because he dared to question.

Gerome Brentar has evidence that is valid and useful to you in regard of what other explanation there might be for the disappearance of Jewish persons from central Europe. He said that as a refugee for a Jewish organization, Jewish people were well-organized and had a network and system whereby false identification from {4573|4574} the U.S.S.R. could get them refugee status and on to the United States. Nothing wrong with that either. But I would like to point out, that when he pointed that fact out to you, it does bring to light another explanation for the question as to where are all these Jewish people. Well, I suggest there's a lot of reason why they would want to leave Europe and did.

He mentioned the fact that in the International Refugee Organization, as others have said in regards to Nuremberg, the Jews were extremely prolific because they spoke German to a large extent, many of them being refugees during the time that Hitler came to power. They returned after the war and they were the people who could speak German and English. Nothing wrong with that either, but it does explain how a particular attitude might, very readily, be more supported. It also explains – even Dr. Hilberg, it seems to me, says he was an interrogator with regard to Nuremberg at one point. He was certainly involved with the holding of documents in West Virginia, for example, a selection of documents, I would imagine, from Nuremberg, because he spoke German. Who else left Germany in the thirties? Certainly lots of Jewish people did. {4574|4575}

What Gerome Brentar says about the situation today, in regard to alleged war crimes shows you how much prejudice there is against anyone today in a trial. The accusation becomes sufficient for the proof. Anybody who is accused, like Walus, just the weight of the prejudice, you are already a victim before you are even tried. You are already public enemy number one, like Ernst Zundel is supposed to have been before he ever got to Court. That's the way of public opinion.

Incidentally, what a surprising thing. Anybody could be accused of rape, murder, theft, fraud. I'll bet you they wouldn't get the animosity, the hate that occurs to anybody who questions the Holocaust or anybody who is accused of a war crime in the media. Tell me how many murderers have got the kind of publicity against them as Frank Walus got? He hadn't been tried yet. He was accused of a hideous crime, but it was ridiculous. The man wasn't even in Poland during the war. He was seventeen years old and he is accused of being an Obergruppenführer during the war, murdering Jews. And eleven witnesses come forward and say, yes, he is, and seven of those said they weren't even in Poland during the war. That's justice? Well, that's not very much different than the atmosphere that prevailed in 1945 and that's why it is relevant to the issue today, because in this booklet {4575|4576} it says Nuremberg was probably rife with prejudice. If the prejudice and the hatred is so great today that that type of thing can happen right now, in Chicago and in the United States of America, how much greater do you think the pressure was in 1945 for the same result?

This is forty years later. And who gives Frank Walus anything for what he suffered, or this man? Even if he is acquitted, who will take care to see that he gets justice, other than maybe an acquittal? So, I suppose we are supposed to believe that the United States government is impartial now and was then.

In Reverend [sic] Marr's evidence he indicates three instances – the obstruction of witnesses from Poland to come to the United States to testify, the obstruction of him visiting a witness in Israel who said that he killed Ivan the Terrible who is supposed to be John Demuna (phon) [Demjanjuk] in Chicago in 1943, and the obstruction of the American Consulate in refusing to swear an affidavit in relation to a composite drawing of a man who they knew to be Ivan the Terrible, who was so different from John Demuna [Demjanjuk].

The evidence of Gary Botting is that of an English professor who desired to put forward another view on the Holocaust story. He has presented, or attempted to present, in consideration of the need to tell both sides, {4576|4577} the book, "The Hoax of the Twentieth Century", which is in evidence. I'd like you to look at that book at some stage, if you get a chance, if you are interested. It's right there. I'd like you to consider, for example, the question of the Posen speech. The Crown, I am sure, is going to make great emphasis out of the Posen speech, not that it is ever heard, but it is supposed to be what the Crown says it is.

You have to decide that, but in "The Hoax of the Twentieth Century", it examines the issue of the Posen speech and it gives a clear indication of why the Posen speech is not authentic. You should read that and consider one other thing, that very book, the Government of Canada decided nobody should read it in Canada. Why? Is it obscene? Take a look at it and ask yourselves this question. Is this society free to enable people to think, to analyse this question, if a book like that is supposed to be banned and was prevented from being read by students at our university level? This is not some poor, timid human being in high school, as we were told some are, who could be influenced deleteriously by this book. This is university level. They aren't allowed to have this. Why is that?

If it points out to another direction, then this thesis of the exterminationists, what kind of country does not permit people to read a book like that? Have a look {4577|4578} at it. There's really nothing abusive in it to anybody, but it analyses, point-by-point, this whole question.

Well, the truth is very clear from that, that there is a power in this land that doesn't want you to think about it, doesn't want anybody out here to think about it and has made up the mind of somebody in power that anyone who questions this belief will be prosecuted and publicly humiliated. And that's not the kind of country I want or should any free man or woman want to live in.

Now, our forefathers fought for the right to be free to think and free to speak. Now, what are we doing here? The sacrifices of those who died for freedom are not respected by this legal proceeding. And, Gary Botting and others have paid their price for coming here. You can bet on that. Those same forces that will make this man spend seven weeks in that box will make every witness who comes here pay through the nose for having done so. You can be sure of that. And, anyone who even dares to even support this man's thesis will be labelled. And that's supposed to be a free society? It's all very, very sad. It maybe, if some of those people who are dead, who thought they defended freedom, were alive, we might not be here today. {4578|4579}

Gary Botting said it's a dangerous precedent to do what's going on here. You know what his father is? He is buried in Belsen. That's what he told you. His father. Well, it's dangerous alright. It's dangerous. He dared to write to the Attorney General to question why he couldn't read this book or have the students read it. He has no sympathy with the Nazis. His attitudes were that people should be free to hear both sides of the issue. No, not in Canada. We are not smart enough to even be able to read that book. We are not supposed to be able to read this book. We are not intelligent enough to decide whether we want to believe this or not.

Is this the way that we are supposed to use our brains? The measure of a person's honest enquiry is if a person believes he wants to examine alternative sources, and these are alternative sources. Nobody asks them to be government funded sources, sponsored by anybody. And I remember at one point somebody said, well, these, the research of Dr. Faurisson was not government funded. So what? You mean to tell me you knew that no one should be believed unless they are on a

government subsidy, like appointed by the President or something?

If Dr. Faurisson pays through his own efforts for his research, is that an indication he is insincere? Or, {4579|4580} if someone publishes a book like Udo Walendy, being a publisher himself, is this to discredit it, too? Have we come to the stage of 1984 where, unless it's published by Big Brother, it isn't to be believed?

It seems to me that was one of the implications and no doubt would have been one of the arguments derived from the cross-examination of these witnesses. And, in fact, I remember the dramatic gesture performed by my learned friend when he asked the witness [sic] last on the stand, the accused, "Well, who published this? Institute of Historical Review?" Bang. "Who published this? Institute of Historical Review?" Bang. So what? If they are all published by the Institute of Historical Review, so what? Have we come to the stage where there is an official sanction on certain publishers, or do we – is that an ad hominem [sic] argument? No. The old argument of don't look at the contents of the book, just see who publishes it – well, if that is the case, I suppose the official view of history is already established.

Dr. Collins is a journalist for thirty to forty years. He was a soldier during the war. He was captured at Dunkirk. He was in German prisoner of war camps during the war, escaped, was recaptured, escaped, was interned again as faraway as Rumania and went to France and went to Bergen-Belsen even before Dr. Barton. {4580|4581} And one of the things he said about his own experience is, when he saw the troops, coming back, the S.S. release by the Russians, they reminded him of the prisoners in Bergen-Belsen for their condition. I wonder why no one would want to be turned over to the Russians? He says, "Did six million really die", should be available. There isn't an abusive line in it. "I have been more abusive in my columns." He said politicians [sic] aren't entitled to suppress views. This is endemic to all dictatorships.

He talked about "Alice in Wonderland" banned in China. And I wonder where we are. I remembered when my friend was cross-examining my client on the stand, I almost had to pinch myself to find out if I was really in the country I grew up in, because he was asking him, "Do you believe this? Are you a racist? Did you write this?" What are we doing here? Is he on trial for his beliefs? Or is he on trial for this being false? Are we living in a free society or are we not? He said, in the end, I guess, this country likes censorship. And I wonder. You know what? If you will do anything in this world, you will answer that question here. And indeed, this might be the most powerful thing you will do in your life. Certainly the most significant thing. It is a great privilege to be here to speak to you. {4581|4582}

It is a great privilege to practice law, but I don't think there can be a greater privilege than to do what you are going to do – decide whether we like censorship or not. That's a decision you will make. There is not, he said, an expert on the Holocaust. There are many versions. If one died, that's important. If one died, that's a crime. If one Jewish person died, it's a crime. If one person, no matter whether they are Jewish or what they are died, it's a crime. But that is not the issue.

If we are dealing with the issue of genocide, if we are dealing with the issue of this allegation which, indeed, is the most heartless allegation ever made in the world in terms of mass murder that the word "genocide" was created after the Second World War to describe this specific crime – mass murder by gassing, not by work or privation or war, which throughout history is not uncommon, but this specific crime with the specific weapon of gas chambers, if that's the issue, then we have to give freedom to others to put forward their views.

And that's what Doug Collins said. He said it's a point of view. He doesn't agree with it but he upholds its right to be said.

I suggest to you that there is more reason to agree with the point of view expressed here, more reason {4582|4583} than there is to agree with what Hilberg says, more evidence. There's more thought, more provoked provocation of the thinking process. It doesn't deal with train tickets, but it does deal with gas chambers, and the witnesses who have been here have not dealt with train tickets, because I wonder what relevance they have. And the issue is genocide.

When he was asked whether Zundel was being honest, he said what I

think we all have to answer in the way of a question: "Can you read his mind? Can you look into his brain?" All you can do is look at the printed word. And you had a chance to hear him. You've had a chance to see him cross-examined about his beliefs and about whether he is this or whether he is that. And he's not perfect. He is not a perfect human being and neither am I, neither are most people I know. So why should he be on the stand in the same position he is for having views that maybe you don't agree with? Why?

THE COURT: We will adjourn for ten minutes.

(Reporter's Note: Court adjourns @ 3:30 p.m.)

Certified correct to the best of my skill and ability.

C.S.R.

CARMEN OAKE

OFFICIAL COURT REPORTER {4583|4584}

— Jury in 3:48 p.m.

THE CLERK: The jury are all present.

THE COURT: Go ahead, Mr. Christie.

MR. CHRISTIE: Yes, Your Honour. Considering the West, War and Islam, I'd like to draw your attention to a significant part of that publication. It says, for the cost of one plane, one rocket, one bullet, we can make a film, a book, or send a letter. That's what he tried to do, change the Arab response to Zionism, to the problems that it leads, from violence to communication. Is that a crime? Is that an intent dangerous to the social, racial harmony of Canada when it was sent in a sealed envelope with a name on it to people in the Middle East? Whether he said things that were right or wrong, being quite aside for the moment, would that itself be a crime to – and would it affect the social and racial harmony of Canada deleteriously, seriously? It would seem to me that all it would ever accomplish, if it could accomplish what it sought to do, would be to convert Arab responses of violence and terrorism into Arab responses of communication with the hope that somebody might bring influence in a political sense to bear on the whole problem of the Middle East. It {4584|4585} would seem a fairly responsible albeit somewhat grandiose hope, maybe a pious hope, at a time when Mr. Zundel perceived, perhaps rightly, perhaps wrongly, that problems in the Middle East were about to erupt in a world war. Most of us would sit back and watch it on television, do nothing about it and hope that somebody else would. Well, Mr. Zundel is not that kind of man. He desired a solution. He thought he could offer one. Now, if that's a crime, we'd better forget about communicating because it would seem to me to communicate an alternative to planes, rockets and bullets in films, books and letters, is a pretty good solution to the problem to the world. It may not solve them, but it sure brings us a lot closer to a solution than silence or violence. And I don't, with the greatest of respect, understand how the Crown can allege that my client is supposed to have upset the racial social tolerance in Canada by sending such letters as he did to people in the Middle East, thousands of miles away. And after all, is it false news? He was directing his mind at that time to an advertisement that could clearly be looked upon as a provocation to war which he included right in the pamphlet itself, and it was put in there by a Masonic {4585|4586} Lodge. He thought, using what lodge he has, that that seemed like an indication of what those people wanted. I suggest he wasn't addressing an Ontario problem, and Mr. Burnett's lodge or any other Ontario lodge. There is apparently quite a difference between European lodges and the British Masonry. One thing that struck me as a profoundly significant thing that doesn't refute the West, War and Islam's assertions is that however innocent all the Masonic oaths and all the Masonic obligations may be, I don't know, but it is amazing that a Masonic oath to secrecy taken prior to such proceedings as these would indeed supersede the obligation to tell the truth, the whole truth and nothing but the truth. I wonder what would happen if I told my client to swear an oath of secrecy in regard to some crime on some future occasion, and if the issue was, whether or not he committed the crime, he could allege that he didn't want to talk about it. I doubt it. But my friend raised that kind of question in cross-examination that, well, the poor man had made a previous oath to keep silent about these mat-

ters.

Well, it did say something about Satanism in the West, War and Islam with respect to masonry, and {4586|4587} how do you find out about that without knowing what these oaths are? Innocent as they may be, why not answer the question? What is there to hide? It seems to me those are fairly good questions. It would seem to me that if the various churches of the Christian world had taken the stand they have on Masonry, that it shouldn't – and that they would actually excommunicate people for being involved, right or wrong; I'm not here to judge what their views are; that it shouldn't be illegal for my client to say that those organizations, because of secrecy, are Satanic. You know, you don't need to keep secrets about doing good works, and there's not too many secrets that my client seeks to keep. He tells the world everything he knows. Most of the time it wishes, or maybe some of us wish he wouldn't, but he's quite honest about what he says. But the fact of the matter is that he suggested that those who do works in secret may be ought not to, and that if there is good works done, as is alleged, then there need be no secrets. It seems a fairly logical position that you might consider.

The only two publications which he's alleged to have done anything wrong are the West, War and Islam and this one, and this one is 30,000 words, apparently. {4587|4588} I haven't counted them all, but that's what I am told there are here, of which his introduction and his final pages are basically concerned with the question, is this wrong? And when he wasn't sure, he took the chance, published and sent it to who? Hiding something here? No, he sent it to the Attorney General of Ontario, sent to all the Attorney Generals, sent it to the Members of Parliament, and the school teachers, and he even wrote to the Attorney General and said "If you don't think I'm entitled to this, please give me some guidelines."

If this country is going to involve itself in censorship through official channels like the Attorney General of Ontario, then I suggest it owes it to the citizens to tell them where these legal limits to freedom lie, and if it was a suggestion made by the Crown that the accused deliberately provoked a situation damaging to racial and social tolerance, then why did he ask for an answer as to what he's entitled to publish? And why didn't somebody give him an answer if it's – I'll tell you why: because it's politically embarrassing for an Attorney General to identify the real censorship that he's seeking to introduce through fear. It's easier to {4588|4589} prosecute somebody and scare the whole world into keeping quiet, because they don't want to be where he is. Works very well, but it's rather insidious, and I suggest that the best answer to that kind of censorship through fear is to throw out these types of charges until – if they're going to invoke censorship, they'd better write it down and say so and take responsibility for it in the House of Commons and anywhere else. And then the public will know we don't live in a free country any more and they can vote against them, but if they're going to play this kind of political game with censorship by scaring people, by not answering their letters as to what they're entitled to write, the result is self-censorship; it's called, "Everybody keeps their mouth shut." And that's something Doug Collins mentioned, that the result of the controversy surrounding the Holocaust and the danger of questioning it and the fact that you always get a visit from some particular group if you write on it, the result is self-censorship. It's not official censorship, and so we can tell the world that we don't censor people, but you just watch it. You don't write about this and you don't write about that and you keep your mouth shut about this, because {4589|4590} it's safer. I suggest if you have any doubt about that, you take a good look at the Soviet Constitution, and they have glowing phrases about freedom of speech, but it's often limited by, oh, some qualifying words about the security of the State and, well, maybe something close to such reasonable limits as are democratically necessary or something of that kind, and all of a sudden people know better than to say certain things. And they know better than to criticize the government, and they know better than to raise questions about certain issues, and they know better than to talk about the Helsinki Accord or a few other subjects in the Soviet Union, and what's the difference with this question? It seems like politi-

cal power has some influence in what you're entitled to say and what you're entitled to do, without ever being responsible for censoring publicly through the legal process.

Section 177, it's a very vague way of defining what you can publish. If you're talking about history, what's false? What is false? There's [sic] so many views and so many issues, how can you be sure what you're entitled to say? I suppose the best solution is, as Doug Collins said, on a subject like the Holocaust, to check with {4590|4591} the Canadian Jewish Congress or the B'Nai B'rith as to what you can publish. But I suggest that you could and should send a message to the world and to the rest of society. It's not a message that is intolerant; it is a message of tolerance, decency and understanding, a message to all the sincere young Jewish men and women throughout the world that perhaps they need not feel more persecuted nor the subject of more hate than any other group; that war was not all that it is said to be vis-a-vis themselves; that they might no longer say "Never forgive and never forget", those types of comments; that they may feel no more the victims of suffering than others in war that have also suffered. Maybe that would be a healthy thing to say, beneficial to all. Perhaps. Just perhaps, they, too, should put behind the story of the six-million slaughter which they are being imbued and embittered with. Perhaps their suffering is no worse or any greater than many, many others. So that for the sake of love, peace and understanding, we may not view Jews as extraordinary sufferers and Nazis, which is a thin disguise, in much of our media, for Germans, as some inherently evil beasts. This stereotyping is intolerance. This evil exultation of {4591|4592} hate can only be exorcised in the fresh air of free debate. The Jews and non-Jews may view their differences not as polluted by an exaggerated past, and if the truth is already told, then the expressions in this booklet need not be feared in any way at all, then for the Germans, there must be justice, too. That can only come by freedom to examine truth freely and throw off unnecessary guilt. If the guilt is necessary, then it should be taken. If it is unnecessary, it should be dispensed with, dropping the disproportionate lies of a mass hysteria which certain political forces daily feed; stop seeing Nazis in every criticism of Judaism, or you will suffer from lack of true criticism. No one is absolutely right, not even the Jews, and no one is absolutely wrong, not even the Germans. And on this issue of the "Did six Million Really Die?", it seems like nobody is allowed to question these beliefs. It seems like there's a force that says you should never ever be allowed to question the Holocaust. Jews may see themselves in a better light, and to do this may leave the past behind. Maybe there has been too much dwelling on 40 years of history that may or may not be right. They should be free to hear views which indicate that {4592|4593} instead of "Never again", presuming the worst, and much of this is imbued in people who were never there, two generations later, they should perhaps be free to hear views which indicate that it never happened in the first place. We should consider it might never have been before, rather than never again, to some of the horrible stories circulated. It should be at least open for people to discuss it, and if it isn't, how healthy a society do we have? We should never suspend our critical faculties of reason and skepticism even to the suffering of the Jews on the issue of the Holocaust. This means debate, criticism of the Jewish beliefs on the Holocaust, that as they affect others, and it should be legitimate, for most of all those beliefs is the belief in the Holocaust. Other groups of people are freely criticized every day. You know, when I was thinking about the context of this whole question, it occurred to me there are other atrocity stories, two of which are very famous. One is the Ukrainian Holocaust, or some people dare to call it that, where it is alleged in the thirties, Stalin starved to death five or six million Ukrainian people. Now, if I was to put together all the evidence that contradicted that, that said it was a false belief, and {4593|4594} published that, would that be false news? Or the Armenians say that a million or more of themselves were slaughtered by the Turks at some time in this century, and they keep this as a very important part of their belief. If I was to dispute that and publish the dispute of that, would that be false news? And yet, whatever the truth or falsity of those beliefs may be, they stand on their own. No government

sanctions say you must believe this. They are not taught in schools as history. In fact, I recently heard that you can't teach the Ukrainian Holocaust in Manitoba in schools. But, this belief in the Holocaust has become so sacred that nobody can even question it. That is not right. In a free society, no group should have its beliefs imposed by law. We don't have a state religion. We shouldn't have one. We don't have an official history. We shouldn't have one. If this booklet is right, as the accused says it is, it should be freely heard and freely thought about and freely criticized. If it is not, why fear it? If it is false, there is easy access to a million more resources of public persuasion than this booklet ever had. It does not need the government's help in some official repository of truth, however sanctimonious its bureaucratic officials {4594|4595} may be. Let freedom solve the problem of any hatred or intolerance, else by suppression the human spirit, which seeks truth and seeks the ultimate truth of God, will become crippled by its fears to speak its deepest feelings. Only by our face to face meeting, by our being as we really are with all our personal prejudices and suspicions, can we accept our faults, and by airing them without fear, learn to love each other with a true and deeper love than if we never disagreed in the first place.

We have vehement arguments in this courtroom, but I think by my friend's vehement arguments and the promotion thereof I learned deeper respect for him. He fights for what he believes; I fight for what I believe in. Our legal principles we disagree at times, but that's part of the process of understanding, part of the process of debate and reason. It's also part of the process of growth. It's the adversarial system. We practice it here. Why should we not practice it even on the issues of history? We will all benefit when there is a debate in history. We must be free to speak our deep-seated suspicions and I by airing them get the truth and be set free of all our evil and false beliefs. {4595|4596}

Now, if my client has a wrong belief, he honestly does not believe his beliefs are wrong. He believes they are right. But then, let there be a debate. He invites debate. In such conditions as a free society allows debate, health, understanding, will result. Let a few people decide, let the powerful decide, let some bureaucrat decide or even, with the greatest of respect, force the decision upon a judge to decide what are true and false beliefs, it will inevitably have the power to define truth and become to be an absolute power. No one could ever benefit from the results. Violence is the end road, the end of the road for official truth. In a society where people aren't free to think their own views, an official truth prevails; they will eventually resort to violence. You will see that in many dictatorships throughout the world. If you can't express views freely in words, in writing, in print, how do people express them? You can see in the world today how they generally do, and that's very unfortunate.

I said in the beginning, this place, this court, is far too expensive, far too important, to be involved in debates about history. This court and the courts {4596|4597} throughout Canada have rules of evidence which are there to determine disputes of fact, but here we haven't dealt with fact, we've dealt with opinion about history. And with the sincerest efforts on the part of every person of authority here, it is very difficult to have the freedom necessary to conduct a proper debate, and nobody says a debate should occur, but unfortunately the issue has forced us to debate. It shouldn't be here. Free access to the marketplace of ideas does not and cannot take place here. This court was not designed to be a place where the affairs of the world are debated, but where individual conduct is inquired into.

Now, it might be said by my friend that, well, that's all we're here to do. Mr. Christie is going far off the mark, exaggerating the significance of the case. I anticipate some of those types of remarks, but let me suggest to you that if you put in issue a book covering as much of history as this one purports to cover, how do you do that? Now, do you deal with that without debating history? Sure, if it was an act, like an assault or a theft or a murder or a rape, we can deal with that. That's something this court can deal with. But if you've put this kind of thing in a court of law and you ask an accused to say, {4597|4598} well, you

prove its truth or the Crown to prove its falsity, we'll be here for weeks, and believe me, we could have gone on longer. I know you think this is long enough, and so do I. But at least to cover it in brief, it took this much time, and it's taken a terrific amount of energy from you, from His Honour, from this Court, from the public purse. For what?

Now, whoever is responsible, and I don't think my friend is, and I don't blame anybody, whoever is responsible for pursuing these kinds of prosecutions, and it is indeed, I suggest, a decision for which somebody is responsible, they should consider what forces are at stake, and what occurs in the court, and consider that it shouldn't happen again, and if you make it clear that this is an improper type of thing to do to a citizen in a free society, by acquitting the accused, we won't do these sorts of things again, I suggest. It would be less likely that those who made this decision in the first place will repeat it. But I can assure you that there is lots of people who would love to have the power to silence different points of view, and it's very easy when you can put people through the kind of thing the accused has been through. I suggest the false {4598|4599} news section may have been intended to deal with a specific allegation of false news like a publication of a sort which briefly stated a fact to be true that was false, but it surely can't be usefully used to deal with a matter of controversy involving history. The Court should not deal with trials of historical issues. This place is too expensive and over regulated by the proper legal rules themselves to permit an adequate discussion of history. For the sake of freedom, I ask you never to forget what is at stake here. You must remember that we have fought for your freedom as well as for that of the accused, that is, the accused stands in the place of anyone who desires to speak their mind. And even if you don't approve or agree with what he says, you must take it as a sacred responsibility not to allow the oppression of someone's honest beliefs.

I want to just finish by reading you a little letter that I got once. It just explains what I mean when I say history is a very complex thing, and it changes from time to time, and it should be free to do so. It's just a little few lines that somebody sent me once. It says, What is the truth? As a child, it said, I was taught that {4599|4600} the Indians were savages. Later on in life I found out that it was the white man who had initiated scalping and the killing of women and children. I was taught in school that Louis Riel was a traitor to his country and thereby executed, and that John A. MacDonald was a hero. Later on in life I was to discover that Louis Riel is regarded by some as a hero defending his people's rights to their land, and the famous Sir John A. had been caught taking bribes from the CPR and resigned in disgrace. He also died an alcoholic. During the Second World War, I was told that Stalin was a good leader who fought on the good side. When I was older I found out that he was responsible for the government imposed starvation of millions of Ukrainians in 1933. In 1941 I was told that Germany was our enemy and Russia was our ally. In 1951 I was told that Germany was our ally and Russia was our enemy. In 1956 I was told that China had slaughtered millions of their own people, it was our enemy, and today I'm told that China is our friend and ally, in a way.

Therefore, when an individual has the integrity to question the credibility of a government imposed view of history, we should listen with an open mind and search for the truth. It would seem to me that truth will be in debate {4600|4601} for a long time. But if we silence one side of any dispute or anyone's view of truth because we think they are wrong, then society as a whole will suffer. An individual will suffer. And you will suffer.

Patrick Henry I think said, "Give me liberty or give me death." And if anything is true, that is true, even though we're not in a state of war. Probably, hopefully, we never will be. But, if you don't have liberty, you have a kind of spiritual death, the death that comes from people who never use their minds. That's a real spiritual death. And if we are to live in a free society where people are alive and have hopes in their lives, then we must have liberty. Nobody was upset by this publication. But we have spent seven weeks, line by line, arguing over 30,000 words, and the other publications, the "West, War and Islam".

With the right verdict, people who brought that into being will not do it

again. It will take a lot of courage. There may be some among you who want to convict. I don't know. You will hear from the Crown. They will give you their version of the case. His Honour will charge you on the law, and I'm not supposed to – I could, I suppose, {4601|4602} say something about it, but His Honour will do that. I have simply said that the burden of proof is on the Crown on all the facts. They are supposed to prove beyond a reasonable doubt that it's false, this and the other thing. There's facts in this, there's mostly opinions in the other. If you want any support for the opinions in the other, the "West, War and Islam", there's books there that support everything he says. What are we going to do about those books if we're going to find him guilty of these opinions? We should start burning all those books, I guess. We won't be far from Nazi Germany if we do that. I think if we're going to allow people to think, we've got to allow them to express their opinions whether we agree with them or not. But it's important that if there's anybody has any doubt about this matter, that those of you who value freedom stand firm in that belief and continue to hold it and don't give in because there is only one hope for freedom in this country, and that's if those people who love it and who lived for it fight for it, stand for it and don't give up.

It's not easy to have put up with seven weeks of a trial. It's not easy to have faced the accusations and listened to all the evidence and to make decisions on {4602|4603} it. But you are the repository of the trust of your country, and in the moment you decide to acquit and stick to that principle, you will give history the best gift your descendants could ever ask: A free country. Thank you.

— The jury retires.

— Whereupon the hearing is adjourned to February 26, 1985.

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## TUESDAY, FEBRUARY 26, 1985 – 9:30 A.M.

THE CLERK OF THE COURT: The jury are all present.

THE COURT: Yes, Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour.

Ladies and gentlemen, my task and Mr. Christie's task are almost over and yours is about to begin in earnest [sic]. Shortly you will be entering into the most difficult part of your job. Shortly you will be entering into the most difficult part of your job. His Honour will soon be charging you on what the law is, and he'll be telling you how the law must be applied to the facts as you find them.

His Honour is the sole judge of the law in this case. You must take the law as he gives it to you. He will be defining words for you and be going over the section very carefully that Mr. Zundel is charged under, telling you what the law is with respect to all those matters. You must apply the law as he tells you to apply it, even if you disagree with it. If I make some reference, in the course of my remarks, to the law, I hope that you will bear in mind that His Honour is the final arbitrator of the law, I have nothing to say on the matter and take his remarks not mine. Similarly, you twelve are the sole judges of the facts. It's for you to sift through all the evidence that you heard over the last two months, sift through the exhibits that have been entered here, and decide from that great mass of evidence where the facts are in this case. {4604|4605}

I will be referring to the evidence as we go along in my remarks to you. If your recollection of the evidence is different from mine, be guided by your recollection. You are the judges of the fact, not me. Inevitably, when we have heard so much evidence, I am not, I can assure you, going to be reviewing it all, and there will be points that I leave out that you may well think are important points, and that may be important points. Don't ignore them just because I haven't mentioned them. Of course, as I know you realize by now, what I say to you in my remarks now, just as what Mr. Christie said to you in his remarks yesterday, are not themselves evidence.

You may be wondering how you should go about your job of determining what the facts are in this case. As I indicated, there is a great deal of evidence. Some of it is quite complex; some of it is written down in books and documents and conflicting evidence from various witnesses

that you have heard. So how do you make a determination of what the facts are from that evidence? Ladies and gentlemen, I'd suggest that between you all, you have four or five hundred years of human experience, of getting along in a very complex world. You make decisions in your daily lives and your businesses every day about who you are going to believe, {4605|4606} when a story is true or not true. Do you take a cheque from that man or do you ask him for cash? Is he somebody that you can count on or is he somebody that is a cheat? Those are decisions you make every day. You've acquired a great deal of common sense, and it's that common sense that you have both individually and collectively, the twelve of you, that I'd suggest you bring to bear on this problem of determining of, what the facts are.

It's that common sense that I'd suggest you use to sort out the wheat from the chaff to determine if there are any red herrings in this trial, and if there are, what they are.

Our system of criminal justice is supported by two basic ideas, concepts. Without them, our system falls apart. First is the presumption of innocence. A man is presumed innocent in Canada until he's proven guilty. The second pillar is related to the first: that proof of guilt must be proof beyond a reasonable doubt. Fortunately for all of us, the statement of those two principles are so familiar as to almost be a cliché.

This is not a situation where familiarity should breed indifference or contempt. Those two principles are central to fairness in our system of justice. Mr. Zundel is under no obligation to prove his innocence in this Courtroom. {4606|4607} The burden of proof is on me as the Crown Attorney. Throughout this trial, that burden never shifts.

Proof beyond a reasonable doubt is a legal phrase, and I'm sure His Honour will be defining it for you in much more detail. But, subject to what he says, I would suggest to you that proof beyond a reasonable doubt is a real doubt, it's a doubt that's based on evidence that you find to be reliable evidence. Proof beyond a reasonable doubt does not mean proof beyond any doubt. It doesn't mean proof beyond a shadow of a doubt. We are all going to have some doubts about any events that we're not directly involved with. None of us here can actually climb inside Mr. Zundel's head and see what his honest belief is. We have to infer that belief from what he has written other places, what he said in the witness stand here, from his actions.

The law simply requires you be satisfied to the point where you have no reasonable doubt. If you are not so satisfied, at the end of His Honour's charge, at the end of your deliberations, if you're not so satisfied you must acquit Ernst Zundel. That is your duty, it's your obligation and I would urge you to do that.

Before turning to the issues in this case, I'd like to mention some areas that I submit to you are not issues; they're red herrings, I'd suggest, that I spoke to {4607|4608} to you about before. Freedom of expression, freedom to hold opinions or beliefs on controversial matters, freedom of the press, censorship, are not issues in this case.

Mr. Christie yesterday gave a very stirring and moving address to you about those very vital freedoms. He urged you, with perhaps a small amount of exaggeration, to consider your verdict very carefully, because your verdict was going to affect your children and your children's children. He urged you that, depending on your verdict, a terror would sweep through this land. The government, he indicated, may well be in a position then to trample on those people who hold controversial opinions. Convict Mr. Zundel and 1984 has arrived. I won't repeat it all to you. I couldn't repeat it all to you and do justice to what Mr. Christie said. But I would suggest that those concerns about our freedoms are not concerns that legitimately arise in this prosecution. They have nothing to do with Mr. Zundel's guilt or innocence under the section that he's charged. They have nothing to do with the case that I, on behalf of the people, as the Crown Attorney, have presented.

Section 177 provides that where a man wilfully publishes a statement or a tale that he knows is false, and some mischief or injury to a public interest, in this case {4608|4609} public interest in social and racial tolerance, arises as a result of that deliberate falsehood that's been published, then that man has committed an offence. Nowhere in that section is a controversial belief made illegal.

Mr. Zundel, you or I or anybody else, can hold whatever opinions we choose. We cannot be prosecuted under Section 177. We can have opinions about race; we can have opinions about history; we can have opinions about anything we want, and we can't be prosecuted under Section 177. We can say whatever we want in private conversation and no matter how outrageous our opinions, we cannot be prosecuted under Section 177. Even if those opinions are to the detriment of our society, we cannot be prosecuted under Section 177.

A man can even publish whatever he wants, and if it's true, although unpopular, though controversial, he cannot be prosecuted under Section 177, because truth is a defence. Has [He] has no fear.

Gallileo [Galileo] has no fear. Gallileo [sic] need not fear Section 177. A man can publish falsehoods, and if he has an honest belief in those falsehoods, then he has the full protection of the law. A man can publish falsehoods while knowing they are falsehoods; he can publish deliberate lies; and if there's no harm to the public interest, the public {4609|4610} interest of all Canadians, then he is an innocent man. No prosecution under Section 177 will hold up.

What is it that Section 177 says we cannot do? What is this freedom we're trying to protect? We cannot publish falsehoods, false tales, statements, not opinions, not false opinions but tales or statements which I suggest means facts, while knowing they are false and thereby hurt the public well-being, the well-being and interest of all of us Canadians.

There is the sacred freedom Mr. Christie would have you protect. This is what he spoke to you so passionately about, the freedom to deliberately lie to the detriment of us all and publish those lies.

None of our freedoms in Canada or in any other western country are absolute. They're not unfettered. There are always controls on our freedom. Absolute freedom is another way of talking about absolute tyranny. If I have absolute freedom to do whatever I please, I can shoot you, I can rob you, I can libel you, I can assault you. That's my absolute freedom. It's not justice. It's not the way to run a society. My freedom is your slavery. We put limits on freedom. We say there's some things even in a free society that you can't do. {4610|4611}

Those limits were recognized in this particular area of what you can publish by the defence witnesses. Reverend [sic] Marr, and Christian Enquirer down in Niagara Falls said he put limits on salacious literature. He said libels should be controlled.

Dr. Botting said libels should be controlled. Doug Collins, the reporter, he said libels should be controlled. As a journalist, he said that a publisher should at least try to be accurate; but that's not a legal limit on freedom. The limit of freedom, encompassed by Section 177 is the prevention of the dissemination of lies in which there is no honest belief, lies that hurt our social fabric, our public interest.

There are two sides to every issue, we're told. Matters should be freely debated. That's what Dr. Botting said. But what if one side of the debate is dishonest? What contribution to the search for truth do deliberate and hurtful lies make? So freedom of expression, though fundamental to our culture, is not an absolute freedom. It is freedom to honestly criticize, question. It is not a freedom to pervert the truth to the detriment of others. It does not entitle, I'd suggest, someone to inflame racial animosity within our society by falsehood and deceit. It does not {4611|4612} entitle someone, through lies, to destroy the delicate thread of tolerance that holds our multicultural social fabric together.

Mr. Christie several times mentioned censorship, in particular yesterday, as a corollary to his discussion about freedom of speech. Let's just for a moment think about censorship. Censorship, I'd suggest, is the prevention of the public from seeing a book, movie or some other matter. A pornographic movie is censored and we don't see it, we never see it. The Censorship Board censors it and we never see it.

These exhibits though, 1 and 2, the articles that we're here about, they were seen, they were distributed, they weren't censored from the beginning, they went out into the public forum. What we are not concerned with is not censorship, but a determination of whether Mr. Zundel, in publishing those articles, breached our criminal law.

Mr. Marr made this distinction, or Reverend Marr, rather, made this

distinction when I asked him if libel and defamatory libel were things that concerned him, and he answered, as I recorded it, you be guided by your own recollection, but he answered, "Yes, they are, but I am not thinking of those in terms of censorship at all. I am thinking, if a person goes ahead and does it, takes his chances and then pays the cost for having done so, that's {4612|4613} not censorship." Isn't that exactly what we're doing here? So the first non issue, I would suggest, in this trial, is freedom of expression.

There is another. There is a second. The second non issue, I'd suggest, is that somehow this trial is about the Holocaust at large, the Holocaust in the air, in the abstract, and the prosecution of those who deny that the Holocaust occurred. It is not the Holocaust in the abstract that brings us here to this trial, or the denial or Holocaust in the abstract.

As far as the Holocaust is concerned, it's this article, Exhibit 1, that brings us to trial. It's the treatment, the description of the Holocaust, or the non Holocaust, as that says, that brings us here. I've called evidence on behalf of the Crown to try to convince you that that pamphlet, "Did Six Million Really Die?", is false and misleading. The witnesses I have called have been directed to specific parts of that evidence in giving their evidence. We are not debating whether four million or six million or eight million Jews died under the tyranny of Nazi Germany. We are not re-fighting World War II.

We are debating whether the statements, tales, contained in this exhibit, are true or false. Nowhere in the pamphlet do you find a discussion of how the gas chambers {4613|4614} worked, or how much coal was needed to burn a body. The Crown called no evidence on that. The Crown's evidence was rooted in that pamphlet, not the Holocaust at large. It called no evidence on other matters, not because evidence is unavailable – and I don't know whether it's available or not – but because it's not matters that are concerned in Exhibit #1.

To that extent, the extent that the Holocaust is dealt with in Exhibit 1, and that extent only, are we concerned with the Holocaust. Now, perhaps that's a fine distinction, but I'd suggest it's nevertheless an important distinction. For example, nowhere in the pamphlet "Dix Six Million Really Die?", and you will obviously have it, I know you've all read it, I'm sure you'll read it again before we're through, but nowhere in that pamphlet does it say that six million Jews were gassed. It's a contention of Mr. Zundel, perhaps, but it is not contained in the pamphlet.

The pamphlet, I would suggest, speaks of many different alleged means of annihilation. It speaks of terrible conditions in the ghettos, such as in the Warsaw ghettos, which he uses as an example. It speaks of mass shootings by the Einsatzgruppen. It speaks of the humane conditions in the concentration camps, to compare them to the stories about the brutality and starvation in the concentration {4614|4615} camps. And, yes, also in the pamphlet there is reference to mass gassings. That's an important part, but it's not the only part of that pamphlet.

These are the many facets of the attempted annihilation of European Jewry that Exhibit 1 deals with and that the Crown has attempted to answer in some detail.

Mr. Christie was distressed, and you may agree with him, at the prospect that I would have you examine line-by-line Exhibit 1 in a narrow, legalistic way to see if there are any fallacies in the pamphlet. Of course, it has to be read; of course, it has to be looked at to see whether it's true or false and looked at carefully, not in a legalistic way, but by you twelve using your common sense finding what you find to have been facts here, because that's what this charge is about: whether the pamphlet – at least a part, whether the pamphlet is true or false. How can we determine that unless we look at the pamphlet?

What of the persecution of others who deny the existence of the Holocaust? Well, I don't know if others have been persecuted for denying the Holocaust, and I'd suggest, in truth, none of us do. We are not here trying Mr. Keegstra, though on his own evidence he was fired from his job not for saying things about the Holocaust per se, but because the curriculum he had been ordered to follow by {4615|4616} his School



Board he wasn't following, and you heard some of the various things that Mr. Keegstra was teaching his students. Nor are we here rehearsing Frank Walus' case, the man from Chicago. He was tried in another country, he was tried under another law. His case was dealt with. Mr. Walus acknowledged to you that frequently in Chicago, when a man is arrested on a serious crime, the broadcast media cover the event intensively. He was certainly charged with a serious crime, notwithstanding it was thirty years old, so they covered it intensively; not a Zionist plot, the persecution. He may not like what the media does, but I suggest they do it to everybody.

Nor are we retrying John Demuna (phon) [Demjunjuk], Ivan the Terrible; remember the private investigator who went around Europe seeking witnesses and evidence to be used at the Extradition Hearing of this man. You will also recall, I hope, that the private investigator said that he only got involved in interviewing the witnesses after the hearing, after the witnesses had given their evidence and been cross-examined. Now, he's going back and wants to talk with them again. I'd suggest to you that at the end of a trial it's not too surprising perhaps if people don't want to speak about it in here.

In any event, to speculate that witnesses called for the defence will pay a terrible price for their {4616|4617} testimony, is nothing more than speculation and should form no part of your deliberations. The Holocaust at large and the persecution of those who deny the Holocaust are not issues in this trial.

What are the issues? Back to Section 177. I'd suggest to you there is four things. Now, His Honour will say a great deal more about this, and what I say is subject to His Honour. But I'd suggest to you that there are four things that need to be proven here before Mr. Zündel can be convicted. First, that he wilfully published the articles. ["The West, War and Islam"], "Did Six Million Really Die?", did he publish them and mean to publish them on purpose? Second, are the articles false? Third, did he know they were false at the time that he published them, or did he have an honest belief in their truth? Fourth, having been published, was there some mischief or injury, same thing, caused to the public interest to social and racial tolerance? Each of those questions must be answered for each of the two charges separately.

All right. First, did he publish the articles? Well, he admits he published "Did Six Million Really Die?" in the year that's alleged in the indictment, so I'd suggest you have no trouble with that issue. His Honour will define for you what "publishing" means in law, and hearing his definition {4617|4618} I would ask you to apply it to the facts as you find it to "The West, War and Islam", and I'd suggest that on the evidence, a thousand copies were sent out to many countries, basically Arabic countries, with the rider, the proviso at the end of the article: "We waive all copyrights on this message and invite all Islamic publishers, broadcasters and journalists to quote this appeal in whole or in part." So, permission to distribute it as widely as possible.

You also know that at least one copy of "The West, War and Islam" made it to Canada, because somebody here found out about it and there's a charge comes out of it. You decide on that evidence and the law that His Honour gives you, whether or not that's publishing.

The two pamphlets, as I've already indicated, form two separate charges on the one indictment – "indictment" is just a piece of paper; "indictment" means piece of paper, so don't worry about that – two separate charges, and they should be considered separately by you, so let's look at each one separately now.

First, "Did Six Million Really Die?: The truth at last exposed". What does it say? I'd suggest to you that the thesis, that the sense of that article is that six million Jews did not die, only several hundred thousand Jews died as a result of events in Nazi Germany; that the Holocaust {4618|4619} as we know it, from the media and from history, is a hoax, it's a conspiracy, it's a conspiracy designed to gouge reparations, to gouge money out of West Germany, and it has a couple of other side issues. It also prevents us from discussing problems of race, whatever they are. That's the thesis of the article: conspiracy and a hoax to gouge money out of West Germany. And the article purports to present evidence in support of that thesis.

Each of the Crown witnesses have given evidence of varying aspects of the allegations contained in Exhibit, but the one Crown witness, I would suggest, who could address the broadest number of issues was Dr. Hilberg. It's a while ago now since he testified, but he was qualified as an expert in the Holocaust, and as such, he was entitled to give you his opinion on that topic. Notwithstanding that he's qualified as an expert, you can treat his evidence the same as you treat any other witness' evidence. You can accept some of it or all of it, or none of it, and it's for you to decide how much weight you give his evidence, how authoritative, how good is his evidence.

I'd suggest to you that in answering my questions, and in three long days of cross-examination, Dr. Hilberg repeatedly and consistently showed that he was an expert, that even the smallest details of the Holocaust he had read and {4619|4620} was familiar with literally tens of thousands of Nazi documents. Thousands of them he copied out by hand himself in archives in the pre-xerox era. He read the transcripts, not just of the International Military Tribunal, the first trial or the American Military Tribunal, the second trial. He read the transcripts all the way through the fifties and the sixties and into the seventies, of all the war criminals, and he read the testimony of guards and witnesses at those trials, survivors of those trials.

His credentials and expertise were recognized by two presidents of the United States, by his appointment to the President's Committee on the Holocaust. He has no criminal record. He was and is an eminent and careful scholar. He described himself as a documents man. He wrote nothing as a fact until he had checked it and cross-checked it and checked it again with different documents, and certainly the way that he gave his evidence confirms that. Both his careful and conservative method of research and his obvious command of the documents and material, suggest that great weight should be given to his evidence. Even Dr. Faurisson was high in his praise of Dr. Hilberg, and somewhat wistful in his desire to work with him. {4620|4621}

Mr. Christie criticizes [sic] Dr. Hilberg's evidence and asks you to look at it skeptically, because Dr. Hilberg brought no documents with him to this trial. What assistance would it be to you if Dr. Hilberg came in here with a railroad car full of German documents in the German language? I suggest it wouldn't be any assistance at all. That's why Dr. Hilberg's here. He's read that and he can tell you what their contents are and tell you where it comes from, that there is a document that says these things.

If Dr. Hilberg misrepresented those documents, rest assured that Dr. Faurisson would have told you about it. He didn't.

Dr. Hilberg spoke at some length about Chapter 3, "Population and Emigration", and that's a process whereby he tried to determine how many Jews were dead; the exact numbers could only be kept track of by looking at census figures, population figures before and after the war. He referred to Chambers Encyclopedia which said – the number here is given – "the total number of Jews living in pre-war Europe was six million five hundred thousand". The Chambers Encyclopedia says, excluding Russia, in pre-war, 1939, six and a half million, and he said there's a difference; there are three million Jews living in Russia. In 1940, 1941 Germany was expanding, expanding through Poland, expanding into a large {4621|4622} chunk of Russia, bringing more and more Jews under its control. The rest of that chapter, I'd suggest, Chapter 3, "Population and Emigration" is based on that six and a half million figure that they use here. That's how they do their adding and subtracting, mostly subtracting from. It's false at the beginning so it's false all the way through.

Chapter 4: "The Six Million Documentary Evidence". The chapter deals with Gerstein. It says there's no documentary evidence. Not so, said Dr. Hilberg. There's a wealth of documents. The Nazis intended the deliberate murder of Jews. He referred to the Korherr report, Richard Korherr, the S.S. statistician who kept track of the Jewish population. And as month-by-month went by, the population dwindled as people died.

He referred to the testimony of the Manich (phon) [von Manstein] at Nuremberg, the principals at Nuremberg, the accused. You'll recall I



referred Dr. Faurisson to the diary of Hans Frank, who was the Nazi in charge of – the Polish Governor General, and in his diary, not a public document, his diary, Hans Frank was talking about how to kill millions and millions of Jews, and that that was the Nazi policy. You'll recall that he read that, Dr. Faurisson and I, and he said, "Oh, lawyers talk, you know, lawyers talk, that's what it is." A document. The Posen speech, that's the speech that Himmler gave to his {4622|4623} group leaders, that's referred to in here as having "veiled allusions". Attempts to find veiled allusions to genocide in speeches like that of Himmler's to his S.S. Obergruppenfuehrers, in Posen in 1943, are likewise quite hopeless. Veiled allusions. Let's see if I can find that veiled allusion here.

*"We have taken from them what wealth they had. I have issued a strict order which S.S. Obergruppenfuehrer Pohl has carried out that this wealth should, as matter of course, be handed over to the Reich without reserve."*

*"We have taken none of it for ourselves. We had the moral right, we had the duty to our people to destroy this people which wanted to destroy us. But we have not the right to enrich ourselves with so much as a fur, a watch, a mark or a cigarette or anything else, because we exterminated a germ. We want, in the end, to be infected by the German diet, and wherever it may form we will cauterize it."*

In an earlier speech he talked about killing women and children, and we all know he said how difficult it is to see a thousand {4623|4624} bodies stacked side-by-side. Veiled allusions. That's a lie.

Is it lawyer talk? Is it lawyer talk to speak of killing people in tens, in concentration camps? These weren't lawyers, we are talking about killing. These are civilians [sic] penned-up in concentration camps and ghettos ready for the slaughter.

Chapter 5, The Nuremberg trials; full of falsehoods, full of falsehoods. Guilt was, assumed from the outset. If it was assumed from the outset, why were people acquitted? Why did they all get the same sentence? Because they didn't. That's the evidence. At Nuremberg, ex post facto legislation was created whereby men were tried for crimes which were only declared crimes after they had been allegedly committed.

You heard Dr. Hilberg make the distinction between a count dealing with a war of aggression, a count dealing with war crimes. War crimes were subject to prosecution long before World War II, but in World War II itself at the London Conference – that's the one I got confused about the other day, the conference in December of 1942, the Allies got up and said, "Germany, we are going to hold you responsible for what happens to the Jews." The war went on another three years. {4624|4625}

Although only two hundred and forty witnesses were called in the course of the trials, no less than three hundred thousand witnessed [sic] were accepted by the Courts as supporting the charges without this evidence being heard under oath; and the implication here is that those three hundred thousand were all vicious Jews who wanted to get back at Nazis.

Well, the evidence of Dr. Hilberg is that in all of the Nuremberg trials, not just the first International Military Tribunal but the American trials that followed, in all of those trials there were forty thousand prosecution documents, a hundred thousand defence documents – the defence simply availed themselves of the same opportunities and those documents included both written documents and written affidavits, so there's no three hundred thousand affidavits put in by the Crown of spurious sources.

Most incredible of all, the pamphlet goes on, perhaps it was the fact that defence lawyers at Nuremberg were not permitted to cross-examine prosecution witnesses. "Name one" I said to Zundel, and he couldn't.

Dr. Hilberg, who read all those transcripts, said there aren't any. Nobody could name one, because there weren't any. It's false, a lie. {4625|4626}

The pamphlet then goes on to refer to Justice Wenersturm [Wennerstrom] and his comments. And what did Justice Wenersturm [sic] do at his trial? He convicted. He handed down, as I think Zundel said, harsh sentences. Does that show up in here? Does that show up in

Wenersturm's [sic] criticism of the trial? Should it have? Is it misleading not to have included it?

Torture, confessions under torture.

*"Altogether more disturbing, however, were the methods employed to extract statements and 'confessions' at Nuremberg, particularly those from S.S. officers which were used to support the extermination charge."*

On the plain reading, wouldn't you expect what follows to be allegations of torture involved with the extermination charge? But it doesn't. What comes next is what we heard described as the Malmédy incident involving American prisoners of war; nothing to do with the extermination charge. Misleading.

We then hear about the Simpson van Roeden [Roden] report that's discussed in here. But is it? What you have in here, masquerading – as the Simpson van Roeden [sic] report, is {4626|4627} newspaper interviews with van Roeden [sic].

Ernst Zundel told you, well, in fact, the report didn't say those things. That was van Roeden [sic] speaking after the report came out, and he later retracted those comments. The Simpson van Roeden [sic] report is not quoted in here. Obviously they knew about it. Why didn't they quote it? Because it didn't serve their purposes. Misleading; it's a lie.

Next few pages, they have a list of various people who are alleged to be tortured and the allegations are in the boldest terms: Wisliceny's statement, Ohlendorf, he was tortured; Oswald Pohl, he was tortured; where's the evidence? Not in here. It's not in the transcripts. Each of those men was tried; each of them gave testimony; none of them complained of torture, not one of them.

In all those transcripts, not a single person complained of torture. Now, surely some of the men testified – well, surely when you're on trial for your life, as these men were, if you were tortured you'd complain about it. It would be pretty important to you to put forth all the defence that you could. They didn't. They weren't. Not even Rudolph Hoess complained of torture. In fact, he said that he was treated very well at Nuremberg and that he was {4627|4628} roughly handled weeks earlier. He testified at Nuremberg for the defence; no complaint of torture. The single allegation of torture seems to come from Julius Streicher, a virulent racist, creative journalist. How do we know he's a racist? Because what was his torture? Kissing a black man's feet. And the Court obviously considered what he said and ordered the remark stricken from the record. Might as well say you've been tortured by being made to eat white bread. It's silly. The allegations are made without a scintilla of evidence.

Whenever the authors of this pamphlet, or indeed, Mr. Zundel, Dr. Faurisson, come upon damaging testimony to their cause, they respond to it by saying it's either forged or comes from torture or its perjured. Nobody is telling the truth but the author, Mr. Zundel. And that's absurd.

Is this a convenient time for a break, Your Honour?

THE COURT: Yes, certainly. Ten minutes.

(Reporter's Note: Court adjourns for mid-morning recess @ 10:27 a.m.)  
Certified correct to the best of my skill and ability.

C.S.R. NEIL PORTEOUS,

OFFICIAL COURT REPORTER {4628|4629}

— The jury enters. 11:45 a.m.

THE COURT: Yes, Mr. Griffiths.

MR. GRIFFITHS: Thank you, sir.

Exhibit 1 next deals with the Einsatzgruppen, and you remember those are the four battalions, three thousand men each, on the Eastern front, that were charged with the responsibility for shooting Jewish Bolshevik Commissars, I think was the phrase, and the article says that there is no statistical basis for the figures of a million – I think Dr. Hilberg said 1.4 million people shot, mass shootings by that action. The article says no statistical basis for that. Well, I suggest to you that there is evidence before you from – again from Dr. Hilberg that there were daily reports that were sent in to Berlin setting out, in detail, the numbers of Jewish dead, statistically. Those daily reports written by the Nazis ... Dr. Hilberg's evidence is the only evidence you have on that, because Dr.

Faurisson said that, although he was familiar with those things, he'd read them and seen them he didn't care to comment on them until the revision[ists] answer to him had come out, the official version – not exactly an independent thinker, Dr. Faurisson. In any event, Dr. Hilberg's figures on the death by mass shooting of Einsatz-{4629|4630}gruppen is uncontradicted – 1.4 million – and it forms a part, a significant part of the total number of dead from the Holocaust that he attributed at about 5.1 million.

The article here, in dealing with the Einsatzgruppen, makes reference to the book by Reginald Paget on "Manstein", and you have that book here in evidence, and part of it was read to you where Mr. Paget was the defence lawyer for Nazi Manstein, and the book is a review of the trial. No footnotes. No documentation. No scholarly research. But interestingly enough, on the opposite page from the one that Mr. Christie read to you, same volume, there's reference to mass shootings and an order was given that mass shootings were carried out, but he felt the figures were exaggerated. No reference to the statistical reports. Maybe he didn't know about them.

The next section of the pamphlet deals with Auschwitz and Polish Jewry. Auschwitz is described as an industrial centre for labour. In fact, repeatedly throughout this pamphlet, almost from beginning to end, references are made to the concentration camps being just labour camps where people went to work where the labour was used, not death camps. That wasn't the reason why people were brought together at all. But what labour went on in {4630|4631} the little villages of Treblinka, Sobibor, Chelmno, Belzec? None. No labour because there was no industry there.

Dr. Hilberg gave evidence that he studied the train schedules, and the trains went one way, full, to those camps, and returned empty – a one-way ticket to death. That's what that was. Dr. Faurisson says, well, perhaps they were transit camps and the people were taken there and then walked to work. I mean, really. There is no International Committee of the survivors of Treblinka, no International Committee of the survivors of Sobibor or Belzec. If there were such a committee, they could hold their annual meeting at a telephone booth, I suggest. There are virtually no survivors of those camps. Auschwitz did have industry, and you heard that from several witnesses here. It also had well-used facilities for the industry of death by gassing. Why kill people, the pamphlet asks, when you want their labour? Well, only those who were selected for death – and you heard a number of witnesses, including Dr. Vrba, Mr. Urstein, Mr. Fulp, a number of witnesses who described the selection process. You remember there were the elderly, sick, women and the children. They formed one long line. Young, able-bodied men formed one short line. They killed those people whose labour they {4631|4632} didn't need, and kept those people whose labour they did; and when they'd used up those people whose labour they were using, they threw them away and used the next batch to come in. Healthy people were worked to death. They were worked inhumanly hard, on starvation rations, in squalid, filthy conditions, until they died[,] until they died from starvation, they died from suicide on the wires, till they died from the casual and contemptuous brutality of their Nazi guards. Here you have eye witnesses – Dr. Vrba, Arnold Friedman, Henry Leader, Ignatz Fulp, Dennis Urstein, Chester Tomaszewski. These men survived. They told you what went on in those camps. Were all those men lying? Were those men suffering from some group fantasy? The stories gel so nicely, having come from different camps, different times. Was there a moving description of the loss of their friends, their family, the livelihoods? Was that the testimony of liars and crackpots? You saw them. You saw both – heard what they said, the way they said, and you saw the men themselves. I'd suggest to you that each and everyone of those men is worthy of your belief. Their testimony is worthy of your belief. The horrors they suffered were written on their faces. It was enough to turn Chester Tomaszewski's hair white as a young man of {4632|4633} twenty. They were worthy of your belief.

Perhaps this is a suitable place in my address to you to consider the evidence of gas chambers presented by the Crown. It seems to loom

large in the defence. Dr. Vrba described for you the pits for burning bodies that he saw on one occasion in December of 1942 when the ground was frozen. You are told that this was marshy ground – that was the evidence of Mr. Christopherson – and that, as such, a pit was impossible to be dug there. It would have filled up with water. But it wasn't impossible to put gas chambers partially underground. You have evidence of the pits, but no evidence of what work was done for the drainage of the area, no evidence because either it wasn't asked, or people didn't know.

There is an exhibit here, Exhibit No. 27. You heard reference many times to aerial photography. And you will have this in your witness room and be able to look at the photographs taken by the Allies during the War. The dates are indicated on here when the photographs were taken. Included in the photographs, photo analysis, reference to pits, to burning. You look at it. You'll see. Have a look at it, too, and see if the ground was marshy, if you can see piles of water around Crematorium IV and V. You're {4633|4634} the judges of the facts here. You look at it. The flames, it is said, burned all the time from the chimneys. Well, that's not the evidence of the Crown. Dr. Vrba said that there were frequent breakdowns in those crematoria. Not all the bodies were burned in the crematoria. They were burned in open pits as well. Mr. Friedman testified that when a new transport came in, a new transport of people, they were taken, led up towards the crematoria, they disappeared up in that area and a couple of hours later there'd be flames and smoke coming out of the crematoria. You go out the back door. Is there a back door to a concentration camp? Dr. Hilberg testified he'd read accounts of citizens from the surrounding area describing the flames from Birkenau. No question there were flames in those chimneys. Dr. Lindsay says – he was the chemist, you recollect that – he said that the chimney would collapse if it was built from the same mortar you would use in your own fireplace. Now, he's probably right, but what an absurd assumption that they would have used the same mortar you would use in your home fireplace for an industrial crematorium, if you can call it that. Dr. Lindsay, I would suggest, also tried to deliberately deceive you in his evidence. He told you that Zyklon B was lighter than air, {4634|4635} that it would go up to the roof, making it safest on the ground in the gas chamber. He told you that exposure to the gas, hydrogen cyanide, in the air, could kill you, even if you didn't breathe it in. It could go through your skin and kill you, even if you had a gas mask on. And finally he said the gas in a water solution would kill you. Those were the three different ways that hydrogen cyanide could kill you, and he spent twelve years studying this, so he knew. But did he tell you the whole truth till he was cross-examined? Did he tell you what was lighter than air was only very slightly lighter than air, that it would rise slowly, that the people closest to the ground would die first as the gas rose? Did he tell you that while you could die from exposure to your skin with hydrogen cyanide gas, that it took seventy-five times as much hydrogen cyanide gas to kill you, exposed to your skin, as what you breathe inside? Reme[m]ber, breathing, lethal, in three minutes, three hundred parts per million; skin, lethal, three minutes, twenty thousand parts per million. The Nazis wouldn't use twenty thousand parts per million in the gas chamber. That would be a waste of gas. And he said he had no idea, this man who spent twelve years researching what the lethal dose of hydrogen cyanide would be in solution, in water. {4635|4636} Highly water soluble. So you can hose it down and be flushed away. But how much hydrogen cyanide, in water, is lethal? They didn't know. He didn't know. He is the expert, but he indicated to you it was lethal, and I suggest he misled you. I'd suggest that, having misled you, you can't accept very much of his evidence.

You have a plan obtained by Dr. Faurisson of 1945 with two of the four crematoria and gas chambers. That will be in evidence and you will have a chance to look at it. We don't know if that's the final plan, or a draft plan, because the crematoria were destroyed by the Nazis before the Russians came in. We don't know. I'd suggest to you that the plan proves nothing today, if there was a gas chamber, or if there wasn't. It's a plan. It exists. But we can't relate that plan to the reality of 1945. I'd suggest that you should prefer the eye witness, Dennis Urstein, when it

comes to testimony about gas chambers. He testified about being taken to the gas chamber on one occasion, with about thirty of his fellow prisoners, taken in a door, crematoria. The S.S. officer put on a gas mask, opened the door. Inside there was a stack of bodies welded together, he said. They were wet. They had been hosed down. The strongest were on top. There {4636|4637} were pillars inside. He described them like metal pipes. There were shower heads up above. There was the hum of machinery. I'd suggest to you it is consistent with Dr. Hilberg's testimony that four powerful generators were ordered and delivered to Birkenau for those gas chambers. It is also consistent, and you have it in evidence here, with what Rudolf Hoess says in his autobiography: "The door was opened half an hour after the induction of gas, and the ventilation switched on." I'd suggest to you that Urstein's evidence is worthy of belief. You are asked to view this crematoria as a mortuary. A mortuary. Now, there's two large rooms in each Crematoria I and II shown on the plans – one for undressing, and one for the gas chamber. Both of them are labelled "leichenkeller" – mortuary. One, two. They had two large rooms in Crematoria II and Crematoria III because they were identical, and you got two other crematoria that we don't have the plans for, numbers IV, V and VI. You could stack a lot of bodies into those four crematoria. You could stack thousands of bodies into those four crematoria. Why? Why do they want to stack the bodies there? Why not burn them? That's what the crematoria is for. Or burn them in pits. Why stack them in there? Why stack them in there, as Dr. Vrba said, {4637|4638} when Fred Wexler's mortuary was just as good? Stack the bodies, ten to a stack. You can get a lot in a small space.

Also the evidence of Henry Leader, from Maidanek. He carried the bodies from the gas chamber, the men inside wearing masks, outside onto a cart and pushed the cart to a crematoria. And on a couple of occasions, around the time of the clearance of the Warsaw Ghetto, he took them outside the camp to a ravine where the bodies were burned, because there were too many for the crematoria to handle. Those aren't natural deaths.

Mr. Christie asks, where was the coke? Where was the coke to burn all these bodies? Well, Dr. Vrba was asked that question and he said coke was brought in by the truckload. How much coke does it take to burn a body? You have no evidence of that. What you have is evidence of how much coke Mr. Zundel says he believes it takes to burn a body. There's a difference. Under the two issues, truth and belief, they are separate. What does he base his belief on? A book for funeral directors in a city. Funeral directors who burn bodies one at a time. Is there a difference when you burn bodies en masse? We don't know because we have no evidence of that. Neither do we {4638|4639} have evidence that it would take eighty pounds, forty pounds, or whatever it was, to burn bodies en masse. Did the Nazis care that the prisoners smell burning flesh in the concentration camps? I think not.

Dr. Vrba and Mr. Leader, both saw S.S. men putting Zyklon B [sic] into a gas chamber from the roof. Dr. Vrba described seeing the man climb up, open the tin, pour it in, tap it on the side while wearing his gas mask. Maybe after forty years he can't remember whether the height was five feet or four feet or six feet above the ground to the top of the bunker, but he knew it was above ground, and he knew the man had to climb up. We have pictures here, models, that indicate that it was partially above ground. Somebody would have to climb up on it.

Yes, there were gas chambers, ladies and gentlemen, and that is the evidence in this trial. There is reliable evidence of that before you, and I'd like you to accept it. Having accepted it, put the lie to the allegations here that there were no gas chambers.

Page 18 of the book contains Mr. Christopherson's eye witness account, Thies Christopherson, this time in Auschwitz, only he wasn't in Auschwitz. He was in Raisko. The quotes are accurate. No question he said that. You {4639|4640} saw the man, Christopherson. You heard him testify. You heard what he had to say. I'd suggest he was incredible. With the Nazis or anyone else, with the Allies, do they wander in and out of camps to go blackberry-picking, or take a few days off? I don't know why you would want a few days off. He said conditions

were better inside the camp than outside. People were clamouring to get in there – a good diet, work, fresh air? Nonsense. Christopherson and Felderer are both cut from the same cloth – totally unreliable and unbelievable.

The pamphlet next goes on to discuss the Warsaw Ghetto. Dr. Hilberg went into some detail on that section of the pamphlet and pointed out a great many errors within that section. I won't review them all with you. I am sure you remember. It says that the 1931 Jewish population census for Poland places the number of Jews at 2.7 million approximately. He said, no, that was the 1926 census. This man knows what he is talking about. The 1931 census was over three million, that after emigration and flight to the Soviet Union, no more than 1.1 million were under German control. He says that's a lie. How do we know that's a lie? Well, because the S.S. statistician, Richard Kohrer [Korherr], has detailed statistics of how many Jews there were in Poland, {4640|4641} and it wasn't 1.1 million. It was in the neighbourhood of three million. Here is the line:

*"As we have seen, transportation to camps is alleged to have ended in 'extermination', but there is absolutely no doubt from the evidence available that it involved only the effective procurement of labour and the prevention of unrest."*

Well, we talked about Treblinka and Sobibor and those things. And then there is the discussion of the Stroop report, when 56,065 prisoners were sent to Treblinka, whether that meant they were exterminated or peacefully resettled. You decide that, that lie.

"Some Concentration Camp Memoirs" is the next chapter, and there were a couple of books in there that were referred to at the very beginning of the evidence: "Under Two Dictators" by Colin Cross – I'd suggest that, for example, the book by Margaret Buber, "Under Two Dictators", is referred to as describing, the conditions prevailing in concentration camps as being consistent with meals – white bread, sausage, sweet porridge, dried fruit. The book doesn't say that. There's other quotations from the book to indicate that those were not prevailing conditions during {4641|4642} the time in the camp. We also have under the "Memoirs" section Anne Frank's Diary – a hoax. Mr. Zundel agreed that this section is false, that the reason why this pamphlet calls Anne Frank's Diary a hoax is false is that there was an action, a legal action, in a Court in New York but it wasn't about the Diary, it wasn't about somebody ghostwriting the Diary, it was about a movie script. That's cynical to suggest anything else. The man even quotes from the judgment, so he had to know what it was about – the author, that is. It was false, Mr. Zundel says, well, there's other reasons for thinking that Anne Frank's Diary is true (sic). It's not an issue here. We are not trying Anne Frank's Diary. We are trying this pamphlet.

"The Nature and Condition of War-Time Concentration Camps". The question is asked, rhetorically: "Would it have been possible to destroy and remove all trace of a million people in six months? Could such enormous gatherings of Jews and executions on such a vast scale have been kept secret? These are the kind of questions that the critical, thinking people should ask. And he will soon discover that not only the statistical and documentary evidence given here, but simple logistics combine to discredit the legend of the six million." That is what they say here. Well, it was kept {4642|4643} secret. Where are the plans for Treblinka, Sobibor, Belzec? All there exists there today is a level plane, according to Dr. Faurisson, who has been there. Those camps were vacated before the Russian advance and taken apart brick by brick. Why, unless what went on in there was secret? Remember the oath of secrecy that the S.S. guard had to give? There were secrets. Still under "Camp Conditions":

*"The Red Cross Report, examined below, demonstrates conclusively that throughout the war the camps were well administered."*

That's under "Humane Conditions". It says:

*"The working inmates received a daily ration even throughout 1943 and 1944 of not less than 2,750 calories"*

– and that's why Ignatz Fuloop, when he emerged from a cattle car, where a hundred and twenty men had entered alive, was the only man to exit. That's why at the end of the War he weighed seventy-three

pounds, because of those humane conditions. That is why Chester Tomaszewski is here – “The Road to Golgotha”. It’s a lie.

In support of their allegation of humane conditions they cite S.S. Judge Dr. Konrad Morgen and say, well, this judge was investigating bad things going on {4643|4644} in the camps, and that’s a proof of a fact that the Nazis cared about the people in those camps. Remember, we read part of the evidence that Dr. Morgen gave at the International Military Tribunal where he said that he got wind of extermination camps at Lublin and at Auschwitz and he went to investigate, and the Kommandants of those camps told him about those exterminations and he could not investigate; he was prevented from doing that. How could he charge, he asked, the Head of State, Hitler, who gave the order for those camps? Does that show in here? It does not. That’s misleading. It’s for you to decide. Did Dr. Faurisson tell you the whole truth about Dr. Morgen, or S.S. Judge Morgen, when he quoted from Morgen? No, ladies and gentlemen, he didn’t.

Next we have Dr. Russell Barton. Dr. Barton, I would suggest to you, is an honest man. He described things as he saw them as well as he could. His comments were that he felt the Nazis were criminally negligent, to my recollection. You will be guided by your recollection. The Nazis were criminally negligent, that they had a camp for some three thousand, that fifty or sixty thousand people were moved into that camp, and the leadership, the Nazis, ignored them, didn’t feed them, didn’t care for them, housed {4644|4645} them in the most incredible filth and squalor – guaranteed disease and death. And that’s what they got. He said that he checked the food records and the supplies to see that in 1944 the camps were pretty well maintained. Well, in cross-examination, when I asked Dr. Barton whether, in fact, the camp had been used to fatten up people before sending them to the west in exchange for other prisoners, he said he wasn’t sure about exchanging prisoners. But in fact, people were going from Bergen-Belsen to the west, and they were fattening up. Sure they were well-fed because that is the condition that prevailed throughout the whole of the concentration camps ... That’s not the evidence.

Dr. Barton also gave evidence of what constituted brainwashing, mass hysteria, neither of which, he said, would have a lasting impact. Very short-term mental condition. They certainly would not have lasted into the fifties and sixties, he said, when the Germans were still trying war criminals. People were still getting up and testifying – when I say people, I should say Nazis got up and testified about what went on in those camps.

Dr. Barton concluded by saying that he was not brainwashed, and he believed that millions of Jews died at the hands of the Nazis. He couldn’t say that they were {4645|4646} all deliberately killed. There is no doubt that they were killed.

Now we come to one enormous lie. Take a look at these fake photographs near the picture where it says, “Healthy and cheerful inmates released from Dachau”.

It says:

*“The extreme conditions at Belsen applied to very few camps indeed; the great majority escaped the worst difficulties and all their inmates survived in good health.”*

You saw the movie, “Nazi Concentration Camps” – not just Bergen-Belsen, not just of Dachau. There were nine, ten camps mentioned there from all over Germany.

You saw the pictures – Ma[u]thausen, Arnstadt (?), Brezeczna (?). Were the people that you saw, the inmates that you saw in that movie in good health? That’s a lie.

— The jury retires. 11:30 a.m..

— Short adjournment.

——— {4646|4647}

— The jury enters. 11:45 a.m.

THE COURT: Yes, Mr. Griffiths.

MR. GRIFFITHS: Ladies and gentlemen, the next chapter in Exhibit 1 is on the Red Cross, and together we have looked up in each of the various references here, and I’d suggest that we found things are left out, that the references were misleading, that at least in one case

where they said that the Red Cross “found no evidence whatever at the camps in Axis-occupied Europe of a deliberate policy to exterminate the Jews”, that is a deliberate lie. Mr. Zundel admitted that that was false. The truth is contained in those documents, the books. You will have those with you in the jury room as well as photocopies of those areas where Sergeant Luby read from. Mr. Zundel did say that he had an honest belief, however, that what was contained here on the Red Cross was true, and that his honest belief was based on this report, Red Cross, German concentration camps from 1939 to 1945, what’s published in Geneva in 1945, one thin volume. And very clearly, in here, is reference to a three-volume report from 1948. So we are looking at two different things. Consider that when you consider the honesty of his belief. I won’t say any {4647|4648} more about the Red Cross Report other than that in this pamphlet is totally false what’s reported.

The final chapter deals with, “The Truth At Last”, the work of Paul Rassinier. Paul Rassinier, you will recall the evidence of Dr. Faurisson, when he was called a man who had made common cause with the Nazis in the sixties, he sued the man who said that for libel and lost. He was a man who made common cause with the Nazis because work has to be viewed in that light not in the light, I would suggest, that it’s presented here, that he was an anti-Nazi. It’s what it says here.

Dr. Hilberg refers to the fun that Paul Rassinier has with figures, and I’d suggest to you that is certainly how he misrepresented Dr. Hilberg’s own figures. He says he attributes to Dr. Hilberg something over four hundred thousand, I believe, dead. That’s all right. Eight hundred and ninety-six thousand, eight hundred and ninety-two. That’s the figure he gives. Dr. Hilberg says that’s absurd. He never wrote that anywhere. His figure is 5.1 million.

There’s quotations about reparation, compensation with Israel. He said that Germany had to pay to Israel sums which are calculated on six million dead. {4648|4649} Well, even Dr. Faurisson told you that wasn’t true, but that’s represented in here as “The Truth At Last”. “The Truth At Last Exposed” it says on the outside, and the chapter heading, “The Truth At Last: The Work of Paul Rassinier”. Well, it’s not the truth.

In the conclusion, the last page of the article here, reference is made to figures of the International Red Cross, “which put the loss of victims of persecution because of politics, race or religion who died in prisons and concentration camps between 1939 and 1945 at 300,000, not all of whom were Jews, and this figure seems the most accurate assessment.” Well, you heard from Mr. Rene de Grace, of our own Canadian Red Cross, who told you there was a bulletin he received from the International Committee of the Red Cross in the normal course of their business, and that that bulletin says, “Consequently, the International Committee of the Red Cross considers it must make clear that it has never published or even compiled statistics of this kind which are being attributed to it. The work of the ICRC is to help war victims, not to count them. In any case, how could its delegates have obtained data for such statistics? They were able to enter only a few concentration camps, and then only in the final days {4649|4650} of the war.” The figure attributed in the Red Cross is not their figure. It’s a lie. If that figure is based on anything, it would seem that it may be based on the International Tracing Service.

Mr. Zundel said that he had some correspondence with the International Tracing Service. Dr. Faurisson referred to the International Tracing Service – through the revisionist archives – they were twisting the figures, misusing them – but that seems to be their source for saying three hundred thousand died.

Now, Mr. Zundel put into evidence reports in French from the International Tracing Service in Arolsen. Part of that report is translated for you. It’s a 1978 report. The sum of three hundred and sixty-one thousand deaths are indicated here. I will read it to you:

*“The number of deaths that occurred in concentration camps and which were registered by other registrar offices amounts to 90,368. This means that all in all 361,652 deaths that have occurred in concentration camps have been registered. This number does not allow for an evaluation of the total number of deaths that have {4650|4651} occurred in the concentration camps. During the War, only a fraction of*

*the deaths that occurred in the concentration camps were registered. Due to the hostilities or due to a deliberate destruction on the part of the SS, only a small portion of these registrations, even, has been retained, and only a small portion of these last-mentioned registrations went to the ITS."*

Is that an 'accurate figure? It's a lie. The figure is absurdly different from that given to you by Dr. Hilberg that he checked and re-checked with documents. Three million died in the camps, he said, from starvation, disease, brutality and, yes, gassing. 1.4 million were shot by the Einsatzgruppen, and the remainder died from starvation and the appalling conditions in the Ghettos.

We have gone through each of these chapters. These are all the supports that are being put forward by this author in support of his overall thesis that we talked about at the beginning, that this is a hoax. I ask you, ladies and gentlemen, how could such a conspiracy that gouged reparations out of Germany exist in Wartime {4651|4652} Europe? You'd have to know that the Germans are going to lose the War. Dr. Vrba escaped and submitted his report to his nation, and eventually it found its way into the West in April of 1944, before D-Day. How would you know the Germans are going to lose the War? How would you know the Germans are going to make an offer to open discussions for reparations? How do you know there was going to be a State of Israel? It wasn't established till 1948. How can you guarantee the silence of the supposed six million victims? You never have the so-called survivors ever see the victims again. Families separated forever for thirty pieces of silver. You have to gain the co-operation of governments, because governments would have to be involved in this conspiracy, in this cover-up – and the researchers and archivists like Dr. Hilberg to forge the necessary German documents and, in the process, they'd have to forget to forge the order from Hitler. It is a patent absurdity. It is a patent absurdity. That pamphlet is a web of lies and deceit from beginning to end. Anybody who expends as much time, I would suggest to you, as Ernst Zundel has spent, studied in this matter, would know that.

"Did Six Million Really Die? The Truth At Last Exposed". Well, something was exposed all right, {4652|4653} but it wasn't the truth. The article isn't controversial. It's a fraud. It's a blatant lie posing as the truth. It's cloaked and couched in academic terms with reference to books to make it look like the truth, make it look like a legitimate historical review in order to add credibility to that lie. But when you look at it you can see it as a lie.

So, was Ernst Zundel a casual reader who would look through this and say, "Gee, that looks like the truth to me; I believe that."? Did he believe it? Did he have an honest belief in the contents of that pamphlet? And that is the next part that the Crown has to prove, that Ernst Zundel knew it was false at the time that he published it.

Mr. Zundel has testified at length as to his honest belief in the truth of that article. He told you of his diligent research over twenty-five years consisting of reading, travelling, interviewing people. He said the purpose of that was to get at the truth of this matter. He testified about his pacifism. It is why he left Germany, he said, because they put him in the armed forces. He was a pacifist. He didn't want to do that. He testified to you about racial tolerance. He introduced well over a {4653|4654} hundred exhibits of books and articles and photographs which, he said, he relied on in formulating his honest belief. That wasn't the whole truth, was it? What did he rely on?

Ditlieb Felderer is the mainstay of his belief. There is a mainstay if there ever was one, Mr. Felderer, whose obsession with Auschwitz took him back there many times, some thirty years after Auschwitz had ceased to be a concentration camp. He fed his obsession with thirty thousand slides. You heard his evidence and you heard the filth that he prints and the racist material, and you have that in evidence, too. This man is not a colourful eccentric, Ditlieb Felderer. He is a totally untrustworthy racist witness.

Mr. Zundel relied on Dr. Faurisson. Dr. Faurisson is a frustrated academic who has spent twenty five years concerning himself with disproving the existence of gas chambers. I asked him if even one, even

one of the handful of Zunderkommando, [Sonderkommando] that group that worked inside the crematorium, if one of them who survived the Holocaust agreed with the description of a gas chamber. He said no, not one. Who is dealing with fantasy here?

Mr. Zundel relied on Dr. Charles Weber, Dr. {4654|4655} Weber from Tulsa, Oklahoma, who didn't even finish his book. He relied on Dr. Lindsay. We talked about Dr. Lindsay. I suggest he tried to deceive you.

He relied on Udo Walendy, Udo Walendy who can say that documents that support the Holocaust are forged, although he has no qualifications as a document examiner whatsoever. He can say those documents were forged, and that they should not be relied on – they should be ignored – although he was prepared to rely on a newspaper report of a Red Cross Report of concentration camp deaths without ever seeing the actual report. Some researcher. Some historian. This is as pathetic a band of crazies and misfits, frustrated men, as have ever graced a courtroom, I suggest to you. You saw them all. You draw your own conclusions. Yet Mr. Zundel relied on each and everyone of them, and especially, he said, on Mr. Felderer, to establish his honest belief.

I am not suggesting to you for one single minute that Mr. Zundel is of a similar cast of mind. He is a very, very clever man. You saw him testify. You saw, I would suggest, the way in which he evaded answering questions. He is a clever man. He is not the colourful eccentric that Felderer is. He cannot be dismissed as someone who has a {4655|4656} goofy but honest belief. I'd suggest to you that the belief he expressed to you in the truth of Exhibit I is anything but honest. In fact I'd suggest to you he lied about that.

Mr. Christie said something very interesting yesterday and I tried to copy it down as quickly as I could. I hope I have it accurately. I think it bears repeating. He said the measure of a person's honesty is that if a person honestly believes, he will look at alternative sources. In approximately one hundred exhibits that Mr. Zundel introduced I'd suggest there is one alternate source drawn from what has been described as a hundred thousand books on the Holocaust and that's Dr. Vrba's book. Just one. Not a history book, not Raul Hilberg's book. There is not a single historian introduced in a history book, nor is there a single alternate source referred to in all of his evidence except Dr. Hilberg and his book, "Destruction of European Jews". And what did he do with Dr. Hilberg's book? He scanned it for inconsistencies. Is that what somebody who is honestly searching after the truth does, or is that what somebody does who is trying to bolster his own position?

In considering whether or not Mr. Zundel {4656|4657} honestly believed in the truth of Exhibit I I'd suggest that you are entitled to consider his evidence here and his other writings and any motives he may have in lying about his belief. And by that I mean, does he have a motive for denying the Holocaust? What's in it for Mr. Zundel to deny the Holocaust? Is it to his advantage to convince others that the Holocaust never happened? I'd suggest he does have several motives for denying the Holocaust. First, he hates Jews. I'd suggest he is a racist. He is a racist who is a determined defamer of the Jewish people. Not nice to say, but I have to say that. You will have in evidence the book, "The Hitler I've Loved & Why" by Christoff Friedrich, it says on the cover, and that is Mr. Zundel, published by White Power Publications. Look at that book. Look at what it says: "We loved him" – the "him" is Hitler – "because he removed our alien dominators and placed them back among their own kind." "Smiling faces in the Warsaw Ghetto. Jews were happy to be back among their own kind and to live according to their own laws." Open it anywhere. "We loved Hitler because he was a white man." "Inflation, the worst in history: Not 'Made in Germany, – Made in Israel! Germany's banks were owned and controlled by Jews." The racial 'enemy's' strategy: Divide and conquer! He tried {4657|4658} to cloak our body politic with 'choices'. Often, we found as many contending parties as there were candidates. Yet, we were one people with one choice to make: Whether to live or die. We chose life. We chose Adolph Hitler!"

He didn't write the copy. That is what he said. He supplied the pictures. He sold the book. He advertised the book. His publication, "Achtung!

Samisdat Truth Squad” – there’s the ad – “The Hitler We Loved & Why”. “This photo documentary tells the true and surprising story of Germany’s Hitler.”

In assessing a man’s honest belief you have to assess his cast of mind. What kind of a man is he?

Mr. Zundel can be a racist himself, privately, all he wants, but when he publishes the material, if it causes damage to a public interest and he knows that it’s false, then it becomes a concern of all of ours, the whole community, the poison spillover. Secondly, I’d suggest he has a motive, because he is a German living in exile from what he considers to be an occupation government. He has nothing but contempt and abuse for the West German government because it is not the government of the people. It had been a legitimate party of the people for twenty years before the occupying forces came in and it is now outlawed. What is that? {4658|4659} National Socialism. National Socialism – Nazis. He looks forward to a new government along the ideals of our fore-fathers, he says. “Forward Germans – the others have begun their retreat!”, he writes. “Everywhere in the world, Anglo-American style capitalism is on the way out. The old unnatural alliance of yesterday seems to be breaking up. New, natural power blocs, such as China, not based on money, tanks or rockets but on the power of work, threaten to put an end to the old “isms”. Germany’s time has come. At last the ideals of our fathers will be realized all over the world.” What ideals are those? “America’s power has come to an end. The Jewish world conspirators find themselves on the defensive and are only capable of noisy rear-guard action. European communism is shaky. There is ferment in Poland, Romania and in the Soviet Union. We will soon get our chance. We must hold our ground, wait for our turn and strike at the right moment. Do not despair! Nature and time are on our side![]”

Is that pacifist writing? I’d suggest to you that he will do or say whatever is necessary to bring about the change in government that he so desperately wants, while living in exile here in Canada, including distributing justice from the barrel of a gun. Momentary anger. Well, {4659|4660} you decide that. You read that over and remember his testimony today – Friday. What is the major stumbling block to the rehabilitation of National Socialism, of the Nazis? What is the major stumbling block? I’d suggest that it’s the Holocaust. So long as the greatest inhumanity man has ever done to man exists as a historical, accepted fact in the mind of man, the Nazis can never be rehabilitated. He must get rid of it. So he publishes this pamphlet replete with lies in order to get rid of it. He studied this, he says, for twenty-five years. He learned at the knee, figuratively-speaking, of Adrien Arcand. He was his protegee through the sixties for nine years, by his own admission. He studied this matter for twenty-five years. How could he not know that the pamphlet was full of falsehoods? And if he makes a little money while he goes about whitewashing the Nazi regime, well, that’s all gravy. Selling combat belt buckles “to symbolise your support for Aryan man”, selling “The Hitler We Loved & Why”, “Allied War Crimes”. Look at this. These are his mailings, the goods he has for sale. This man is not only clever, he is dangerous. Underneath the dimples I suggest is a ruthless and determined man, and briefly, on Thursday and Friday, during his cross-examination, you saw the true man, the mask slipped. {4660|4661}

Did he believe in the truth of Exhibit No. 1? I’d suggest to you he did not. He wanted to hurt his racial enemies, the Jews, and hasten the day when his exile would be over so he could return to Germany, a new Germany, with the ideals of his forefathers.

Just before I deal with the harm to the public, what this pamphlet does, I’d like to speak to you briefly about Exhibit No. 2, “West, War and Islam”. This pamphlet is written by Zundel himself, and the ideas expressed there are clearly his own, and he reveals himself, I would suggest, through them. When you are considering Mr. Zundel’s honest belief on Exhibit No. 1, one of the sources you might want to look at is Exhibit No. 2.

Doug Collins, the journalist from out west, Mr. Zundel’s own witness, testified that the western media has not purposely miseducated, misinformed those of us here in the west to instil hatred against the Islamic

peoples. He is an expert witness. He says it is not true. He says it’s also false that Zionists or Jews control western media. He is an expert witness, He’s travelled all over Canada with different media. Mr. Zundel says in one breath that when he refers to “the west”, he is referring to Europe and North America. In the next breath he says, “Well, when I was {4661|4662} talking about the west about media, I really only meant the United States.” Clearly, the CBC is a government-owned national broadcasting system. The BBC in England – government owned. The Globe and Mail. You have evidence that Kenneth Thomson, a newspaper magnate, Canadian, has newspapers all over the world. He is not Jewish. You have evidence of Robert Murdoch, the Australian newspaper tycoon who owns the Chicago Tribune and the London Times. So that’s false. I’d suggest if we were considering Mr. Zundel’s belief in those matters, if we are considering the truth is to accept the evidence of Mr. Collins, the expert witness.

Secret societies. Staff Sergeant Bassett testified, and he told you that the Rotary, the Lions, Kiwanis and the like are not cover organizations for the masons. That’s direct evidence. Even Mr. Zundel admits there is nothing wrong with Canadian masons. So I guess we are no longer in the west, either. There’s no lies, said Staff Sergeant Bassett, no duplicity, no assassination, no Jewish goals or masters. Indeed, judging from Mr. Zundel’s books, there aren’t even any secrets. Staff Sergeant Bassett is criti[c]ized here for not revealing recognition signals and secret handshakes that he swore on oath not to tell. And what did he swear that oath on? He said he swore {4662|4663} it on the Bible. Now, he swore an oath on the Bible. Doesn’t that bind him? Didn’t it bind him? Didn’t you believe him? What value does he place on an oath? Clearly, he places considerable value on an oath. And when giving evidence under oath, doesn’t that make his evidence that much more credible?

International bankers. You recall Mr. Burnett from the Royal Bank. I am not going to read all his testimony. Certainly he indicated that in his experience – he was general counsel for the Royal Bank and wide experience with international matters – Jews do not control international banking. And he certainly had no difficulty in saying that international bankers do not direct international communism. He had something to say about a lot of things, and I am sure you will recall it.

The article is false. Mr. Zundel, with his files – one file for greedy Jews, and one file for vicious Jews and one file for militant Jews – would have you believe that such a clever man as he believes this to be true. Well, maybe his racism extends that far, or perhaps he is trying to make contact with Arab money to further his campaign on the attack on the Holocaust. Look on Exhibit 2. Interesting. The bottom of the third page, “Important books available {4663|4664} from Samisdat. Prices are in U.S. Dollars & include postage”. They are all books about the Holocaust. He is getting his airing with the Arabs, giving him money for his work – making a movie. So much the better. Nothing ventured, nothing gained. What does he care about the Arabs, really? What does he care about the Arabs? They are not Aryans. They will surely play no part in the final victory. How is Aryan man faring on planet earth? What are his prospects for the future? He does not wish to become enslaved or extinct. What can he do? Ernst Zundel points unerringly to the bright sunlight of Aryan victory and shows us what we can do right now to make certain our final victory. Are those pacifist words? They play no part in the final victory of Aryan men except to help finance him in his battles.

Mr. Zundel stated his reason for publishing this tract was that he wanted to bring peace to the troubled mid-East. It will be a lot easier to believe that stated reason for publishing that if the attacks in Exhibit 2 on Jews were not so virulent. Presumably, the Israelis would read his press releases and they might not find them very calming if he was expressing them in the same terms as he was expressing them in Exhibit 2 about International Zionist conspiracies. I wonder if he was wearing his combat belt {4664|4665} buckle when he was sending out those peaceful messages.

Finally, ladies and gentlemen, the final question has to be answered, and that is whether or not these two articles are harmful to a public

interest and social and racial tolerance. With respect to Exhibit 2, "West, War and Islam", it's clear, I would suggest. You read it, make up your own mind. But it's clear that the tract is racist in the extreme. It's the treatment of Jews. Anyone reading this article, believing it to be true – and there are statements there presented as the truth – anyone reading it couldn't help but loathe all Jews. How can we tell a good Jew from an evil Zionist? That clue wasn't given in there. In fact, Jews and Zionists are equated. We'd have to be suspicious of Jews in business, in their social life and in the community. You would see in all Jews world destroyers, conspirators bent on our destruction, bent on poverty, war, chaos, revolution. They are the source of all that's evil. Jews, you'd have to find, manipulate us. So all the evils of the world can be laid at their feet. That's the import of that, if we find – you read it – the statements are true ... Doesn't that create intolerance in the community? If such a group actually existed in our society we wouldn't be writing press releases. We wouldn't {4665|4666} tolerate it. We'd drive the Jews relentlessly from our midst. We would even try to annihilate them. That's the impact of that, of public interest – disharmony.

What about "Did Six Million Really Die?" What harm is there in that publication? No bad words used, as Doug Collins says. So where's the harm? Just a discussion of historical events. What are we doing here? It calls all the victims of the Holocaust and all of the survivors liars, cheats and frauds. If Jews lie about this, you cannot trust them about anything. How can you have tolerance for such a deceitful group as is presented in Exhibit No. 1? You would have contempt for someone who would cash in on his birthright, sell his parents off to Russia so he can collect the reparations. That is what you are being told is done here. You could never have tolerance for them. And how would a Jew feel reading this? How would Arnold Friedman, who lost his parents, feel, his brothers and his sisters? How about Henry Leader, how would he feel, the sole survivor of his entire family? Dennis Urstein who saw his own parents arrive and be selected and taken to the gas chamber, how does Dennis Urstein feel reading this? In calling the racist murder by the Nazis of the Jews an invention, the article denies the Jews the inhuman fate which {4666|4667} they have suffered on account of their origin. Such an article spits on the memories of their loved ones and denies them ever again the personal dignity of their grief. The unbelievable sufferings of the remnants of the survivors, the indescribable grief of those who mourn their dead and the memory of the millions, the millions who were brutally done to death demand that the truth of that era shall ever prevail, not to rub it in the faces of modern Germans – this isn't a case between, really, Germans and Jews; it's a case involving all of us. It's to ensure that we, as a civilization, never go down that terrible road again. Above all, for the memory of those who perished, the anguish of those who survived, for the enlightenment of those to come, the attempted falsification of the truth of that tragic era must not be allowed to go unchallenged. Today it's the Jews who are slandered. Well, it could be the Catholics, the Frenchmen, or the blacks, or me. We can't hide our heads and hope the problem of racism and intolerance in our society will go away. We have to meet the challenge squarely. And where, as I would suggest to you, is the case here, all the elements of a criminal charge are proven beyond a reasonable doubt, we have to have the courage to convict.

I ask you to convict Ernst Zundel on both {4667|4668} counts. Thank you.

\_\_\_\_\_  
Certified correct to the best of my skill and ability.

C.S.R.

CARMEN OAKE

OFFICIAL COURT REPORTER {4668|1}

## IN THE DISTRICT COURT OF ONTARIO

BETWEEN:

HER MAJESTY THE QUEEN

- and -

ERNST ZUNDEL

— CHARGE TO THE JURY —

BEFORE: THE HONOURABLE JUDGE H.R. LOCKE.

### APPEARANCES:

P. GRIFFITHS, Esq., for the Crown

D. CHRISTIE, Esq., for the accused.

The County Courthouse,  
Toronto, Ontario.  
February 26 & 27, 1985. {1|2}

### CHARGE TO THE JURY

— The jury enters. 2:25 p.m.

THE COURT: Members of the jury, in every criminal trial, evidence is the raw material. From it you base your verdict. Evidence comes to you under oath from the witness stand. It further comes to you in the form of exhibits which are sworn to and then admitted into evidence.

As judges of the facts you hear that evidence and you will read the exhibits, if you wish to do so. From that you and you alone decide what, if anything, you will take and make into a fact. That is why you are judges of the facts. The facts form the basis of your verdict.

You have been in the best position to have seen witnesses as they testified, to have watched their demeanour as they testified, and to have listened carefully, as you have, to every word uttered by any witness who stood in the witness stand. In that way, consciously or not, you have been assessing the weight, if any, that you will accord to the evidence of any witness who has testified throughout the whole trial.

You, as judges, may accept all, part or none of what any witness has had to say. In a {2|3} similar fashion it is open to you to accept all, part or none of any exhibit that has been admitted into this trial. Every accused in this country in every criminal trial, in the past, at the present time, and certainly in the future, is entitled as of right to be tried solely and only upon the evidence that has been led in this courtroom or in any other courtroom at the trial of the offence. You must, therefore, banish from your minds any prejudice for or against the accused, or for or against the Crown.

As judges you must approach your duties and your task with a totally open mind and be prepared to render a verdict only upon the evidence you have heard and nothing else. Please banish from your minds anything that you have heard, read or seen anywhere – in the halls of this building, outside the building, through the media or from any other source.

The indictment reads as follows, Count 1:

*"ERNST ZUNDEL stands charged that he, during the year 1980, at the Municipality of Metropolitan Toronto {3|4} in the Judicial District of York, did publish a statement or tale that he knows is false, namely the article 'The West, War and Islam', and the said article is likely to cause mischief to the public interest in social and racial tolerance, contrary to the Criminal Code."*

Count 2:

*"ERNST ZUNDEL stands further charged that he, in or about the year 1981, at the Municipality of Metropolitan Toronto in the Judicial District of York, did publish a statement or tale, namely "Did Six Million Really Die?" that he knows is false and that is likely to cause mischief to the public interest in social and racial tolerance, contrary to the Criminal Code."*

There has been reference to the "Did Six Million Really Die?" as count number one, {4|5} and "The West, War and Islam" as count number two. To save much time and words, regardless of how I read them, I intend to refer to "Did Six Million Really Die?" as count number one, and "The West, War and Islam" as number two, because that is the



way they came in as exhibits. To constantly harp back to the difference would take up too much time.

The word "indictment" sounds imposing. It should not. An indictment is a piece of paper upon which is written in plain English the charges that Mr. Zundel faces. The word "count" is just another word for a charge, and they are interchangeable. I am the judge of the law. You must accept the law as I give it to you. My duty is to instruct you as to the law. As I said before, I will do the very best I can to help you to apply the law to the facts as you shall find them. If I am wrong in what I say to you or fail to say to you now, rest assured that I can be quickly corrected elsewhere.

When you retire to your jury room please select from your number someone who will chair your deliberations, ask any questions that you may have of the court, and announce your verdict when that time {5|6} arrives. Please also consider the totality of what I say to you now, resist the temptation to zero in on a certain portion of what I am saying.

After you have retired to consider your verdict I will call upon counsel to make comment on what I am saying to you now, or on what I inadvertently may have left out of this charge. Depending on the view that I take of what I hear, I may have to call you back to correct something I inadvertently said, or to add something, that I inadvertently did not say. In the result, you can see the importance of considering everything I say, and not just part.

I am entitled, if I wish to do so, to make comment upon the evidence that has been led here. You have already heard from each counsel, both for the Crown and for the defence, as to the view that each suggests you take of the evidence that you have heard. In a similar fashion, I have the same right if I choose to exercise it.

Let me say this to you, however. If what you heard from either counsel for the accused or counsel for the Crown in their respective closing addresses is acceptable to you, then you are perfectly {6|7} free to accept it and to act upon it. You are equally free to reject all or part of what each of counsel for the accused and for the Crown has said to you. In a similar fashion, exactly the same thing applies to me. You may accept my views of the evidence as to what I say about it or not as you shall decide.

If you should disagree with what counsel have said to you or with what I may say to you concerning the evidence, then not only do you have a perfect right to disagree, indeed you are duty bound to follow your own view of the evidence, not mine and not counsel's.

You are in great reality the supreme judges of the facts. I am not a judge of the facts and counsel are not. You are. You have each been very attentive over the last seven weeks to the evidence that has been led.

Members of the jury, under no circumstances are you, as jurors, permitted to consider the question of punishment or sentence in the event of a conviction. That matter is not within the realm of your responsibility. You must not consider that at all. Your responsibility, according to the oath that you have {7|8} each taken, is to render a verdict on the evidence that you heard in this courtroom concerning the two charges that Mr. Zundel faces.

Your verdict must be an individual verdict. In order to return a verdict it is necessary that each of the twelve of you agree to that verdict. You do have the right to disagree. I should say to you that it is the hope of all here present that you do not disagree.

In all criminal cases, including this case, the accused is presumed to be innocent until the Crown has proven him guilty on each count. It is not for the accused to prove innocence. It is for the Crown to prove guilt.

The burden is upon the Crown to prove the guilt of the accused beyond a reasonable doubt. That burden starts at the beginning of the trial. It remains throughout the whole of the trial. That burden never shifts away from the Crown. It remains upon the Crown from the beginning until the end of the trial.

If the Crown fails to prove guilt beyond a reasonable doubt, or if there is a reasonable doubt about that, then you are obliged, as a matter of {8|9} law, to return a verdict of not guilty with respect to either or both

counts as you shall decide.

Proof beyond a reasonable doubt, members of the jury, does not mean proof beyond any possible or imaginary doubt. Proof beyond a reasonable doubt is when each one of you, as jurors, is assured of the guilt of the accused upon the evidence that you have heard. It is that degree of proof which convinces each one of you that the Crown has satisfied your conscience, and as conscientious [sic] jurors you each feel duty bound to act upon it.

Let me say that again. Proof beyond a reasonable doubt does not mean proof beyond any possible or imaginary doubt. Proof beyond a reasonable doubt is when each of you, as jurors, feels assured of the guilt of the accused according to the evidence that you each have heard. It is that degree of proof which convinces each of you that the Crown has satisfied your conscience, and as conscientious [sic] jurors you feel duty bound to act upon it.

In the course of your deliberations you will be reviewing evidence; you will be discussing the evidence. In that process, consciously or not, you {9|10} will be drawing inferences. An inference is the same thing as a deduction. Those two words are interchangeable. You may draw an inference from the evidence that you have heard or make a deduction, if you will agree to do so. If, on all the facts, you agree, then you can make that inference, draw the deduction, or the other way around.

On the other hand, if it is not an agreed inference among all of you or each of you, then you do not draw the inference, you do not make the deduction; you go on to consider the other evidence that has been led throughout the whole of the trial. That is the method by which most human beings go about making decisions on what they have heard under oath. I am sure that is what you will follow.

In this case, as in most criminal cases, the Crown is obliged to prove, again beyond a reasonable doubt, an important ingredient known as intent. The Latin for "intent" is "*mens rea*". When that is translated back into English it means simply a guilty mind. That is the simple English meaning.

The Crown must prove that in the Municipality of Metropolitan Toronto in the Judicial {10|11} District of York, in or about the year 1981, Ernst Zundel, the accused, with that guilty mind amounting to a crime, published the two articles: Exhibit 1, "Did Six Million Really Die?", and Exhibit 2, "The West, War and Islam".

If the Crown has failed to prove that intent on the evidence you have heard, or if there is any reasonable doubt about that, then you will please return a verdict of not guilty at that very moment. That will be so because you will have found that the Crown has failed to prove beyond a reasonable doubt, the standard that I have given, that criminal intent. If you find a reasonable doubt, you will still return that verdict about either or both counts, as you shall decide.

It is quite impossible to cut off the top of a person's head to peer inside to see what, if any, intent existed at the time. That cannot be done. It is, therefore, a matter of necessity that you have regard to all of the surrounding evidence and circumstances that you have heard over the last seven weeks in order to conclude whether or not that intent existed. That is the method by which you are obliged to proceed. {11|12}

You may proceed, if I can be of assistance to you, on an inference of common sense. That inference is this: What a person does is usually what that person intends. A person intends, usually, the natural consequences of his or her acts. When you are weighing the evidence, I respectfully suggest to you that you bear that common sense inference in mind, when you apply it to all of the evidence and when you consider all of the evidence, as I am sure you will.

I repeat that you may believe everything a witness has said. You may totally disbelieve everything a witness has said. You may accept parts of what a witness says and reject others. That is within your jurisdiction; it is within your power. That is really how one goes about arriving at a verdict.

When you are discussing the evidence of any witness, please bear in mind that small discrepancies appear in testimony. They are unimportant usually. Falsehoods, of course, are very, very serious. Here are but some questions that you might ask yourselves during the course of



your deliberations:

Did the witness have a full opportunity of learning the truth in the circumstances as the witness {12|13} testified?

Does the witness have a motive or a reason for favouring one side or the other?

Does the witness have an interest in the outcome of this case?

What is the state of memory of the witness?

What is your view of the demeanour and the way the witness testified?

One of the counsel pointed out, quite correctly, that in this country, every day, we all have to make decisions. We make them at home; we make them in the car; we make them at the office; we make them on a host of subjects. Those decisions are based on common sense. If they were not, you would not be here. All you are asked to do, members of the jury, in this case, is to use your God-given common sense and to apply it to the evidence that you have heard throughout the whole of this case.

The two charges that face Mr. Zundel are contained in the Criminal Code. The Criminal Code is a statute passed by the Parliament of Canada. It codifies our criminal law. That Code applies to every {13|14} citizen in this country, every person in this country from Newfoundland to British Columbia. Certainly it applies in this Province.

Section 177 of the Criminal Code reads as follows:

*"Everyone who wilfully publishes a statement, tale or news that he knows is false and that causes or is likely to cause injury or mischief to a public interest is guilty of an indictable offence".*

You should know, members of the jury, that this offence is placed in the Criminal Code right after s.176. Section 176 is the first section that covers people who are charged with being a common nuisance. That is where s. 177 resides on the hierarchy of crime as contained in the Criminal Code.

The Canadian Parliament placed that section in the Criminal Code for a reason. The purpose is to discourage those who deliberately and intentionally disseminate, by publishing, false news or statements into the community at large, thereby intending the actual or the likely result of creating community unrest. {14|15}

The Canadian community daily abounds with rumours, stories and gossip of every conceivable stripe. Some is based on fact; some is not. From a multitude of sources there comes a daily avalanche of stories, opinions, rumours, pure gossip, learned fact, some true and some less so. This has occurred for so long and with such repetition that almost automatically most pass unnoticed and unchallenged in our free society.

There comes a rare occasion, however, when the criminal justice system in Canada examines what has been written or said. The purpose is to investigate whether what has been published amounts to a crime against the community as a whole according to the Criminal Code. That, members of the jury, is why you are here.

There is nothing in the wording of s.177 that I perceive that in any way prohibits freedom of speech. That section, as I view it, is not intended to prohibit either back-fence gossip about who did what and with whom, or to stifle vigorous dissent on legitimate issues on the affairs of Canadian citizens who strive to improve the quality of life in an imperfect world.

On the other hand, the law recognizes {15|16} that nobody has the unbridled right to say anything one feels like saying and put it under the heading of free speech. No one, for example, has the right to yell, "Fire", in a crowded movie theatre when there is no fire.

This section, quite properly, is designed to eliminate from the Canadian community the evil of false statements and news published for the purpose of creating mischief in the form of social unrest stirred up by racial intolerance. This section seeks to avoid acts or publications which create community unrest that are held to be so by juries of this country as you are.

The Crown must prove a number of elements. All must be proven beyond a reasonable doubt. There is no burden on the accused to prove a thing. The burden of proof remains upon the Crown from the beginning to the end of the trial. If, at the end of the evidence, the addresses

of counsel and my charge you each conclude that the Crown has failed to prove each element that it must prove, which I will mention in a moment, or if you are left in reasonable doubt, then you must return a verdict of not guilty with {16|17} respect to either or both counts in this indictment.

On the other hand, if after you have considered the total evidence, the addresses of counsel and my charge, you conclude that the Crown has proven the guilt of the accused beyond a reasonable doubt, you may return a verdict of guilty to either or both of the two counts, again as you each shall decide.

Primarily, the Crown must prove that Ernst Zundel published "The West, War and Islam", and "Did Six Million Really Die?". Secondly, the Crown must prove that the contents of each of the two exhibits, in their essentials, are false – that is to say, essentially untrue.

The Crown must further prove that the accused wilfully published each exhibit, if you find that he did, and that at the time he published, he knew the essential contents of each to be false – that is to say, essentially untrue.

To reach a verdict with respect to each count you must carefully examine all of the evidence and apply that evidence separately as you shall decide to each of the two counts.

To publish is to announce. To {17|18} publish is to print and offer for sale, especially in the form of a book, magazine, article or essay. To publish is to make something known for all to see.

Mr. Zundel, through counsel, has admitted that he published Exhibit No. 1, "Did Six Million Really Die?". He has admitted writing "The West, War and Islam". He has not specifically admitted publishing "The West, War and Islam". You will decide whether or not the Crown has proven that he did.

While it is for you and no one else to say, it seems to me that you should have little difficulty in finding that Mr. Zundel published both exhibits. That is especially so when you consider the evidence, as I recall it – and it is your recall, members of the jury, and not mine, that is all important – as I recall the evidence Mr. Zundel admitted that he published or that he wrote and sent about twelve hundred copies of "The West, War and Islam" to the Middle East.

In your perusal of that document, if you will look at the bottom, you will see what appears to me, at least, to be a solicitation for money, the offer for sale of other writings, a signature which purports to be Ernst Zundel, and an address, "Samisdat {18|19} Publishers Ltd., 206 Carlton Street, Toronto, Ontario, Canada", and a telephone number.

The Crown, however, must prove that. If you find that the Crown has not proved that publication of "The West, War and Islam", then at that very point you return a verdict of not guilty, because the Crown will have failed to prove the first leg of the requirement.

The Crown must prove the wilful publication of each exhibit. To publish something wilfully is to publish it freely, voluntarily, intending the result of one's intentional design. A wilful act of publishing, in the criminal sense, may be described as making something known intentionally, knowingly and purposely without justification or excuse.

The wilful act of doing something is distinguished from an act done carelessly [sic], thoughtlessly or accidentally. The Criminal Code has something to say about the word "wilfully". I will read s.386, in part:

*"Everyone who causes the occurrence of an event by doing an act or by omitting to do an act that it is his {19|20} duty to do, knowing that the act or omission will probably cause the occurrence of the event and being reckless whether the event occurs or not, shall be deemed, for the purposes of this Part, wilfully to have caused the occurrence of the event."*

I will read that again:

*"Everyone who causes the occurrence of an event by doing an act or by omitting to do an act that it is his duty to do, knowing that the act the or omission will probably cause occurrence of the event and being reckless whether the event occurs or not, shall be deemed, for the purposes of this Part, wilfully to have caused the occurrence of the event."*

A wilful act, members of the jury, is done by design without regard for

the rights of others, in a reckless manner, with a disregard for the consequences, and with indifference to the natural and {20|21} probably consequences.

The word "mischief" has long been used in our law. Mischief is something meaning an evil or a danger to the general community. Mischief is a harm or an injury. Mischief is something which is designed to cause annoyance or distress to others.

The Crown represents the total community at large. The Crown does not represent one segment of the community. Mr. Griffiths, in his capacity as Crown counsel here does not represent one group; he represents the total community in the same way that a counsel for the accused represents the accused and is duty-bound, as an officer of this Court, to ensure that the accused obtains a fair trial according to law.

To tolerate means to put up with, to permit, to let be without interference. Tolerance is a willingness to bear with others, especially with those whose views differ from one's own. "To tolerate" is "to forbear".

When the indictment accompanies you to your jury room you will see that the last two lines of it read as follows:

*"... and the said article is likely {21|22} to cause mischief to the public interest in social and racial tolerance, contrary to the Criminal Code."*

On the total evidence led throughout the whole of the trial from the beginning to the end, you each must be satisfied that the Crown has proven that the actual result, or the likely or probably result, either one but not both, of each publication is community unrest stirred up by racial intolerance on the part of some segments of the community at large.

Again, when I refer to the community at large, I mean the Canadian community at large containing people of all racial and religious persuasions.

It is not sufficient that either or both Exhibits 1 and 2 be merely ill-advised, stupid, in bad taste, bigoted or disagreeable. The Crown must prove on the evidence led throughout the whole trial that Mr. Zundel, at the time he published either or both of the two exhibits, did not have an honest belief in the essential truth of each.

I hasten to point out, members of the jury, that because a person says that he or she {22|23} possessed an honest belief in the truth of something does not necessarily make it so. Regard must be had by each of you, as jurors in this case, to what really, if anything, formed the basis of the honest belief of the essential parts of each exhibit, on the evidence that has been heard, that Mr. Zundel said he had.

This trial has consumed seven weeks. Before I proceed to indicate part of what this trial had to say in seven weeks, I think it is time you had an adjournment. Ten minutes.

— The jury retires. 3:00 p.m.

— Short adjournment.

— Upon resuming.

— The jury returns. 3:30 p.m.

THE COURT: Members of the jury, as I was about to say just prior to the break, this trial has consumed seven weeks. In that time you have heard questions put and answers given by witnesses concerning the circumstances of how prisoners were transported to concentration camps. {23|24}

There has been much evidence on the daily life as it was seen by some who were there in those camps. You have heard questions and answers concerning the location and the number of crematoria chimneys, the existence and location in certain camps of gas chambers, whether they existed at all, and whether they were used to delouse clothing or to kill people, or both.

There has been evidence as to the location and the use put to rail sidings at Auschwitz Birkenau. You have heard evidence concerning the regularity of the arrival of trains, whether they carried prisoners, how many prisoners they carried.

There has been evidence concerning the selection process, if one existed, of those people who were taken from the trains, what happened to their possessions and clothing, what happened to the people themselves.

The type of smoke, if any, emanating from crematoria chimneys, its smell, its density has been the subject of much evidence. You have heard evidence concerning the use of hydrogen cyanide, known as Zyklon-B gas, and whether it was employed to kill {24|25} people or to delouse clothing and at what camps that occurred.

You have heard evidence concerning the existence of Einsatzgruppen, said to have been German S.S. units sent out into the field in regiments or battalions to kill people as the German Army advanced easterly into Russia.

Whether a verbal or written order ever existed, and if it did, was it ever given by Hitler, Himmler or some other high Nazi official to exterminate Jews has been the subject of much comment in the evidence.

You have heard questions put and answers given to all of these subjects and others that I do not repeat here. Please, for the moment, put aside the mountain of evidence that you have heard on these and other subjects. Focus your attention, if you will, for a moment on one or two truths about criminal trials in Canada.

A criminal trial is merely an investigation conducted according to certain fixed rules. The object is to decide whether or not the {25|26} accused, charged with certain specific offences, has been proven guilty by the Crown in any criminal case to have committed some, all or none of the offences with which an accused person stands charged.

I do not make those rules. I have the sworn obligation, however, to enforce them. Those rules have been created by our Parliament and by our common law over literally hundreds of years. Society protects itself in that way.

The rules of trial include the Crown being required to lead evidence to prove guilt of an accused. The same rules provide the defence with an opportunity to test the strength of the Crown's case through cross-examination. The defence has the right to call witnesses, if it decides to do so. All of these things have come to pass in this trial.

From the evidence tested by cross-examination each of you, as jurors, will find facts upon which your verdict will be based. Freedom of speech is not an issue that you are asked to decide in this trial. Our criminal courts do not exist for the purpose of conducting philosophical debates on how Canadians should be educated, what subjects should be {26|27} taught or not taught in our schools. These matters are decided in Parliament: they are decided in provincial legislatures, and they are decided by various provincial school boards.

Criminal trials are not platforms for the purpose of spreading the gospel which one side or the other holds dear to its heart. Your duty, members of the jury, is to decide whether or not, on all of the evidence that you have heard, Mr. Zundel wilfully published false statements knowing them to be false [sic] when he published them, if you find that he did.

There is evidence from witnesses who related how they, themselves, at least through their own eyes, were prosecuted and hounded by authorities in the United States, and perhaps elsewhere. This is not relevant to whether Mr. Zundel has been proven guilty of mischief for the reasons that I have just set out.

A witness testified of having been relieved of a teaching position in another province in Canada. Yet another witness who teaches feels frustrated by reason of being unable, or not being {27|28} permitted to teach from a book seized by the Minister of National Revenue for Canada.

Undoubtedly, those persons feel themselves legitimately aggrieved. That type of evidence is of little assistance to you, however, in deciding the issues that the Crown must prove here. Whether a witness likes or dislikes a trial being conducted is an opinion that any person in a democratic country has the right to say. It is, however, of little assistance when it comes right down to whether or not the Crown has discharged the burden of proof incumbent upon it in a case such as this.

A gentleman came here and related an experience of how he came to be a prisoner-of-war when, in the German Armed Forces, he was captured and sent to Canada after the outbreak of War in 1939.

This trial does not concern itself with what occurred to serving servicemen who were captured by the enemy in World War II on either side. This trial relates to what, if anything, happened to Jewish civilians who,

it is said, were rounded up, placed on trains and transported to concentration camps in Europe during World War II. {28|29}

While it is for you, members of the jury, it seems to me that the basic issues regarding both of these exhibits are clear:

Upon the total evidence led in this trial, are you each satisfied that the evidence discloses that Mr. Zundel published both exhibits; if he did, when he did so, he did it in a wilful manner as I have defined that word; and that he had, at the time he published, no honest belief in the essential truth of each.

If you conclude that the answer to any of these questions is no, or if you are left in any reasonable doubt concerning any of those questions, you will return a verdict of not guilty to either or both counts as you shall decide.

If, however, you conclude that the Crown has proven on the total evidence that the answer is yes to those questions, then you must go on to decide whether or not, on the same standard of proof, on the total evidence led, you are each satisfied that either or both exhibits would likely produce mischief in the form of racial intolerance in the Canadian community. {29|30}

You may conclude, if you decide to do so, that such mischief was likely, even if it did not come to pass. That is so because the section contains the word "likely".

The Crown is not required to prove that each and every portion of each statement made and published in each exhibit is false. The Crown need only prove that the essential elements of each are false.

The Crown is not required to prove that the danger to community unrest did, in fact, occur. However, the Crown is indeed required to prove, on the same standard, on the total evidence called, that such a danger would be likely, or the probable result.

I turn now to the issue of falsity. Exhibit 1, "Did Six Million Really Die?", contains thirty pages of the printed word. While it is for you to say and no one else, it seems to me that the introduction on page 4, and the paragraph under the heading, "Imaginary Slaughter", on page 26, summarize what is contained in the words and pictures within the other twenty some odd pages. {30|31}

Those two paragraphs read as follows:

*"In the following chapters the author has, he believes, brought together irrefutable evidence that the allegation that 6 million Jews died during the Second World War, as a direct result of official German policy of extermination, is utterly unfounded."*

And the next sentence:

*"A great deal of careful research into this question, however, has now convinced me beyond any doubt that the allegation is not merely an exaggeration but an invention of post-war propaganda."*

Again, it is for you and no one else to say, but it seems to me that the basic core of Exhibit 1 is that six million Jews did not die in the Second World War as a direct result of official German policy of extermination.

The exhibit goes on to say that the {31|32} intended extermination of Jews is an unfounded myth;

it is a brazen lie propagated by Zionists in order to collect money from Germany by way of compensation. The contents of the exhibit, if you agree, make it open to you to come to the conclusion that there was no Nazi German policy to exterminate the Jews of Europe; the myth of the dead six million is the creation of Jewish Zionists and others led at one time by one Goldman and one Ben Gurion in order to extract money in false compensation claims from the alleged victims, all from Germany.

Exhibit No. 2, "The West, War and Islam" contains the following paragraphs:

Under the heading of "The International Zionists":

*"The leadership of the West is heavily influenced and often dominated by a small minority of this alien political persuasion. Political and religious Zionism play a disproportionately large role in the West because of Zionists' domination of the mass media of information, {32|33} education and entertainment, the banking system, the secret societies and the world communist conspiracy. Zionists are aided and abetted by millions of brainwashed Christians who suffer from the previously mentioned distortions about the Islamic World and its peoples, whom they*

*believe mistakenly to be 'bad'."*

*"Ever since 1945, the Zionists and their hirelings have used this self-serving myth as a tool for the deception of the Western Christian masses."*

Under the heading of "The International Secret Societies":

*"Unknown to most people of the Islamic World is the tremendous power and influence exercised by Freemasonry and all its cover organizations like the Kiwanis, Rotary, Lions, etc. Most Western decision-makers, {33|34} politicians, economists and military officers are either members of a secret society or are dominated by such members. Any educated Moslem can recognise immediately the identity of Freemasonry with that of its secretive organisational predecessor, the Assassins. This is the same Satanic structure which we detect in Freemasonry: lies, secrecy, duplicity, infiltration and where necessary, assassination. That most Freemasons are unaware of the directors and direction of their secret organisation does not preclude their blind, unthinking support of this organisation and their obedience to its directives. The orientation and rituals of these secret societies of the West come directly from the Kabbala of the Babylonian Talmud. Their content is Jewish, their goals are Jewish and {34|35} their masters are Jewish. This explains the consistent support of Freemasonry for the goals and machinations of international Jewry, which also explains the Freemasons' consistent role in directing the advance of world crime, corruption, poverty, war, revolution, collapse and chaos from their high-ranking positions in the Western political, economic and military establishments. On behalf of the Zionists, the Gentile members of these secret societies have spread these plagues not only in the West, but throughout the entire world in which Western influence exists."*

*"The International Bankers":*

*"These men are the focal point for the dark forces arrayed against all mankind, for their control of the world's wealth directs and determines largely what is done or not done in {35|36} the world and whether what is done is good or evil. Judging from the state of the world today, there can be no doubt what these evil men are doing with the vast wealth we have put at their disposal. While the world bankers act in perfect harmony with the Talmud, they act in perfect defiance of the Koran, for their wealth is based on usury and thereby is acquired without honest, productive work. The Islamic nations are vulnerable to blackmail by the bankers who can devalue the money derived from oil earnings with the stroke of a pen, and who can bribe and browbeat governments into freezing or seizing Islamic assets. But the foremost evil concocted and directed by "the international bankers is international communism."*

Members of the jury, you will have {36|37} in your possession copies of Exhibit 1 and 2. Those portions that I have read seem to me to catch the substance of the contents and the message of each. That is, of course, for you to say and not for me.

The total evidence in this trial contains two divisions: The larger one relates to count one, "Did Six Million Really Die?", and the smaller one relates to "The West, War and Islam".

Both of these divisions include the evidence of witnesses who testified in person. Both include evidence of documents, photographs, maps, sketches, complete books and reports from books, and other evidence that I have not and do not intend to mention.

Whether testimony or evidence comes to you via the written word or the spoken word of a witness who testifies in person, you must treat all of that evidence just the same. Always remember that you may accept all, part or none of it, as you decide.

Trials usually concern themselves with the testimony of witnesses who stand in the witness box, are examined and then cross-examined under oath. Each relates what he heard, saw, smelled, or felt by {37|38} one or more of the human senses of sight, smell, touch and hearing. Their testimony, if you accept it, tends to prove a fact in issue in a direct manner.

In this trial much of this type of evidence has been called. The testimony of Mr. Friedman, Dr. Vrba, Ignaz Fulop, Chester Tomaszewski, [Tomaszewski] Mr. Urstein, Mr. Christopherson, Dr. Lindsey the the [sic] accused himself are all but examples of evidence coming from

witnesses who testified in person. Their evidence succeeds or not on the basis of what each said in the witness stand under oath.

Other witnesses introduced evidence in the form of the printed word. The contents of documents are now exhibits. They include, again, books, maps, photographs, sketches of many kinds. The subjects contained in those exhibits are all part of one or more issues that you will be asked to decide.

The paper exhibits, to varying degrees, concern themselves with the truth or the falsity of the contents of Exhibits 1 and 2. The way that each one of you, as jurors, however, proceeds to go about considering the contents of those exhibits is vitally important. I will return to that subject in a {38|39} moment. In the meantime let me, if I may, say a word about Exhibit No. 2, "The West, War and Islam".

Mr. Burnett swore that he was and is a banker. There is evidence in Exhibit 2, "The West, War and Islam", which makes reference to Masons and bankers. Each witness who testified in regard to count two gave evidence dealing with Masons and bankers, the objective of Masonry and the objectives of the banking business, the principles and objectives of each.

That evidence concerns whether or not Masons and bankers are Assassins and conspirators with Jewish Zionists, bent on destroying or enslaving Islamic peoples of this world. That evidence is before you. I am sure that you will consider it and examine it. It seems to me that you should have little difficulty with it.

Your duty is to decide whether or not, with respect to count number two, the accused published "The West, War and Islam". If you find that he did not, or if you are left in reasonable doubt, you will please acquit him on count number two. If you find that the Crown has proven that he did, you will {39|40} then go on to decide whether or not the contents of Exhibit 2 are essentially false as proven by the Crown; and then, if you find the accused published "The West, War and Islam", whether he knew at the time that he did so that its contents were false and that he wilfully published it with that knowledge.

The Crown must also prove, on all of the evidence, that the contents of "The West, War and Islam" would likely result in mischief to the community as I have already described that term.

Members of the jury, when I use the word "likely" in relation to counts one and two, I mean, in all probability. "Likely" means just that – in all probability.

On Thursday last, as I recall it, Mr. Zundel testified on his own behalf. Let me say at this point that you should treat the evidence of Mr. Zundel no differently than you treat the evidence of any other witness who testified throughout the whole of this trial. You can accept all, part or none of what any witness says who testified in the whole trial. That includes the evidence given by the accused. You can believe everything a witness says, part of what a {40|41} witness says, none of what a witness says.

In that regard there has been some evidence given by the accused himself that he was charged with some type of an offence in Germany. There is evidence that he was not convicted of that charge. In fact, as I recall his evidence, he indicated that that charge was not proceeded with.

You will please totally ignore the fact that he was charged. Certainly somebody being charged with something is no evidence at all. You will please ignore it and in no way directly or indirectly hold the fact that he was charged in any way against the interests of this accused.

You have heard evidence from other witnesses such as Mr. Felderer, as I recall the evidence – again, it is your recall and not mine – and Mr. Christopherson that each had sustained certain convictions not in this country.

Members of the jury, you can employ that evidence solely and only to weigh and test the credibility that you accord, if any, that you will give to the evidence of Mr. Felderer and Mr. Christopherson. That evidence of their convictions is to be employed by {41|42} you for that purpose and for that purpose only.

With respect to Mr. Zundel's testimony, as I recall his evidence he said that he has done some research on Freemasonry, but that subject was

somewhat peripheral with him. He said it was something of a hobby of his, in the same way as flying saucers was a hobby of his. It became a hobby.

He wrote about it when he became angry at seeing an advertisement in the German newspaper picturing a cartoon in the likeness of Hitler, Von Robbentrop [Ribbentrop], Hitler's Foreign Minister, Yasser Arafat and Neville Chamberlain, a Prime Minister of Great Britain.

They were pictured in a stance in an anti-war message which referred to six million Jews in the hope, in essence, that Europe would not be dragged into another tragic war by reason of American intervention, with America being obliged to, in the words as I understood them of Mr. Zundel, of having to face the dangers of war in the Middle East alone.

Mr. Zundel became angered by that advertisement that he said was inserted in German newspapers by four German Freemasons who were named and {42|43} who, as I recall the evidence, were also Jewish, saying it was unfair to compare Arafat to Hitler. The accused therefore decided to inform certain Arabs and Moslems in the Far East about the other side of the matter.

He mailed Exhibit 2, as he said, to about a thousand or twelve hundred people in the Middle East, including Pakistan. He then, as I understood his evidence, took the position that he considered himself sufficiently important that he really thought he could diffuse what he referred to as an inflamed political situation in the Middle East. His words, as I recorded them, were, "If they would help me financially, I was willing to be a vehicle for this."

Mr. Zundel said that he thought the world was drifting towards war in the Middle East. He thought those in the Middle East were getting only the Zionist side from German newspapers and German Masons who put the advertisement in the German newspapers. He thought that uninitiated readers could not really comprehend what was going on.

In the result, he wrote Exhibit 2. He wrote it quickly. He had to use sparse language due to airmail restrictions. He then said that Europe has a {43|44} long tradition of writing about the world of Masons. That is how Exhibit 2 came into existence.

Members of the jury, following the definition I have given you of "publishing", as I say, you should have little difficulty in finding that Mr. Zundel published Exhibit No. 2.

Mr. Zundel then proceeded to identify a number of books, periodicals and other writings upon which he said he based his belief that what he wrote about in Exhibit 2, "The West, War and Islam", was an honest writing. He referred to a number of books.

Among those referred to by Mr. Christie to the accused was a book on Freemasonry as it concerns the Vatican. You will find as an exhibit a Masonic medal. There is the book on the subject of how Jews controlled the media. By that he meant the ownership of such American newspapers based in New York, Chicago and Los Angeles. He identified a book that states that the Catholics are not allowed by their Church to join, to become Masons. He then identified other writings to the effect that Masons are linked to Satan, communism, and how certain Freemasons promote communism. {44|45}

He has compiled a file on Freemasonry from books, magazines that he has collected over the years, including transcripts of talks from the British Broadcasting Corporation. He said that these books show that bankers in the United States helped finance the Russian revolution.

Another book he has read convinced him that one can even buy justice. By that I took it that one can even bribe judges.

He said bankers are congenial people, they co-operate with one another all over the world; without Western money the Bolshevik Revolution could never have proceeded.

He testified regarding Exhibit 2. He gave his own views on how bankers in the West, including Canadian bankers, as I understood, conspired with Jews and Zionists to put down Islamic people and the Arab world.

On the other hand, members of the jury, let me say this. All of the contents of the books and periodicals that he identified, you must not take those books and periodicals and the content thereof as proof of the truth of their content. You did not hear {45|46} that evidence for that

purpose. That evidence, all these last approximate hundred exhibits, was led, and you were permitted to hear it and to consult it in your jury room if you wish to do so, so that you will be in a better position to give to the direct evidence that the accused gave concerning his honest belief in what he has read the weight, if any, that you feel should be accorded to his belief.

The Crown must prove, on the total evidence, that Mr. Zundel had no honest belief in the truth of the contents of Exhibit 2. The weight that you accord the evidence pertaining to the honest belief, if any, that you find existed is important. It is a vital issue you must decide. Therefore, the basis of that belief are these various reference books and the writings of other authors that have been referred to.

Remember, please, that there is no burden on the accused to prove anything. The Crown has to prove that he did not have an honest belief in the content of Exhibit 2 and, indeed, the contents of Exhibit No. 1. It is for you to decide on the total evidence whether Mr. Zundel wilfully published Exhibit 2 knowing the essential-truth of it to be false at the {46|47} time he published it, if you find that he did.

The bulk of the evidence called over the past weeks relates to Exhibit No. 1, "Did Six Million Really Die?". You should have no difficulty in concluding that the six million referred to Jews, in the main, who lived in Europe [sic] between 1933 and 1945. The place in which the question of their death occurred is all across Europe, from the English channel to Poland and south to the Turkish border. The time period is really between the years 1939 to 1945. The event is World War II.

At the risk of being repetitious, remind you that you must treat the evidence of expert witnesses no differently than you would treat the evidence of an ordinary witness. You may accept all, part or none of what any witness, including experts, have had to say in this trial.

A number of expert witnesses testified. One was a psychiatrist; one was a chemist; several were writers. Dr. Hilberg and Dr. Faurisson were qualified to give their opinions as historians. Those witnesses gave by far the largest volume of evidence of all of the experts. That is so because the issue of the proof {47|48} of the truth or the falsity of Exhibit No. 1 involves an event of history.

Most trials hear expert testimony on narrow subjects related in the main to other issues in those trials. For example, one who examines firearms and ballistics involving bullets and the like is permitted to give his or her opinion as to whether certain bullets came from a certain gun.

In this trial, however, the broad issue is not really scientific in nature. It involves an event of World War II. Consequently, historians were only permitted to testify and give their opinions within the borders of their expertise in respect of that field of history.

I remind you again that the opinions of experts are only opinions. You may accept all, part or none of those opinion's as you shall decide.

You have heard opinions on a number of subjects including the number of Jewish prisoners actually killed by different methods in all Nazi camps, whether or not gas chambers were used to do some of it, none of it or a lot of it, whether typhus or other diseases constituted the main cause of death rather than {48|49} other causes, whether victims were deliberately starved to death, worked to death by conscious Nazi German policy decision, whether they were hanged, shot, exposed to the elements and left to die, tortured, or none of these things, or whether the strain of Allied bombardment on two fronts near the end of the War prevented adequate service to prisoners, and whether that was made to appear a deliberate policy of genocide propaganda.

In great detail, Dr. Hilberg and Dr. Faurisson gave their experiences in respect to certain authors, historian writers and other persons on the subject of the Holocaust, genocide, and what occurred, if anything, in the prison camps in particular.

Each was examined and cross-examined as to what particular camp, in his opinion, was or was not an extermination camp or merely a holding camp, a working camp or a transit camp. Each was examined and cross-examined upon the fairness of various trials that occurred involving accused Nazi war criminals at Nuremberg, and at other trials involving the lesser Nazis at the same location on different occasions.

Dr. Hilberg and Dr. Faurisson, and {49|50} indeed a number of other witnesses who testified at this trial, were questioned about the mental stability of certain Nazi war criminals including one Hoess, one Frank, the Nazi Governor-General of Poland during the War, one Gerstein, and others. The personal diary of Frank became the subject of much cross-examination. Both Dr. Hilberg and Dr. Faurisson gave their respective opinions on these subjects and on many other subjects that I do not intend to repeat here.

Members of the jury, let me make it clear to you that as jurors you are not required to decide anything about the truth regarding what occurred at the trial of Nazis forty years ago at Nuremberg. You are not bound, nor are you asked to decide, whether the Nuremberg trials were fair or unfair, or whether the Nuremberg American trials were fair or unfair. Neither are you required nor should you decide the issues in this case on the basis of what authors of books or any other witness who testified here thought about any of these subjects.

You are, however, being asked to assess the weight, if any, that you will give to the opinions of such witnesses who testified at this trial, {50|51} including Dr. Hilberg, Dr. Faurisson, Dr. Lindsey, Dr. Barton. To a large extent, each based his opinion on what occurred at Nuremberg and elsewhere on the basis of documents and on the basis of information contained within the confines of books that have been written on these subjects since 1945, and even before that.

All of the questions put to these witnesses as experts on the many subjects that I have mentioned, which themselves do not directly involve the issues in this trial, were put to those witnesses so that you, as jurors, would be in a better position to decide the weight, if any, that you will accord to the evidence of those experts who testified; because it is all of these books and periodicals and information, the acquired knowledge of the experts which forms the basis, if any, that you will decide exists to give or not give a great deal of credibility, some credibility or no credibility at all.

When this trial commenced, at the request of counsel – a normal request of counsel, I might add – I made an order that all witnesses for both Crown and the defence be excluded from the Court. {51|52} That order included that those persons excluded not speak to one another concerning their evidence until after all had testified and each had testified at this trial.

Such an order is commonly made on a regular basis in our courts. The object is to ensure, if possible, that witnesses do not get together with one another and tailor their testimony to be given to what has already gone on in the courtroom by way of evidence. If that occurs, distortions could result.

You should be aware that counsel for the accused elected to have Dr. Faurisson remain in court throughout most of the evidence of the Crown's case and before Dr. Faurisson himself testified as a witness on behalf of the defence. Mr. Tiudal, Mr. Rudolf [Tiudar Rudolph], Mr. Felderer and Mr. Newmann [Neumann], the accused's secretary, all remained in the courtroom, as I understood their evidence, for varying periods of time during the course of Crown's case and before each testified as a witness on behalf of the defence.

By reason of that having occurred, it is open to you to take into consideration the fact that these witnesses remained in court in these circumstances, {52|53} if you wish to do so. It is up to you to decide what, if any, weight you will accord the evidence of these witnesses. You will decide whether or not their having remained in the courtroom affects the credibility of each or not by reason of that order having been breached.

In that process you will please consider the explanation, if any, that was offered by each when that subject was canvassed, if you find that it was, during the examination in-chief or the cross-examination.

Members of the jury, when you retire to consider your verdict and to consider the evidence you might well ask, where does one begin. To answer that question, please consider asking yourselves another question. That question is, "What is this trial really all about?"

To be of assistance in that regard, and only to be of assistance, it is always for you to say and no one else, it would seem to me that this

trial is about an event which is said to have occurred during World War II which a number of people refer to as the Holocaust.

The Crown's position on the evidence is that the Holocaust occurred by reason of Nazi Germany {53|54} having deliberately embarked upon a plan to slaughter the Jews of Europe. That plan was embarked upon as the Second World War proceeded. It became a plan when other avenues approached failed by reason of war.

The Crown suggests that the evidence you have heard discloses that millions of Jews, as well as others, perished in extermination camps established by the Nazis in Germany during World War II. There is evidence which, if you accept it, discloses that they were killed by the German S.S. on orders from their Nazi superiors. They were killed not just by one method, but by a number of methods including shooting, hanging, gassing, deliberate starvation, exposure to the elements, deliberate overwork and slave labour. That, the Crown says, is the Holocaust.

The defence, on the other hand, takes the position that the Holocaust [sic] is a hoax and a myth; it is a fraudulent trick. The defence takes the position that there is neither truth nor proof that anyone was gassed in any camp in any of the German-occupied territories or in Germany.

Further, six million Jews did not die at the hands of the Nazis; gas chambers may have been {54|55} used to delouse clothing, but not to kill people. Zyklon-B may have been used as the agent for the delousing of the clothing and the buildings in various locations, but it was never used to kill people.

There was no policy on behalf of the Nazis or anyone else in Germany to exterminate Jews. No written order from Hitler or Himmler or from other high Nazi officials has ever been proven to have either existed or to have been given for the purpose that the Crown alleges. Jews may individually have been brutalized; they may have suffered; many were even killed at the hands of their guards in these camps. However tragic that is, this also occurred to non-Jews. Further, there has been no proof in this trial of organized genocide. There has been no proof of deliberate starvation and no proof of any of the other methods that the Crown alleges.

The defence takes the position that the myth of the Holocaust has been employed by Zionists and others to improperly enrich the State of Israel and other claimants, and to humiliate the German nation by the unjustified extraction of large sums of money by way of compensation and reparation. {55|56}

Those, members of the jury, are the two sides of this case, the position for the Crown and the defence as I see it. I hasten to point out, it is only as I see it. You may see it in an entirely different way. If you do, please ignore what I have just said and follow your own views as to what the issues are.

In order to prove the falsity of Exhibit 1 in its essentials Mr. Griffiths has led evidence on which he submits that death camps existed at places where intentional genocide of the Jews of Europe was carried out.

In that regard, some but not all of the evidence the Crown has led is as follows:

Each of five men, all in their sixties, have testified that each was a survivor of a Nazi camp. Mr. Friedman swore that he was at Birkenau. Rudolf Vrba swore that he was at Auschwitz-Birkenau. Chester Tomaszewski [sic] swore that he was at Mauthausen-Gusen [Gusen]. Dennis Urstein swore that he was at Buchenwald. Henry Leader said that he was at Maidanek.

Each testified as to what he saw or heard and felt at each of those camps. Each described what they saw occur at these camps. {56|57}

In addition, you saw the United States Army film entitled, "Nazi Concentration Camps". That film, on the evidence of one of the custodians of the American National Archives in Washington, has been held in the Archives since 1945. That film depicts the liberation of a number of these camps by the Allied Armies as they moved through in 1945.

There are many exhibits, including the Auschwitz Album, Exhibit 29. The Crown submits that in the cumulative effect of the evidence that is called, the Crown has proven beyond a reasonable doubt that the contents of Exhibit 1 are false.

In order to prove that the accused knew the contents of Exhibit 1 were false and he deliberately, wilfully published that Exhibit notwithstanding, the Crown points in his address, which I will cover at a later stage, to the reasons why the accused, from the Crown's view, at least, knew the contents to be false.

The defence, on the other hand, does not admit the falsity of Exhibit 1 save in narrow locations. The defence says the Crown has failed to prove that the contents of Exhibit 1 are essentially false. The defence submits that Mr. Zundel, having {57|58} corresponded with many people in many parts of the world, accumulated much information on the subject of what is said to be the Holocaust. He has gathered that information together, and has used it, published it after he read it, and he honestly believed it, both before and at the time he made the publication.

The defence takes the position that there are serious, honest questions concerning whether gas chambers existed to kill Jews, whether there was a deliberate policy on the part of Nazi Germany to exterminate Jews, whether there existed a plot by Zionists to extract money from Germany to enrich Israel, and that this resulted in the hoax of the six million.

The defence further says that Mr. Zundel holds all of these things as honest beliefs. In the result, after having spoken about and having seen the information acquired by people such as Mr. Felderer from Sweden, Mr. Christopherson from Germany, Dr. Lindsey, the chemist from Texas, Iowa, and Dr. Faurisson from France, to name only a few, the Crown has failed to prove that the accused did not have an honest belief in what he published in Exhibit 1. The defence therefore submits that counts one and two should {58|59} be dismissed.

Members of the jury, it is four thirty. I will not keep you much longer. I have, perhaps, another ten or fifteen minutes to impart to you today. We will adjourn for ten minutes.

— The jury retires. 4:30 p.m.

— Short adjournment.

— Upon resuming.

— The jury returns 4:45 p.m.

THE COURT: Members of the jury, a word, if I may, again on the subject of exhibits. Exhibits are very important in this case. I hope I have been able to impart to you the use to which you may, and the use to which you may not put exhibits, and the reasons therefore.

The first division of exhibits, if I may use that term, includes Exhibits 1 and 2. It also includes extracts from a book entitled, "Under Two Dictators". There is a map of Birkenau. There are sketches and maps of Auschwitz. There are aerial photo-{59|60}graphs, I believe, of Auschwitz. I am sure you will look at Exhibits 21 and 22 with care. You will find a sketch of a sorting barrack where the evidence, if you accept it, discloses that clothing was separated and divided. There is a plan of Birkenau. There is a sketch of how prisoners are said to have lined up outside barracks. There is a drawing of a gas chamber.

You will see included in these exhibits the three volumes of the International Red Cross report. There is the film.

A word about the film. That film has connected with it affidavits. Those affidavits, if you accept their contents – and it is solely up to you and no one else – indicate where the film has been and for how long. The affidavits in a very real sense, if you accept what they say, constitute a certain pedigree which you may find faulty, of no use at all, or you may accept it in full, as you shall decide.

The film has connected with it the voice of a narrator. In addition to the voice of the narrator you will find the transcript of what the narrator said. I am sure it is perfectly obvious to each one of you that the narration, or the narrator, {60|61} was dubbed in after the film was made. That becomes somewhat important in that regard. Please remember that the narration itself is useless unless each one of you, as jurors, having looked at the film, agrees that the narration is compatible with the events that are being viewed on the film when the viewer looks at it. If you find that the narration is compatible with what you see on the film, then you may employ all, part or none of the narration, as you

shall decide. If, however, you find it is incompatible, or if you are left in any doubt about it, then it becomes hearsay and you will please ignore it.

Exhibit 29 is entitled, "Auschwitz Album". It is a book. It contains pictures of many people of all ages doing a number of things. It contains what purports to be a close-up overhead photograph of a ramp where trains come in. It depicts men in uniform. It depicts children, women and men of all ages who, apparently, on some of the evidence that at least I heard, are said to look as if they had just gotten off part of a train, the carriage.

This book was first referred to by the defence. It was referred to by the defence on more {61|62} than one occasion. I believe it has also been referred to by the Crown. Interestingly enough, neither Crown nor defence, as I recall the evidence, have in any way been critical of Exhibit 29. If you look at Exhibit 29, "The Auschwitz Album", you may well find that it will be of assistance to you.

As I say, the first forty-six or so, perhaps a little more, exhibits relate to the issue of the truth or the falsity, essentially, of Exhibits 1 and 2. They relate to the issue of whether or not Mr. Zundel has been proven to have wilfully published these exhibits knowing the essential contents of each to be false.

There is a second division of exhibits. They came into evidence in about the last ten days of the trial. Almost everyone of them, as I recall it, is either a book or an extract from a book or a magazine. The majority, about a hundred in all, relate to Exhibit 1. Some of them deal with "The West, War and Islam". Those books are by many authors who all have differing opinions and who have all written, while on the same subject, from different slants or angles. For the most part, as I understand it, they {62|63} relate to the issue of whether or not the accused, if you find that he published Exhibit 1, as he admits he has, and subject to your finding that he published Exhibit 2, had an honest belief in the truth of the essential elements of each of Exhibits 1 and 2.

All these books and all of these exhibits are new evidence. They contain, as I say, a myriad of opinions. They have been admitted into evidence so that if you, as jurors, wish to do so, you may employ them in whole or in part, as you shall decide, to conclude the weight, if any, that you will place on the evidence that you heard from the accused as to whether or not the Crown has proven that Mr. Zundel did not have an honest belief in the essential truth of Exhibits 1 and 2.

Another way I may be of assistance to you, if you agree, and if you agree with what I am about to say, is to provide you with what I think – and it is only what I think, please remember; it is what you think that is all important not what I think, but I hope to provide you with what I consider to be a definition of the word "Holocaust".

I can do no better than to read to {63|64} you from page 122 of the Complete Oxford Dictionary Supplement, 1976 that definition. The word is defined as follows:

"Holocaust", "frequently applied to the mass murder of Jews by the Nazis in the war 1939 to 1945".

You are free to accept that definition or to reject it, as you shall decide.

You alone, members of the jury, will decide whether or not the evidence discloses that Mr. Zundel relied on these books, the opinions of the authors, and other sources containing opinions, in order to acquire the honest belief that the Holocaust is a myth and a hoax, and to acquire the honest belief that Zionists, aided by Christians and Western bankers, have conspired to put down financially and to hold in bondage the Islamic people.

On the other hand it is for you alone to decide whether or not the total evidence discloses that the Crown has proven that all of these sources have been used merely as a reason to confirm beliefs already long since held without the necessity of having to refer to the books or the authors or to the other sources in {64|65} order to acquire the belief.

That is, members of the jury, the point at which we should call it a day. please be ready tomorrow morning at nine thirty. It is my hope that I will be finished, subject to anything I might have to call you back for, by lunchtime.

Please do not discuss this case with anyone beyond your number.

Please keep an open mind. The case is not in your hands and will not be until then. Please do not permit anyone to speak to you directly or indirectly concerning this case or any of the persons involved in it on either side.

Have a good evening. Tomorrow morning, nine thirty. Thank you.

— The jury retires. 5:00 p.m.

— Whereupon the hearing is adjourned to February 27, 1985.

— {65|66}

## FEBRUARY 27, 1985

— Upon resuming.

— Discussion – counsel agree exhibit list to be given to the jury.

— The jury enters. 9:45 a.m.

THE COURT: The first witness to testify in this trial, members of the jury, was Sergeant Williams.

Sergeant Williams is a Metropolitan Toronto Police Officer who was asked by Crown counsel to read certain portions of one or two books. He then read portions of one or two books from the witness stand.

The first book was entitled, "Under Two Dictators". That appears to be the story by Margarete Buber of her experiences in a camp that she named as Ravensbrück. The reason, as I see it, that the portion of the book was put in was to contrast life as she saw it in that camp in Germany in the very early years, and the progress as to what happened insofar as people being gassed was concerned as the years went on. She remained in there as time went on.

There is a contrast, if you read the {66|67} book, of life, food, accommodation, how it changed as time went on. In cross-examination Sergeant Williams indicated that she did not, herself, see any gassing. He was referred back to Exhibit 1 and asked to read a paragraph. Part of the paragraph that he read is as follows:

*"In his recent book Adolf Hitler (London, 1973), Colin Cross, who brings more intelligence than is usual to many problems of this period, observes astutely that 'The Shuffling of millions of Jews around Europe and murdering them, in a time of desperate war emergency, was useless from any rational point of view'."*

That is an excerpt from Exhibit 1 at page 22. It is there. You have read it. If you have not read it, I am sure you will.

When you compare and contrast that excerpt with what appears in various locations in the book, "Under Two Dictators", you will note, I think, a difference. The issue is whether or not you find that {67|68} the excerpt on page 22, that murdering Jews was useless from a rational point of view, which comes at page 307 of the reference, is a truthful statement.

In cross-examination Sergeant Williams stated that he did not read the two books from beginning to end; he was not asked. He was asked to read the passages referred to, and he did.

He was shown page 186 of the book. He agreed that it gives a glowing description of what a nice place the camp looked like from the outside. At page 190 he was shown the reference of the author having been given bread, sausage, lard, and dried fruit on her first day at Ravensbrück.

He was then asked to read a reference from page 304 as to the number of dead persons that appear in the few days during that period of time. It mentions that there was a typhus epidemic that had broken out. There is a description of how S.S. men took forty women away on trucks. They were driven off, and mobile gas chambers are mentioned. Sergeant Williams was then asked about "The West, War and Islam". In some detail he described his membership in a Masonic order. He stated that there {68|69} were very few words, signs or symbols that are secret in his lodge. He explained his membership in the Masons. He denied that Masons had been involved in any conspiracy that he knew anything about. He knows nothing about a suggested scandal in Italy which involved, apparently, Masons. He knew nothing about a Masonic calendar. He was not familiar with a book called, "The Brotherhood".

He was then asked to read a certain portion of "The West, War and Islam", which he did. He said that when he became a police officer he



swore an oath to uphold the law of the land, and further, not to disclose any information concerning police matters that came into his possession, and to protect life.

He said that there are secrets he is obliged to keep. He knows of no conflict between his membership in this Masonic order and his duties as a police officer.

The next witness was Arnold Friedman. He swore that he now lives in Toronto. He was born in the Carpathian Mountains in Europe. That is now part of Russia. Before that it was part of the Czechoslovakia and Hungary. He described that he was a member of a Jewish family, and that there were about fifty to sixty Jewish families in his village. He then described how he was rounded up by the police authorities and kept near the village in a large brick kiln.

He described his attempts to escape and his finally being put back in the kiln. He was then loaded on to a train with others. He described it as a cattle car. The cattle car was boarded up and they were provided with a gallon of water in a big container, with one half of a metal drum to be used as a latrine. The doors were closed, kept closed and not opened until a week later when the train arrived at Birkenau.

The occupants were ordered out. There was much yelling and screaming. Some were looking for lost children and parents. Gunshots were fired. S.S. troops were present. The occupants of the train were separated in three groups. First there were those capable of working; second there were those that were too old to work; and in the third there was a separation of men and women in rows of five. Under the supervision of the S.S., the selection process began. The three groups began to fill. He was put into one group and marched to a building where he was told to undress, to leave his clothes where they were. He was ordered to shower. He was disinfected. His head and pubic areas were shaved. He was given a blue and white prison uniform consisting of a jacket and pants, and later on wooden shoes.

They were lined up again in rows of five, surrounded by S.S. and marched to a camp barrack. He places the time at April or May of the year, his age sixteen. There were twelve inmates per tier or per bed which was separated from the next bed up by about three feet. He remained in Birkenau until December of 1944, when he was transferred to Auschwitz, about three to five kilometers distant.

He described the constant smell of what he said was burning flesh emanating from smoke stacks in the crematoria at Birkenau. At night he said you could see the flames above the fires which were coloured red and yellow rising, as I have recorded it, to one or two meters above the chimneys.

Life in the camp was described as starting at 6:00 a.m., and after attending a latrine barrack, returning to his own barrack and lining up for inspection. The S.S. came to count the prisoners including the dead bodies accumulated at night. The prisoners who had died were lined up and then removed by wagon after the count had been completed.

It was not until he arrived at Auschwitz that he was given a tattooed [sic] number, B14515. Up to December 1944 he did not have a number. He described breakfast consisting of mulberry tea or ersatz coffee, and a portion of bread. The number of deaths overnight varied. The number of persons dying in his barrack would be between five and ten people, but some nights nobody died.

His camp barrack was surrounded by electric wire and a perimeter outside of which there were six concrete guard posts. At one time, when he was in what he referred to as "D" Camp, he was separated by distance from the crematoria by what I have recorded as a cottage.

There was a railroad which stopped some distance down from the crematoria, over which distance he saw a lot of people walk to the crematoria. He described these people as elderly, young children, and mothers with children. He saw them walk to the crematoria. He did not see them ever return. He said they never came out.

He described how in "A" Camp he could see gypsies and a group of Czechoslovakian Jewish people who he saw until the middle of the month of July, until one night, in the middle of the night, he saw the whole area light up, and he saw persons, yelling and screaming, being

loaded onto trucks when were then driven to the crematoria. The next day other young people moved into "A" Camp.

He described the distance of about three to four hundred feet over which he saw these things happen. He said the trucks drove into a knoll of birch trees. It was very noisy that night. He did not see the trucks return. He did not see the whole of the crematoria area; he could only see the outline of the low-slung roof.

Mr. Friedman then testified concerning three incidents while he was at Birkenau. Before they occurred there were five barracks containing children of between the ages of twelve to fifteen, about a thousand people. The population changed. People would leave and others would replace them.

Around Rosh Hashana, in July or August, his barrack inmates were ordered outside and lined up in rows of five. The day was sunny. At about noon hour somebody he described as Dr. Mengele and a couple of S.S. appeared. He said the children were ordered to strip to the waist. He described how, through a process of selection, the skinny and the sickly in the barracks were singled out and separated from the others. He never saw them again. The group which had been marked off had been replaced by new children in his barrack.

On the second occasion, which was a fasting day religiously oriented, the same Mengele appeared again. The same procedure was gone through. More were selected and marched off. He didn't see them again. The original five barracks were now down to three barracks.

Some days later they were lined up again and marched to a clearing where camp guards were there. This was a football field. The S.S. soldiers proceeded to march children under a piece of wood between the two goal posts. Those selected were kept aside. Friedman, being short in stature, saw what was occurring and kept on moving backwards in the line he was in. He ran to the sturdier, healthy-looking group and stood on two bricks in an attempt to reach the height of those with whom he was standing. He was caught for this and beaten. The group that was selected was marched off, put in a barrack, and later he took water to them.

At this time the whole camp was confined to barracks while the selection process occurred and those selected were marched off. They were now down to two barracks.

Five days later, another Jewish holiday, the final selection was made. All were ordered out, in mid-afternoon, by the S.S. who had drawn guns and dogs. Before that happened, the final selection was made in one of the barrack rooms. Those who were able to jump over a barrel were marched to Auschwitz; those who were not were marched away and he never saw them again. This was the one remaining barrack room that marched to Auschwitz.

He described how he shinnied up the pole to look out before he left Birkenau from the top window of his barrack. He said there was a sudden alarm raised. Shooting was heard. Soldiers were running and vehicles were driving at speed toward the area of the crematorium. After this incident the smoke coming from the crematorium chimney became minimal. The whole operation of the crematorium, he used the words "became downgraded". Trainloads with people stopped arriving. After October of 1944 the normal death rate inside the camp kept on. Bodies were collected in wagons of those that died overnight. He described the forced march to Auschwitz which occurred in cold weather. He saw bodies of the preceding women's group who had fallen by the wayside and died.

In cross-examination he identified a map of Birkenau that did not look too familiar to him because he only remembered what he saw from inside his hut. He was in Birkenau for a total of nine months. He was able to remember certain things. He was able to trace his location on Exhibit 8, a map.

He traced his route when he got off the train to the point where he was told to undress and have a shower, and where the men and women were segregated and the mothers with children were kept in a separate group. The showers, he said, were real water; there was no gas. They marched out the other end of the shower building and never saw their clothes again. He said their clothes were confiscated along



with their belongings.

He then traced his route to Camp "A" where he was incarcerated. The women's camp was "C". He may have been in Camp "A" for two weeks. He then went to "B" or "C". A month later he was in "D" where he spent five or six months. It was impossible to get out of Camp "D", although it was possible to go from barrack to barrack within it.

He said that there were no showers after the first shower, but the head lice were controlled by each prisoner assisting the other in searching out and eliminating head lice. Prisoners' clothing was taken, cleaned and returned. He was not sick in the camp, nor was he forced to work except on one occasion when he helped unload a trainload of potatoes. He did not work as he was not regarded as an adult.

He did not see at any time what actually occurred in the crematorium. He could only {77|78} see the smoke stack and the outline of the roof. He agreed that in the general geographical large area surrounding the camp there were mines and factories. He did not see the road that the group of selected children took when they were taken out of the camp.. He was sure that a birch grove was in the area of KIV and KV Crematoria.

There were times when the wind blew the smoke away, and other times when the smoke permeated the whole camp from the crematoria chimneys. He did not see anyone who had died of typhus. He did see dead bodies routinely that were collected on the wagons.

I have copied his words when he was asked in cross-examination a number of questions to which he replied that the prisoners were told that if they did not delouse themselves they would be cremated. His words that I copied down were, "We would be gassed." So the word "cremation" and the words "we would be gassed" all appear in my notes in the same reply.

He said having been through the City of Buffalo in the United States, and through the City of Hamilton, Ontario, and smelling the smells from the steel factories there, the smells that he smelled at {78|79} Birkenau coming from the crematoria chimneys were different from the smells emanating from the smoke stacks at Hamilton and Buffalo.

The night march they took included the barking of dogs, the yelling of guards, and gunshots. He recalled again when cross-examined that the gypsies were loaded into trucks and taken two hundred yards. He did not see what happened, but he heard the sounds of the unloading of trucks at the crematorium. He agreed he had never seen anyone gassed or burned.

He did see people shot as they fell out of line on the march. The dogs were trained to tear each person apart that was shot. He was present on occasion when someone would be killed for no reason.

He described as the price of surviving another day what he was required to do. He described the rumours that always went through the camp. He then described how he was taken from Auschwitz and loaded into coal trains and taken to Dachau.

The same delousing procedure there occurred. Anyone who looked weak was taken away, eliminated from the presence of other prisoners and not {79|80} seen again. He did not know where the sewage went at the camps he was in. He did see sewage removed in one camp in large drums. He was then shown Exhibit 29, the "Auschwitz Album". He then identified the unloading area and various scenes on pages 22, 26, 27, 29, 33, 37, 38, 39, 41, 44, and 45. He agreed that no smoke was visible to him in these photographs which, in part, he said, depicted the prisoners arriving and having their baggage confiscated, and showing the mothers and children being herded into a group.

Page 41 shows haze but no smoke. Page 44 and 45, he said it looks as if the prisoners had just gotten off the train and were receiving the message to separate. When cross-examined on his not seeing smoke, his reply was that he saw what he saw and that he smelled what he smelled.

He received \$300 from Germany. It was compensation for his nine-month internment. He couldn't recall which colour of the flames denoted a fat person or a skinny person.

Roy Bassett was the next witness. He is a staff sergeant with the Metropolitan Toronto Police Department. For the past twenty-two years he

{80|81} has been a Mason. He was a Master of the Grand Lodge. He has passed through all the phases of Masonry to that position. He describes the Masons as a fraternal organization open to any male person over the age of twenty-one years who is not an atheist.

One becomes a Mason by applying for membership in writing. After a committee screens the application, the applicant is either accepted or refused. Membership votes on the applications by secret ballot.

He knows of no world organization of Masons. He pays fees of \$50 to \$75 a year to support his group. Membership is not secret. Members wear Masonic rings. His Lodge meets eighteen times a year and it contains about two hundred and fifty members.

He said he did not belong to the Lions' Club or the Rotary Club, and he knows of no ties between Masons and those clubs. He said it is not a secret society. Books on Masonry are freely available to the public.

He was then referred to page 2 of Exhibit 2, "The West, War and Islam", where it refers to Masons as being part of a Satanic structure. That reference you will find, members of the jury. I will {81|82} not belabour you by reading it to you.

Sergeant Bassett swore that no Mason that he knows of worships Satan. He said there are no lies in Masonry. There is no duplicity, no infiltration. Masons do not assassinate; they do not infiltrate anything. Assassination is not a policy of Masonry. He denied directing War [sic], poverty, revolution and collapse and he does not know of any persons who are Masons that advocate that.

He said it would be ridiculous to think Masonry has anything to do with world government by Zionist masters. He again said that it is not a secret society. When he was cross-examined, he said he was not aware that Catholics are forbidden to be Masons. He understands that some Catholics are Masons[.]

He agreed that he could be ignorant of things about Masonry that he has not been told about. He was unaware of the alleged condemnation by the Catholic Church of Masonry. He agreed that Masonry is symbolic.

He was asked about what was suggested was the All Seeing Eye on the American one-dollar-bill. As I recall his evidence, he had not been aware of what {82|83} was on the American one-dollar-bill in that particular regard. He was asked about a number of books and shown a number of books by defence counsel. The witness, as I recall his evidence, said he had not read any of the books and did not recognize anything that he was shown.

He said he met a German Mason on one occasion. He did not recollect or know anything about what any alleged police scandals concerning Masons were all about in England. He has not seen an article about the Masons and the KGB written in the Toronto Star and the Globe and Mail. He did not know anything about Napoleon Bonaparte having been involved in any way with Masonry, or the French Revolution having a Masonic connection. He did not recollect a speech made by Benjamin D'Israeli in 1876.

He agreed that there was a lot about Masonry he did not know. He did not know anything about an Italian who hanged himself who was supposed to be a Mason, the hanging having happened under a bridge in England. He said the object of Masonry was to do good to others and to make good men better.

He knew nothing about advertisements {83|84} in newspapers in Germany allegedly being placed by Masons in that country. He said there is nothing Satanic about Masons and they are not assassins.

The next witness was Ignaz Fulop. He swore he was born in Hungary in 1926. He had never seen or met Mr. Zundel. He is Jewish by faith. He lived with his mother, his father and his sisters who were all arrested along with him in the ghetto and taken to Auschwitz in 1944 in the month of April.

They were taken there in what he said was a cattle car on a train. They were all in the same cattle car on that train. That, he said, took three days. The door of the car was opened once.

You will recall, perhaps, Dr. Vrba's evidence when he said that, at least as I recall it, in 1944 Hungarian Jews were anticipated coming to that camp.

Mr. Fulop said they arrived between 5:00 and 6:00 p.m. The doors of the car were opened and screams were heard for them to all get out. They all jumped off the car. Their luggage was left inside. The men were separated from the women. Everyone was lined up in rows of five. He said the selection then {84|85} started.

He saw a blind man with a hysterical daughter clubbed to death by the kapos at the order of an S.S. German soldier. There were S.S. all over. The kapos did the dirty work, he said.

He was in the same line as his father when he started. He described the German that he later heard was Dr. Mengele point his walking stick at Mr. Fulop. Fulop was directed to go to the right; his father, mother and sisters went to the left. Those who went to the right were young and looked strong. He never saw his mother and father again.

He then related how they walked to a huge hall and were ordered to strip but to keep their shoes, belt and eye glasses. He walked into a building, immersed their shoes into a tub of liquid, took a shower and came out the other door. That is where he said he took the worst beating of his life. He said that in the same room where everyone was naked he saw women on one side of a red line, the men on the other. He was, he said, screaming at his sister and asked her a question. He was then beaten by a kapo and the rifle butt of an S.S. soldier. He saw boots on one of the persons who {85|86} beat him, and one did not wear boots.

He crawled back into the line with the rest of the people in his group. They were issued striped clothes, pants and a jacket. They were marched to the gates and wound up in Camp "C" where he slept. At that time it was a gypsy camp.

He was then approached by an S.S. soldier who gave him an instrument for measuring the thickness of steel. He was then later taken to a location where he was put to work building V2 rockets. He was there two months. He does not have a tattoo. He was then later taken to another camp.

He was referred to page 17, column one on Exhibit 1, the number of people registered in camp. He said there were no people registered there. No questions were asked when he was taken out of Auschwitz or when he was put in.

All three hundred people went to Auschwitz when there was a bombing raid. He assisted in the building of a crematorium. He remained in that camp until September or October of 1944. He was then taken to Dora at about the time of the Yom Kippur. The Germans did not give him {86|87} food. They told him to fast because it was Yom Kippur. Thereafter he was taken to another camp containing about twenty thousand prisoners including Italians, Poles and Ukrainians.

At Dora he worked on the V2 rocket down the inside of a mountain. He worked seven days a week in twelve-hour shifts. He was fed once a day at 5:00 a.m. – two cups of hot water, a small amount of potato and white bread. If someone refused to work, that prisoner would be hanged, shot, tied to a post in cold weather under running water which put ice on the body which produced death.

In April of 1945 he was moved to Bergen-Belsen. He was liberated on the 22nd of April, 1945. He described the train ride in the cattle cars, each containing, he said, one hundred and twenty persons. He was the only one of that car that survived that trip. He weighed seventy-two pounds when he was liberated.

Members of the jury, you will recall Dr. Vrba's evidence. He mentioned the influx of prisoners from the East into Bergen-Belsen. I will come to his evidence in due course. You will recall the {87|88} evidence of Thies Christopherson who testified on behalf of the defence. He also said – I think it was Mr. Christopherson; I could be wrong; but one of the defence witnesses, perhaps it was the interpreter, said that he was also, as a German soldier, put in a cattle car and transported with thirty people in his car.

In cross-examination, when asked, Mr. Fulop said that at Auschwitz he did not see smoke; he saw flames coming from the chimney at night from the crematorium. Heat flames and ordinary flames are two different things, he said. When asked if he had ever seen a gas chamber, his reply was that anyone who had seen a gas chamber would not be

around to testify.

He saw Dr. Mengele only once when he was standing on an orange crate. Everyone said that is who it was. He described one trainload of people with a hundred and twenty persons crammed into a boxcar. He said that ten thousand people were moved by train – simple arithmetic. Members of the jury, if I am correct, arithmetic or mathematics was never my forte, but if one divides a hundred and twenty into ten thousand, that {88|89} would be the number of boxcars that would be on one given train. If you ever counted boxcars, especially when we were all younger, standing at the gates of the CPR or the CNR, you will decide for yourselves whether the number of boxcars is reasonable, unreasonable or just about right.

He described witnessing the hanging of ten to twelve prisoners at one time with a piece of rope so arranged that ten or twelve nooses were created and a truck driven by soldiers hauled the ten or twelve prisoners up to be hanged at one time into the air at the end of the ten or twelve nooses. He said no days passed that such an act did not occur. It occurred usually in the morning after roll call, (appel[]), before everyone went to work. Most of the murdered persons were Ukrainians.

He took clothes from dead bodies to clothe himself. He rolled the clothes from the bodies onto his feet because it was warmer than wooden shoes would have been. He did not see any crematoria in Dora.

Dr. Raul Hilberg was born in 1926, in Austria. He came to the United States in 1939. He served in the U.S. Army in 1944. He obtained his {89|90} Bachelor of Arts in political science, his Doctorate in public law and government. He presently teaches at the University of Vermont as a fulltime professor.

Commencing in 1948 to the present he has devoted himself substantially to the subject he teaches, the Holocaust. He wrote a book, "The Destruction of the European Jews". His methods of acquiring knowledge include his close study of public records of the German Civil Service 1933 to 1945, his study of Nazi German records during the Second World War, including records of the S.S.

He has read all twenty volumes of the Nuremberg Trials. In the pre-Xerox age he copied thousands of documents. He has studied railroad tables, census figures and all documents kept in the ordinary course of business by the civil service in Germany, Poland and other European countries during the period of time in question.

His further methods of study included looking at details and documents, reading evidence and witnesses in other trials, and crosschecking the content of one document as against another, which he says very often produces a relationship between {90|91} two apparently unrelated documents.

As examples of his methods, he has studied railroad transportation to death camps, as he termed them, to see if there was a pattern. He has studied the German collection of clothing of the Jews and other belongings confiscated from them.

He has read Exhibit 1, "Did Six Million Really Die?". He found it, as I copied his evidence, to be a concoction, a contradiction, a half truth in places, and quite untrue and highly biased in others.

Page 7 of Exhibit on the subject of population and emigration, concerning the figure of six and a half million Jews living in the whole of Europe, Dr. Hilberg gave his opinion based on his research and the sources he studied, including census statistics of certain countries, ghetto figures, Gestapo figures. Making allowances for margins of error, he estimated that nine and a half million Jews lived in Europe prior to World War II.

Poland, he said, and the Soviet Union reported over six million alone. He agreed that allowances must be made for errors in census figures which {91|92} he said, at times, depending on various countries, are unreliable.

He said that the Germans gave a definition of someone who was a Jew as a person with four grandparents who were Jewish. He employed that formula to calculate his figures.

European borders of Nazi-dominated Europe increased in size as Germany overran and controlled more and more countries on the con-

tinient of Europe.

On page 10 of Exhibit 1, concerning the reference to the absence of evidence of a single document existing which proves the Germans intended to or did carry out deliberate mass murder of Jews, Dr. Hilberg swore that this was untrue. He said indeed there are hundreds of documents in existence to that effect. There are documents prepared by Germans themselves reporting to senior German officers and officeholders that, as the German Army crossed into Russia, a squad of military personnel accompanied the advancing Army for the purpose of killing Jewish persons and others.

There are reports back on a daily basis of how many were killed. These are contained in {92|93} documents taken at the Nuremberg trials or documents produced in connection with the Nuremberg Trials. Those documents are available, are still on microfilm in the United States in the State of Virginia where captured German documents are presently stored and located.

To the reference on page 13 of Exhibit 1 regarding the heading, "The Case of the Einsatzgruppen" or the action groups, Dr. Hilberg stated that he did not agree with this reference. He has seen documents indicating that mobile German units were operated for the purpose of shooting people on a mass scale. The figure mentioned of thirty-four thousand commissars is grossly exaggerated, but parts of the statement are partially correct.

He said the words "the final solution" is a phrase of old usage. Initially, in 1941, it referred to the German desire to deport Jews. Thereafter, as the War progressed, the meaning of the words "final solution" changed to mean something quite different. Dr. Hilberg regarded the work of Reitlinger, as he said, conservative, tending to be sceptical to underplay the number of Jews that perished. {93|94} There are statements, he said, made by commanders of these German units who reported back to their seniors which state in records the number of persons who were killed in the field by these killing units.

With respect to the Nuremberg Trials, he said that you have to make a differentiation between the Nuremberg Trial, which he said was a trial to try the very top Nazis in Germany in 1945, and the Nuremberg American Trials which were employed to try different accused persons on other different occasions and involving different judicial personnel.

He said that the allegation on page 12 in column one that the rules of evidence at the Nuremberg Trials were disregarded is quite wrong. The documents, exhibits and affidavits were recorded. He called the figures published in Exhibit 1 excessive and incorrect insofar as the number of exhibits were concerned. He said that the defence lawyers were permitted to see defence documents, and the defence was permitted to cross-examine prosecution witnesses.

Dr. Hilberg said he has seen such testimony of these cross-examinations. He said the majority of witnesses at Nuremberg were not Jews, {94|95} although many Jews did testify as did a lot of Germans called for the prosecution and called for the defence.

He said the account in Exhibit 1 that there was torture of German accused is wrong. Regarding page 13, the Ohlendorf trial, Dr. Hilberg said that it is inconceivable that in 1937 or 1948 prisoners would have been tortured. He has never seen any document in this trial where the defence alleged such torture.

Concerning page 13, the Oswald Pohl trial, he said Pohl was a high-ranking S.S. Officer who was in command of a number of camps. He was in charge of utilizing slave labour, in charge of financial operations and financial matters of the camps. On the documentation that Dr. Hilberg has seen containing Pohl's signatures, those documents deal with the construction budgets of concentration camps, the death rates in those camps, Auschwitz in particular.

Pohl controlled twenty camps with other satellites around. He was an accountant by background. The alleged torture as mentioned by Senator McCarthy of Pohl when he was questioned is never mentioned in any of the documents that Dr. Hilberg has seen. {95|96}

Regarding Chapter 5, "Legal Principles Ignored" and the words in Exhibit 1, "Should anyone be misled that Jews were proved exterminated", the witness said that at the Nuremberg Trials some were acquit-

ted, some were convicted, some were exonerated, some were sentenced to very heavy sentences, especially if they had been involved with the S.S., and others were given more lenient sentences.

Regarding another portion of Exhibit 1, there is a statement to the effect that no authentic eye witness has ever been produced with respect to the gas chambers. Dr. Hilberg was of the opinion that that is incorrect. Persons have been produced.

He said that death camps are sometimes synonymous with concentration camps. He looked for systematic killings in the number of tens of thousands, hundreds of thousands, before he would characterize such a facility as a death camp.

With respect to the Warsaw Ghetto passage at page 18 he stated that it was incorrect. The reference was to the "endless list of newly-discovered death camps". Dr. Hilberg stated it was not an endless list, and it was not newly-discovered; it was not as {96|97} mysterious as indicated in the paragraph. The discovery is new in the sense that in 1960 German trials brought it out, but knowledge of these camps was known long before then.

He said that his sources that he has researched in the making of his statement concerning the Warsaw Ghetto and others included a report by a statistician employed by the S.S., a document with the German Secret Police, the Kohrerr [Korherr] Report, in 1942. He said it was known how many people were under German control at various periods of time, and the Germans published these figures, the death figures.

Dr. Hilberg took in consideration that the words used in reports, "peaceful resettlement", meant that prisoners were taken from ghettos but were not resettled; they were taken and disposed of in these camps. He used the words, "We see a controlled process of reduction by shooting, by gassing in Poland with the result that the pre-war population of 3,350,000 as of September 1939, the death toll attributed to the Holocaust, is closer to three million in Poland alone by its pre-war boundary".

He said that Treblinka was a pure {97|98} killing facility, Sobibor was a pure death camp; Chelmno was a death camp. Some of these camps had very small work facilities, but they were used exclusively for killing. He was referred to the words on page 19 of Exhibit 1, "After six months of peaceful evacuation, when only about 60,000 Jews remained in the residential ghetto, the Germans met with an armed rebellion on 18th January, 1943." He was asked by Crown counsel whether there were any documents that he had seen indicating where Jews were taken during that evacuation.

He replied, "Yes", and he referred to a report of an S.S. officer of high rank with the name of Stroop who had made a long report indicating clearly where the Jews went in 1942. Three hundred thousand were transported to Treblinka, a death camp, Dr. Hilberg said. The population in the ghetto in 1942, sixty or seventy thousand were left, and half of them were registered, the other half were not registered. The registered inmates were used for production. In January six or seven thousand more were deported.

Following that deportation yet another action began which Dr. Hilberg said was an action to {98|99} liquidate the ghetto entirely. He was referred to Exhibit 1 at the top of page 19, to the words, "Stubborn resistance by the Jewish Combat Organisation in the face of impossible odds led to an estimated 12,000 Jewish casualties, the majority by remaining in burning buildings and dug-outs."

The witness said that the whole passage concerning the resettling of the ghetto was a complete falsehood. It converts figures of dead into figures of presumably living people. The only correct statement in the entire passage at the first top paragraph at page 19 appears on the Exhibit when it says that the assault began on the 19th of April.

He then said he studied railroad schedules in Germany during the war, among other things. They caused him to conclude that concentration camps were located where areas of high concentration of Jewish people lived. That was so because the Gestapo had to pay third-class one way for each person transported to a camp; the longer the trip, the heavier the bill. It was in the interests of deporting agencies to make

the trips as short as possible and to locate the death camps where Jewish population was the most dense. Personal {99|100} belongings that were confiscated were used to defray the cost of the one-way transportation third-class ticket.

On page 28 at the top right-hand paragraph, he was referred to the words, "One of the many merits of Rassinier's work is exploding the myth of unique German 'wickedness'; and he reveals with devastating force how historical truth has been obliterated in an impenetrable fog of partisan propaganda."

Dr. Hilberg, when asked, said that that was a fabrication, and that figures were taken from that reference out of what he said was thin air.

Page 30, Exhibit he was referred to the words, "Contrary to the figure of over 9 million Jews in German-occupied territory put forward at the Nuremberg and Eichmann trials, it has already been established that after extensive emigration, approximately 3 million were living in Europe, excluding the Soviet Union."

Dr. Hilberg stated that the report of Kohrerr [Korherr], the S.S. statistician, was packed with figures and bears no resemblance to the figures quoted on page of Exhibit 1 at all.

In cross-examination he said that he {100|101} has not produce [sic] any documents at this trial because he was not asked to bring any. The fact that the Holocaust happened, he said, has been confirmed over and over again.

He was then questioned closely on the subject of gas chambers and why he has not visited the camps himself in person. He said it was not necessary to make those visits. He described one camp. He said there were three parts to the camp known as Auschwitz, and in one of those areas there is located a reconstructed gas chamber. He knew it was there.

In Birkenau he said two gas chambers were built in 1942. They were temporary structures. After they were used, the bodies were taken from them and buried. In 1943, after four massive extensive structures were built and labelled "crematoria", he said they really were gas chambers, in his opinion.

He was then shown documents from the Nuremberg Trials, the Stroop report concerning the 56,065 "annihilated". Dr. Hilberg then had a long exchange with Mr. Christie on the meaning of that word in German. Mr. Christie suggested that it meant casualties, or something other than 56,065 people being killed. Dr. Hilberg, on {101|102} the other hand, was of the view that the word meant annihilated in the sense that it meant killed.

He, in his evidence, especially in cross-examination, repeated examples of the language contained in German documents employing words and phrases which were, in his opinion, accepted by all who read them as conveying the meaning that, on their face, it would not necessarily convey.

As an example, he said the word "relocate" meant "to kill"; the words "taken prisoner" really meant "to be shot or starved to death"; the word "resettle" means "to be taken to a death camp to die there"; "relocate" means "to liquidate". In the witness' opinion, these are the true meanings of the words that were actually used in the documents and in Exhibit 1.

He said a peaceful evacuation as described in the Stroop report really means that the Polish survivors of the ghetto were either shot by the Germans on the spot, or sent to be gassed. He said the plans of the ovens at Birkenau are available in the Birkenau Museum.

He agreed that the monument to the {102|103} Jewish dead at Birkenau is greatly exaggerated. When pressed, it was his opinion that an order came down from Hitler to exterminate Jews. It was a verbal order.

He was cross-examined extensively on this subject. He referred, as an authority, to Field Marshall Hoetti's account of that verbal order.

Members of the jury, if you conclude that an order came down and that there was an organized Nazi plan to exterminate the Jews of Europe, you will have to decide for yourselves whether or not it is likely that such an order is put in writing. You will have to decide whether or not you find that gas chambers were the sole method of killing, if there was

any killing, or one of many methods of killing, whether or not it would be likely that gas chambers would be left intact as the retreat occurred as the Russian Army came West and the German Armies retreated and prisoners were constantly moved out, as Mr. Fulop was, from an Eastern camp into Bergen-Belsen which is located much further West.

Dr. Hilberg said that there is no written document that he knows of signed by Hitler or Himmler to the effect that Jews were to be killed. He {103|104} then said that Himmler, in 1944, gave an order that the "Jewish problem" had been solved and that the death camps should be dismantled. The order has not been produced directly, but it existed, in Dr. Hilberg's opinion, by reason of the testimony or evidence of persons that he named who testified later after the War.

He said he weighed this evidence with other sources and formed this opinion. He did not agree that in the early nineteen forties and in about that era the Jews were considered to be Communists.

He again was cross-examined about figures and the number of Jews, by census, that existed. He said the figures were taken as Germany was quickly increasing the size of its border and as the borders of other countries was changing. He then made the observation that anyone who was in a camp and died of typhus was a victim of a Holocaust because that person was there only because he was Jewish.

Dr. Hilberg said that Maidanek used carbon monoxide to kill prisoners. He stated that he did not use or employ certain portions of the Gerstein statement because they were unreliable for a number of {104|105} reasons, one of which was Gerstein's mental health from time to time; parts were supported by independent evidence, parts were not. He did not employ what he felt to be the unreliable portions.

He was extensively cross-examined on a number of documents which he pointed out he never used as a basis for any of his conclusions. He stated he was not a chemist and could only state that he had seen aerial photographs and documents regarding poisonous chemicals being employed by the Germans.

He was then asked if there was in existence a single scientific report concerning the alleged use by Germans of cyanide gas pellets and the like to exterminate Jews. Defence counsel suggested that there were no such documents.

The witness wanted to know, first of all, the meaning of "scientific", but then stated that there were numerous German documents showing that gas was being delivered. He denied the suggestions that the gas was delivered in order, solely, to fumigate clothing and buildings. He said that Auschwitz was an administrative centre for that area. He said it is unlikely {105|106} that the German hierarchy would create scientific documents or other types of documents containing the formula and label those documents as being capable of being employed to kill people.

He denied the suggestion put to him that the Nuremberg Trials were biased. He was then asked about a facility for gassing people at Mau-thausen. He said that it was there. It was camouflaged to look like a bathhouse.

He was then cross-examined about the opinions of other writers, as I recall his evidence, especially one Yehuda Bauer, that that writing occurred at a point earlier in time, as there has since been other information provided which might change that opinion. He was then again cross-examined by Mr. Christie concerning the map on page 17 showing death camps.

Members of the jury, I have held your attention some time. I do not want to press my luck any further. We will take ten minutes.

— The jury retires. 10:50 a.m.

— Short adjournment.

—— {106|107}

— Upon resuming.

— The jury returns. 11:20 a.m.

THE COURT: Dr. Hilberg, members of the jury, as I recall his evidence, stated that the plans had seen the documents and other writings which has caused him to form the opinion that while the plans do not show ventilators at Birkenau, they existed.

He pointed out that the workers in the gas chambers wore gas masks

when they were dragging out the bodies. Hair from the head of the corpses and the teeth containing gold were then removed by different squads of camp workers, and yet others then took the bodies to be burned.

You will recall the evidence of Dr. Faurisson who agreed only to the point that the gold was removed from the teeth of the dead bodies.

Dr. Hilberg has not been able to confirm the account given by one Nazi accused, high-ranking officer, that prisoners smoked and ate as this {107|108} process of removing the bodies to be burned was in progress. Dr. Hilberg was then cross-examined about his use of the statements of various Nazi accused, high-ranking officers who were captured and who gave statements. I am sure that that is fresh in your minds. He said that he did not believe that soap was made from human fat, at least on a regular basis.

He mentioned a Luther memorandum. [sic] There was a summary of policy commencing in 1939 when it was written. It was written at a time when death camps and gas chambers had just started to be built and to operate. Luther, in the Foreign Office, will be some months behind information that was coming in from the field.

He was again cross-examined on whether or not there was an order from Hitler to exterminate Jews. He said that as far as his opinion was concerned, there is no doubt that Hitler gave an order to exterminate Jews. The controversy arises as to whether that order was in writing at one time or not.

He said the word "annihilate" is not mentioned. The words "final solution" were always used {108|109} to a certain point by the Nazis during the War in reference to Jews. It then became unadvisable, by reason of the repetitious use of those words. The words "final solution" and other phraseology replaced those words.

Finally, when he was referred to page 30 under the heading, "Imaginary Slaughter", Dr. Hilberg said that the linkage of the combination of all of the statements contained in Exhibit 1 makes that portion of Exhibit 1 objectionable because it implies that all or the majority of the claims being made were for money against West Germany. He said that that, of course, pre-supposes that any plot that existed, existed during the War when it was by no means clear that the Germans would lose the War.

Rudolf Vrba was the next witness. He testified at great length. He was born in Czechoslovakia. He lived there until 1939. He lived in a German-controlled area. He was deported in 1942 to a concentration camp at Maidanek. He stayed there two weeks. In June of that year he was put in a railroad [sic] car, taken to Auschwitz. He arrived there on June 30, 1942. He remained there until April of 1944 when he said he {109|110} escaped and returned to Czechoslovakia.

He again, as other witnesses did, described a typical working day of being aroused at 3:00 a.m., marched to a train. After being counted three times, he was then moved to a place where he was unloaded and marched three more kilometers to a building site where work would start at 8:00 a.m. One litre of soup or some tea for five persons was provided for five persons for one meal. The local water was contaminated. S.S. guards on both sides would march the line of prisoners to work.

He said that very often the S.S. had a practice when one was working in a perimeter outside of the camp that the hat of a Jewish prisoner would be removed and thrown away. The prisoner whose hat was thrown away would be told to run for the hat. If he failed to do that, he would be beaten. If he ran for the hat, he would be shot. Chester Tomaszewski had something to say on that subject, that practice.

At the end of two months, due to an outbreak of typhus in a section of Auschwitz, Dr. Vrba I was able to escape the work gang he was on by reason of that outbreak of typhus. He was deloused again, {110|111} stripped naked, his clothes were taken. He then described how he went through a hole in a wall into the former women's barracks. He was now in Block IV.

He was assigned new work. That was called the Kanada kommando. He hastens to say that "Kanada" is spelled "K-A-N-A-D-A". That was a group of slave labourers.

The group was divided into two sections. One worked by day and the other one worked at night. He then outlined on a screen here the location of the camp, a rough diagram of the camp. He filled in the areas of the guard towers, railroad lines, railroad spurs. He described how various prisoners were taken each day to work in the ammunition [sic] factories connected with the complex. He described the guard towers where no fencing occurred, but where prisoners at night were taken back into the actual camps that were guarded and the electrically-powered wires were turned on.

He was ordered by the S.S. to do various parts of work and labour. He said the two camps were separated, Birkenau and Auschwitz, by a railroad line of the main line between Vienna and Krakow. {111|112} Off that railroad line he drew a spur line. Beside the spur line he drew a ramp that he said was about five hundred meters long and twelve or so meters wide.

Have a look at Exhibit 29, members of the jury, and see what you see there in connection with the ramp.

He said fifty railroad cattle cars could be brought into the siding by a locomotive leading up to the ramp. Beside that ramp there abutted the siding. He worked from the 20th of August until April 7th, 1944, about eight months, 240 days, he said, at the job on the ramp.

He would be marched there on occasion two or three times a day or at night. He went out over that period of time over a hundred times. He described how the detachment of guards would arrive and surround the whole area and the ramp, the railroad spur and the road, so that when the locomotive pulled in with the cattle cars containing the prisoners, all would be surrounded by S.S. guards.

A group of non-commissioned S.S. officers would then appear. They had silver buttons on their uniforms. They carried sticks or bamboo canes. {112|113} They were followed by S.S. officers wearing gold braid, white gloves and black uniforms carrying nothing in their hands. The train was then brought to the ramp. Keys were exchanged between the train crew and the S.S.

He then described the process by which the occupants of the cars were taken off the cars. He also described the separation process where all people were separated and put in one line. Young men and young women were separated and put into separate groups on the ramp. Anyone who tried to bring out luggage from the cars were assaulted by the S.S. with their canes.

He said Mengele was present and would select by a flick of a finger as to what young women and young men would be ordered to go in one direction, while others were sent to join the line-up of mothers, children and old people. He said five to twenty-five per cent of the young men were chosen to work. Up to seventy-five per cent of the other line were women, children and older people.

If any of the prisoners of which he was one said anything to any of the occupants of the train, they would be shot. He said the prisoners were {113|114} then ordered, his group, to run, enter and open the cattle cars and throw out the lame, the sick and the dead from the cars. They were then ordered on the run to throw out the baggage. They were then ordered to clean out all of the blood, the feces, and the urine from the cars so that no trace would be left that those cars had been occupied by humans. Those that could not stand or were sick or unable to move were literally thrown into the trucks.

He then described the process of how the various trucks on the ramp carrying people would head towards Birkenau following a small green truck with a red cross on it. He said that that small truck with the red cross on it carried canisters of gas. He helped load that little truck on occasion with canisters of gas. He would stand in line and be one of the prisoners who would help transfer the gas from Auschwitz to the truck which then went over to Birkenau.

He said the gas was held in a special house. He stood in a line of prisoners passing gallon-canisters of gas from the house to the van. He described the process of the clothing.

After a whole ramp had been cleared {114|115} the clothing was taken over, as I recall it, in Auschwitz and separated into grades of clothing – first grade, second grade, third grade. That was done by prisoners,

both men and women. It was done on blankets. His job was to help remove human clothing which had been piled up to the ceiling in a crematorium. He looked into the burning pits around that crematorium which were still radiating heat and saw fragments of bones which had been partially burned. He saw the partially burned heads of children lying in the bottom of the pits.

On Exhibit 1, he pointed to the area of Birkenau "A", where the women lived, and "B" where the men lived. He pointed to the areas of the map which he said did not exist in January of 1943 as built-up locations.

Over that six-month period from January of 1943 onward he saw many truckloads of people coming from the ramp separating Birkenau and Auschwitz. He traced the route the trucks took from the point where he saw them and where he was permitted to walk up and down the road-way separating the barracks where he lived.

He identified the mortuary in the camp which held bodies {115|116} of people who died in the camp compound. He was frequently there to visit with Fred Wetzler, his friend, who was in charge of the mortuary.

From that location, through a window facing the crematorium, he viewed three hundred to four hundred people at a time in the yard of the mortuary, a distance of fifty to sixty yards away, as those persons were unloaded from the trucks bringing them in from the ramp. He said they were the women, the sick and the old and the children.

The crematorium had long bunkers covered on the top. The bunkers were three or four in number. There were openings on the roof of the bunkers, three or four in number, covered by wooden or metal lids. He said he then observed a German sanitation corporal – he used the German rank; I am using the English rank – leisurely don a mask, then take the gas canisters, open them and remove the lids from the top of the bunker ventilators and place the top of the contents of the canisters into the vents, then go to the next vents and do the same thing. For each he would drop in one canister, sometimes two. He put the empty canisters by the edge of the bunker, and when they were {116|117} empty he would retrieve them, remove his mask and walk away to disappear.

He described how the bodies of the mortuary were bundled together in groups of ten bodies each, making counting by the S.S. easier. The bodies would be stacked into groups of ten in the mortuary, and at midnight they would be loaded by other prisoners on a truck and taken to the crematorium to be burned.

Prisoners who could not stand for roll call who were almost dead but still alive were sometimes killed by the Kapos' stick or by other methods.

In June of 1943, being unable to escape where he worked on the ramp with trains coming in, he got a change of jobs. He had now survived at Auschwitz for a year. He became a block scribe. He said all prisoners wore triangle patches on their clothing for identification. A red patch meant that the prisoner was a political prisoner. A green patch meant he was a criminal. A violet patch meant he was a pacifist or a Jehovah's Witness. A black patch indicated the prisoner was anti-social. Purple indicated homosexuality, and a double triangle in the form of the Star of David, either red or yellow, indicated the {117|118} prisoner was a Jew. He said by far the majority of the prisoners were Jews in Birkenau and Auschwitz.

When he became a scribe, he had more physical freedom to move around. He said when transport trains containing people came in, the same process occurred with the trucks of people going to the crematoria. He emphasized that the lorries carrying the people to what he said were the gas chambers would be heard by him going by day and night. It was by that method that he counted and estimated the numbers of people who he saw enter but never come out of the crematoria. He described his escape. He said that there was no road going away from the camp in the area of the crematoria. When he arrived in Czechoslovakia he separately gave his story, as did Wetzler. He anticipated that, from what he had heard in the camp, that building was going on in Auschwitz in order to accommodate the oncoming influx of Hungarian Jews.

Hw said that all of those that left the ramp in lorries en route to crema-

tion were not registered. {118|119}

He was referred to page 17 of Exhibit 1. He replied that the description given by one Christopherson, when compared to the description that he saw in the camp, could not be compared. There was no comparison. He said that the description of Christopherson was a cynical, complete lie.

He branded as another complete cynical lie the contents on page 24 of Exhibit 1 where it stated that humane conditions existed in the camp and the rations were not less than 2,750 calories a day in 1943 and regular care to the sick was given.

Dr. Vrba said that he was not a part of any conspiracy to deceive anyone concerning conditions that existed at Auschwitz. He is not a member of any political party or any organized religious group. He has no affiliation except with that of the University of British Columbia and two other universities.

In cross-examination he agreed that he was the author of the book, "I Cannot Forgive". That book was published in 1964. He made it clear that he would not say that all of the contents of that book were technically, absolutely true.

Mr. Christie cross-examined him closely {119|120} on the subject as to the truthfulness of the contents of the book. Dr. Vrba said that it was intended to be a literary creation which would greatly condense within its covers what otherwise would have required many volumes and footnotes to complete. It is a book written in a style of an artistic event; it is an artistic depiction of what life was like in the camp.

The defence has submitted to you that Dr. Vrba certainly took poetic licence, if I can use that term, in writing the book, and that he did the same thing with respect to his evidence in his testimony before you.

Members of the jury, as I have already said, I hope enough times, it is the weight that you each attach to the evidence of any witness that is all important. You will please bear in mind Mr. Christie's cross-examination of this witness in that regard and in other regards when you are attaching that weight.

Dr. Vrba was questioned on what he said was Heinrich Himmler's inspection of the camp. It was suggested to him that that did not occur. He may not have known what Himmler looked like in those days. {120|121}

You will have to decide whether there is a validity in that argument or not, members of the jury.

He testified, when he was cross-examined, that he was age nineteen at the time that all this happened. He was in a sufficiently desperate situation where he still harboured false hopes that the higher German political figures were not aware of what was happening at this camp, and that when Himmler arrived at the camp, it was a celebrated arrival because he thought that Himmler would see what was happening and put a stop to it. He said he was still that naive at that time.

He would not agree with the cross-examiner as to when certain barracks were finished or not finished in the Kanada section of Auschwitz. He was cross-examined for quite some time as to why the burning pits would function in marshy ground. He replied that with two hundred to three hundred slave labourers, and he being part of them, he was not consulted about any of these things. He said the pits might have appeared bigger to him than they really were, when he was asked precisely about what their dimensions {121|122} were; he could only give an estimate of what the dimensions of the pits were.

He was asked about Exhibit 21, the map of Birkenau. He marked a circle where the mortuary was located as of the 8th of June, 1943. When asked to repeat what he saw the S.S. man doing when the canisters were dumped, he denied that the bunker where the gas was put in was a mortuary. He said that the crematorium needed no mortuary because only three hundred to four hundred people a day died in Birkenau, and the bodies of the dead could be accommodated in Wetzler's mortuary.

He said he was one of the exceptions who survived. He denied the suggestion put to him that he was being untruthful when he stated that the height of the bunker where the S.S. man put in the canister was sufficiently high that the sanitation corporal had to reach up and to

climb on the bunker. In other words, the height of the building out of the ground was very much the subject of a difference of opinion between Mr. Christie and the witness.

Dr. Vrba said in his book he did not intend to quote words verbatim that people used. {122|123} Rather, he was attempting to employ those words and phrases that others in the camp were using at the time, generally speaking.

He said when he escaped in April of 1944 he knew the camp was preparing to receive Hungarian Jews; he said about a million. That proved, he said, to be correct. Four hundred thousand Hungarian Jews came in, in that area, to that camp at that time. His figures, he said, agree with those of Hoess simply because the Hoess figures and the Vrba figures were accurate insofar as the truth of the numbers who were killed is concerned.

Exhibits 22 and 23 are rough drawings that he made in the camp in 1944. He made one of those drawings from memory. Exhibit 23 is a more elaborate map of Auschwitz that he made with some changes. The bathhouse is not shown at a different place on each of the two drawings, as was suggested, he said.

You will decide that, members of the jury.

One drawing was made with engineering assistance. The other was made from memory.

He said he was actually in the crema-{123|124}toria at Kanada in November of 1942 when he was ordered to go there to collect the clothes from people who he said had been gassed. He said the building had been used as a garage. It contained two doors. He collected the clothes from the chamber, although he acknowledged that people usually undressed before they entered.

He did not agree that Exhibit 25 was in any way inconsistent with what he had written in his book containing the ability of ovens to burn up to twelve thousand people a day.

When he was asked whether it was possible that three thousand children were born at Auschwitz, he stated that at one time, over a six-month period, in order to placate the citizens of Czechoslovakia who became worried about the fate of those who had been deported, a large number of women, children and men all arrived and were placed into one barrack where they lived for six months. He said he looked at their registration cards and the words "special treatment after six months' quarantine" was on their card. At the end of the six months he said they were taken out and gassed, but in the meantime people kept arriving at the rail siding and were {124|125} transported.

Mr. Christie asked Dr. Vrba this question: "Can you tell us of one single instance where you saw one Jew gassed?" The witness replied that he saw all these people enter the crematoria. He watched them go in and not come out.

I do not think there is any problem, members of the jury, with you concluding that he saw what he saw, if you accept that; but he did not see anyone actually gassed.

His figures were 1,765,000 people who perished. He replied in answer to another question that in addition many who were selected to work at the ramp in Auschwitz were taken away after a while and worked elsewhere in the countryside.

He would not agree with Mr. Christie that any map or diagram that he was shown indicated any road leading out of Auschwitz-Birkenau from the other end. He said that typhus victims were burned along with people who were being gassed.

He was then cross-examined closely on the number of ovens, the number of crematoria, and the number of openings in each crematoria. He repeated {125|126} that the sketch he was shown is a result of what he had heard from others who had built the crematoria. That appeared in the Refugee Board Report that he made after the War was over.

He was again shown the aerial photograph of Auschwitz and denied that there was a roadway existing leading north of the crematoria.

He repeated that the object of the Nazis was to keep all of this secret: the gassings and the killings at Auschwitz and Birkenau were to be kept secret. He repeated that no unregistered prisoners left Auschwitz once they arrived.

He Has shown Exhibits 22 and 23. The former, he said, was drawn from his memory. He was then closely questioned as to the apparent differences in the location of the gas chambers which were called a bath or a shower. He said that he drew the sketch from his memory. Between the time that he escaped and the time that the new Exhibit 23 was created, 27 new barracks appeared and were under construction. Either the bathhouse was shifted to another location, or else he did not place it precisely where it was placed when he was making the drawing from his {126|127} memory.

He said that Zyklon-B was used for killing people and also used for fumigating buildings and clothing. He said that Christopherson's account was absurd. His words were, "If Christopherson was in Auschwitz, he could not honestly hold such beliefs in truth."

Chester Tomaszewski is now aged sixty-one. He is a Rumanian Catholic. He is a Christian. He was a political prisoner and was arrested by the Germans in 1940. He was transferred to Dachau. He remained there for six to seven weeks. He was then transferred to Mauthausen-Gussen. There he remained in Gussen until the 15th of May, 1945.

He described the treatment that he and other prisoners received at the camp, the daily routine basis which started at 5:00 a.m. Sanitary conditions were non-existent. There were no toilets. Washing was done at the end of a water pipe which also contained the drinking water. He described the routine of having to be obliged to take their hats off as the Germans forced them to do in deference to the German guards. He {127|128} described how on some nights an average of two to three hundred prisoners died overnight. The bodies had to be carried out to roll call, which he called "appel". Sick people who could not stand had to be assisted out.

After the roll call, working groups were formed, and up to a thousand prisoners went to dig up earth and pull rocks on a mountain from stone quarries. He saw a lot of men die. He carried a lot of them to a place where they were burned.

Every Sunday the heads of all prisoners would be shaved in the morning. He described how on successive Sundays the two or three hundred Jewish prisoner who originally were in the camp were shot and killed by Germans by a process under which the Jewish prisoners would be ordered out of the line of guards to pick up stones. As soon as they disobeyed the order, because you could not move out of the line, they would be shot. He called the road to the stone quarry the Golgotha Way.

The victims that first died were the Jews, and then they were followed by others. This happened for three Sundays until all Jews were gone. {128|129} Jews would be assigned to clean latrines and carry the human waste of the pit in a large barrel suspended between two poles. For the first two or three months not many died because their bodies could withstand the strain. As fall came on, he watched prisoners physically deteriorate until they became skin and bone. As they were beaten at work and lost strength, they died.

The number of deaths increased. He branded the camp as an extermination camp. He said there was always a glow over the crematoria. The wounds of the prisoners never healed. The camp always smelled bad. These were his words.

The hospital barracks were a one-way street to the crematoria. Once you went to the invalid block the food rations were cut and you could starve.

He described an incident, how on February of 1945 a transport came in with Hungarian Jews who were kept standing through the night on the appel square. They were barefoot and dressed in rags.

He described the meagre small amounts of food that they were given. None of his family ever {129|130} returned to Poland. Most of them were killed when they were arrested. He was never in Mauthausen; he was only in Gussen. His fingernails were repaired in the camp hospital. They were pulled out, no anaesthetic. He estimated that two hundred a day was not an exaggeration.

The normal capacity of the camp was twelve thousand. Often it contained eighteen thousand. Poles received red triangles on their clothes, Spanish blue, the German criminals green. The Jews got the Star of



David.

He said that the order of the camp was that the prisoners, including himself, would be gassed if the camp was to be captured. He said by 1943 things had improved somewhat. In 1944 Red Cross parcels were even allowed into the camp. Slave labour was harder to come by. People who could not stand on the parade ground all night sometimes threw themselves on the electric wire and died.

Dennis Urstein is now sixty one. He was born in Austria. In 1938 he lived in Vienna. He was arrested when Hitler marched into Austria. He was incarcerated for two years in his former schoolhouse. {130|131}

He was then released. He was re-arrested in Belgium, I believe. He was sent to a prison camp where he stayed until 1942. In that year he then went to Auschwitz where he remained until 1944.

He described the selection process of the ramp as being a very casual process where one line moved to the left, and he moved to the right. After he announced that he was a tailor, he was marched into the camp. His job was to sew uniform numbers on uniforms which matched with the tattoo [sic] numbers of prisoners.

One of his jobs then was to meet trains coming in and to get the people off the trains quickly, to throw their baggage out to be confiscated. He saw his mother and father get off the train. He saw them taken away in trucks. He never saw them again.

On the ramp he said you could see two crematoriums with one smoke stack. There was a doctor there, Mengele.

He said that in late February he had gone in from work and was lined up with prisoners in his barrack outside in fives before entering the barrack for the night. He was then ordered by some S.S. Germans to get into rows of five. He was included. A truck came {131|132} along, the same type that used to transport the dead bodies, and he was driven to the crematorium. He thought that he was going to die, but that did not occur.

When they arrived in front of the building that he described as the gas chamber, there were three S.S. men present. He noticed silver piping on their uniform. He said they were polite. He saw trees and flowers and shrubs in the area.

Standing at attention after being ordered off the truck, he saw an S.S. man put on a gas mask, then heard from the inside of a building outside of which he was standing a humming sound coming through the door of the building. He and twenty-nine others stood there. To his left he said he saw the crematorium. The door to the gas chamber was large, wooden. It was held shut by what he described as wing nuts.

He was then given a hook with a handle on it. The hook and handle was about three feet long. The door of the chamber was then opened and this witness said he saw a lot of bodies. The bodies were naked. They included men, women and children. They were entangled with one another as if they had all {132|133} recently been trying to get on top of one another. The strongest were on top. The children were at the bottom.

The order was, "Get these Jew bastards out." He said that there was a lot of water around inside the chamber. He said he estimated there were six to seven hundred bodies, forty per cent of which were children up to ten, eleven and twelve years old.

As he walked in the chamber there was a corridor, a step or two. He then began to remove the bodies. The floor of the chamber was at ground level. He did not know if there was a basement in the building. There were scratch marks on the bodies. The smell was strong as the bladders and bowels had let go. The bodies were quite wet. The bodies had blood at the nose and a trace of foam at the corner of the mouth. There was a smell in the chamber he described like pickles or mustard. When the bodies had been removed and stacked on top of one another on a head-to-foot basis, he was ordered, with others, to wash out the chamber. He said there were no columns holding up the ceiling of the chamber that he saw. Every twelve inches he saw a {133|134} a shower fixture on the ceiling. There were no windows although there was a window in one of the doors in the chamber. He noticed a lot of steel piping going to the ceiling with wire mesh, piping.

They were ordered outside on to the trucks and taken to the barracks.

The whole process took about three hours. This was the only time that he did this type of work.

During his stay in that camp, opening a suitcase confiscated from one of the people taken from the transport, he saw a picture and a birth certificate of a relative of his. He made it clear that after May of 1943 he was not in the Kanada section of that camp. He was fixing roofs.

The gas chamber from the outside wall had a very large door. It did not look like a gas chamber from the outside. He drew Exhibit 28 as his recall of the chamber as he recalls it now.

He expressed anger and resentment at having to be here. He said he was trucked to Crematoria No. III, and he did not know how far it was. The chimneys of the crematorium looked squat and wide. He said he saw beautiful trees and shrubs and even flowers. {134|135}

It was impossible for him to describe details because he did not look for details when he was there. His words, as I recall them, were, "The things I saw I saw and that's all I can say."

He was not interested in the direction of the sun. He was interested only in living through the next hour. He was asked a question: "How do you know they were gassed?" His reply was: "You see the selection. People aren't shot. The Nazis have a way to put them away. It's like the Humane Society gassing cats; they don't shoot them, they gas them."

He said in 1944, in the summer, he left Auschwitz by the cattle car, people packed in each car very tightly. Some died en route. They were packed in so tightly that those who died could not fall.

Henry Leader was born in Poland in 1919. He lived there until 1939. He was then arrested and taken away. He never saw his family again.

Able-bodied people were taken to a room in the concentration camp where he was taken. They were stripped, their belongings taken away, their hair was shaved. They were disinfected, showered, provided {135|136} with striped clothes, given a number and put in a barrack. His number was 1697.

From December 1941 to June of 1943 he was in Maidanek camp. People ranged in age from fifteen to fifty. He was first put to work digging trenches. He was then assigned to a transport gang, eight people to a van. They handled baggage of persons coming into the camp.

He described how he was assigned to work at a gas chamber carrying bodies from the gas chamber a distance of three hundred and fifty yards to a crematorium by means of a van pulled by eight prisoners. The van held about twenty-five human bodies. There were three vans in total. The bodies were naked and were the last remains of men, women and children.

At one point, in March, a large transport containing families of White Russians, men, women and children, were all brought into the crematorium. They were overloaded to the point where the overflow had to be taken to a pit where, over layers of wood, bodies were stacked and then burned. These pits were about a kilometer away from the camp.

He described how he was working on a {136|137} road gang beside a crematorium. He was digging ditches next to it. He was surrounded with a wire fence, but he could see through the wire. From that position he was able to look through the fence to see, on a daily basis, the transports coming in.

He saw six or seven trucks loaded with people on one day, three trucks the next. One day, one truck containing a hundred young people moved to the area of the crematorium. The truck entered the crematorium gate, and half an hour later it came out empty.

After a day's operation there would be a truckload of clothing leave the area. Then you would see the people that had come in on the trucks walk through the doors of what he said was a gas chamber and not come out.

On the 5th of January, as the Red Army advanced, he was transported to Mauthausen by cattle car, sealed, for six days. The doors were never opened. No food was provided. Thirty to fifty per cent of the prisoners died en route.

After two weeks in Mauthausen they were transported to Gussen [Gusen] for two and a half weeks. Then they were taken to, I believe, Theresien [Terezin] to work {137|138} in an ammunition factory. In April



of 1945 the Red Army advanced. As a result they were taken to Czechoslovakia on a thirteen-day march in which thirty-five to forty per cent of those prisoners died on the march. If a prisoner fell out of line and could not march any more, he was shot.

He received \$3,500 from the German Government for compensation. He now receives a monthly pension of \$230. He is not part of any conspiracy or attempt to get people to believe that millions of Jews died when they did not.

John Burnett is the senior vice-president of The Royal Bank of Canada. He testified on Exhibit 2, "The West, War and Islam". He travels extensively and meets representatives of other banks over the world.

He swore that the Canadian law requires that the maximum number of shareholders owning shares in a Canadian bank cannot exceed ten per cent in anyone person or corporation; Percentage ownership by foreigners cannot exceed twenty-five per cent.

Worldwide, the bank's operation consists of borrowing of money at various rates of interest from {138|139} others and lending that money to yet others, persons and corporations, at higher rates of interest. The difference is the profit. The ability of the borrower to repay is the prime concern.

There is no international banking agreement or conspiracy, he said, to direct loans for evil purposes. The wealth of the bank is not based on usury, if usury means excessive interest rates being charged. It is not the policy of the bank or any other Canadian bank that he knows of to bribe other governments or to seize Islamic assets.

He agreed that loans in foreign currencies do not require banks to keep reserves. He denied that if loans go into default in other countries, lending activities in Canada are adversely affected. It is in the interest of the bank to lend monies, he said, to make sure that those who borrow it prosper so that more money can be repaid and more loans in the future can be made.

He said the international monetary fund is part of the United Nations. It lays down terms and conditions concerning the devaluation of currencies, and it sets conditions on the making of loans. To suggest {139|140} that any government of Canada would come in to support a defaulted loan to help a bank is unrealistic.

He said mid-East oil was consumed not by small countries totally or exclusively, but rather by large countries like America, France, Germany, the United States, Japan. He said that recycled Middle East dollars made by Middle East countries who have oil amounted to so much money, in fact, that it had to be recycled carefully and with great problems in order to get it back into circulation.

Rene Degrace, [de Grace] from the International Red Cross Society in Canada, testified. He gave his employer's duties and he read into the record contents of a Bulletin dated the 1st of February, 1978. What he read into the record is as follows:

*"Consequently, the ICRC considers that it must make clear the fact that it has never published or even compiled statistics of this kind which are being attributed to it. The work of the ICRC is to help war victims, not count them. In any case, how could its delegates have {140|141} obtained data for such statistics? They were able to enter only a few concentration camps, and then only in the final days of the war. Everything the ICRC tried to do for the inmates of those camps and what it finally managed to do is related in its report entitled, 'The Work of the ICRC For Civilian Detainees in German Concentration Camps from 1939 to 1945' (available in English, French and German)."*

Members of the jury, the final Crown witness that I will mention was Mr. William T. Murphy. He was an archivist with the National Archives in the United States. He is stationed in Washington, the National Archives there. This is a federal agency required by American law, he said, to keep records and other documents.

The National Archives makes available to members of the public a number of records that it contains. Included in that is a film on Nazi Concentration Camps. The Archives received this film in its eighty {141|142} thousand feet entirety first in 1946. Later on, from another source in 1956.

These films, like everything else in the Archives, are public documents

and are always available to the public. The films of the Nazi Concentration Camps could be purchased and are purchased from the Archives. It is available in sixteen and twenty-five millimeter video tapes.

In addition to the film, the Archives in Washington contain film footage of World War II, World War I and other film records of national interest.

Mr. Murphy has no personal knowledge of World War II but he has studied the films on that subject. The film that was shown to you, Exhibit 32, he swore, is a six-thousand-foot portion of the eighty thousand footage on the film.

He said that he recognized the film and that it is a copy from the original that was placed in the Archives. He identified the documents that accompanied the film. That film will be available to you to look at if you wish to do so during the course of your deliberations.

Members of the jury, this has taken a {142|143} little longer than I thought. I think it is now time that we took another ten minutes. I will then call you back and I will be a little while this afternoon. However, it is necessary, in a trial of this length, that I go into the evidence a little more deeply than otherwise would. We will take ten minutes.

— The jury retires. 12:15 p.m.

— Short adjournment.

— Upon resuming.

— The jury returns. 12:35 p.m.

THE COURT: Members of the jury, Robert Faurisson was the first witness to testify on behalf of the defence.

Through graphs and other documents, as well as his own evidence, Dr. Faurisson was asked and gave his opinion that the figures and investigations and the research that he has done, along with other writers whose opinion he values, his conclusion is that a far lesser number of Jews perished during the years 1939 to {143|144} 1945 than the prosecution witnesses have said perished.

Dr. Faurisson, generally speaking, was of the firm view that there was no organized gassing. There was no gassing at all of any German-held prisoners, be that prisoner Jew or non-Jew.

He relied upon a number of sources. Some of those sources included the Red Cross Tracing Service figures. In Dr. Faurisson's opinion, when the Allied Armies relieved Dachau, Bergen-Belsen and other camps there might have been the first impression that the sad state of the prisoners had existed over that five-year period from 1939, whereas in Dr. Faurisson's opinion that was not the case at all from the documentation and the sources with which he is familiar.

He said that there was a breakdown in food transport, rail transport, and road transport towards the end of the War. That was all caused by the saturation bombing by the Allied aircraft which prohibited the transfer of people, food and communication of all kind resulting in chaos occurring in the camps where these prisoners were being held.

Germany was overrun on both sides, which resulted in temporary but very extreme hardship to {144|145} these prisoners some of whom, he said, died. It also caused the outbreak of epidemics, including typhus, that took away a great number of these prisoners.

He stated that the reliance upon the confessions by captured Nazi war criminals was not a safe basis upon which to come to a conclusion that there was a determined German policy to exterminate Jews in Europe.

He pointed to a number of those captured Nazis who, under arrest, gave confessions. Dr. Faurisson was of the opinion that they were given strictly and only so that those persons could save themselves; they were not, therefore, truthful or accurate or both.

He said that at the Dachau camp today there is a sign in five languages, including English, over the door of a room which says that there was a gas chamber disguised as a shower room that was never used.

He said there are confessions of Germans charged with war crimes. The International War Crimes Tribunals said that there was a gas chamber at Ravensbrück. However, Dr. Faurisson's research indicates that there was no gas chamber at Ravensbrück. His words on this subject and other allied subjects were, "We don't {145|146} know why it has been decided officially that there is a sudden reversal of historians from the time that they said no gas chambers existed to the

present where the opposite view is the case."

He was then asked by Mr. Christie about Exhibit 1 and whether or not he has considered whatever evidence exists that six million Jews died in these camps. Dr. Faurisson replied that if he tried to find evidence that a gas chamber existed, there is not the slightest proof that there is one gas chamber that ever existed in Auschwitz or Birkenau.

He said that it was impossible to sustain the belief that six million Jews died in gas chambers. He said that the evidence at Auschwitz, at least, is that there is no sign of a gas chamber. He said the gas chamber charge is a fraud. Stories coming out of Germany at the end of the Second World War indicated first that prisoners were killed by electrocution. That was later changed to stories saying that they died by mass gassings. At other times there were allegations that steam was used to kill prisoners.

When asked, he said that in all of the camps, between two hundred and three hundred fifty {146|147} thousand people were killed. He based these figures on the Red Cross Tracing Service. He was then shown Exhibit 26, the War Refugee Board Report stating that 1,765,000 Jews were gassed, of which a hundred and fifty [thousand] French Jews were included. Dr. Faurisson replied that the figures were not accurate. He did not agree with them. One reason was that the total of Jews deported from France in total only included seventy-five thousand.

He said Nuremberg, however, accepted the higher figure. He quoted Serge Klarsfeld, an author who gave figures. He quoted Vrba's figures of, I believe, 1,065,000. In summary, he said all of these figures are not to be believed because no one has ever told how their particular estimates were arrived at.

Dr. Faurisson was of the view that six million being the number of Jews killed was the figure contained in an affidavit not apparently used at the trial of Nazi war criminals. He said that the War Refugee Board Report, the Hoess confession and the Kurt Gerstein confession were the basis in support of the six million number.

The War Refugee Board Report cannot be believed because it contains information which is {147|148} impossible for anyone to accept. The Hoess confession, he said, concerning two and a half million persons being gassed in the camp, is unrealistic and not to be believed because logistically speaking, in effect, that could not occur.

Faurisson said that he was of the view that in order to kill all these people, there must necessarily have been an order in writing coming down from Hitler or a very high Nazi official. It could not be a verbal order because, he said, everything else in Germany was so minutely covered with paperwork right down to the servicing of the dogs at the Auschwitz camp. All that had been in writing.

He said the Germans put everything in writing, with many signatures, even to the number of prisoners who died, how they had died at a certain time; people had to witness all that. It is very surprising that an order to kill millions of Jews, therefore, would not be in writing.

The Gerstein confession is suspect because Gerstein made it under pressure at a time when he had been under arrest, and if he had not made it, the suggestion from Dr. Faurisson is that the person under {148|149} arrest, Gerstein, would have been turned over to the Russians. In any event, Gerstein's description of people being packed into gas chambers, twenty-eight people per square meter, is exaggerated and not to be believed. He was of the view that the Gerstein confession was used by Dr. Hilberg because Dr. Hilberg badly needed that confession to buttress his own view that gassing did occur to eliminate Jews.

Dr. Faurisson pointed out that the Red Cross did not say anything in its report about gas chambers, did not mention death camps during the course of the War. After the War in Germany the expression "extermination camp" was used in Red Cross Reports. He then stated in his opinion Exhibit 1 is accurate in that there was no genocide and no gas chambers.

He has published to this effect in France. He said genocide is an accusation against the German nation; it is not true. That is the reason he gives. He said he did not believe in the existence of gas chambers. In a

recent law suit in which he was involved in France he instructed his lawyer to make his accusers bring even one witness to say that gas chambers existed. Dr. Faurisson said that no one came forward. {149|150} He does not believe that Mr. Urstein saw what Mr. Urstein said he saw. He does not believe that the other witnesses who testified for the Crown gave accurate evidence with respect to gas chambers, because from what Dr. Faurisson has seen in looking at the maps and plans of the prison itself, it would be impossible that gas chambers could have existed at Auschwitz.

He then stated that at the end of the War there were some bodies supposed to have been found in a hospital which, after testing, it was proven that gas had not been used upon them. He said the Red Cross at Auschwitz in September of 1944 spoke to the commandant. The report emanating as a result of that, meeting shows that the Gestapo officers were polite to the Red Cross representative, but that they were reticent to describe what apparently occurred in fear of giving any information.

The "shower room" was mentioned in the report, but the report said it was impossible to prove it because the commandant of the camp said nothing. The report then went on to say, "As we leave Auschwitz, we have the feeling there is a well-grounded mystery."

He said that Hans Frank, the German commander of Poland, was astonished to hear there were {150|151} gas chambers and extermination camps.

The book, "The Hoax of the Twentieth Century" written by Butz, Dr. Faurisson said he agreed totally with its contents and he would like to have written it; he has great respect for its author. He mentioned Sir Hartley Shawcross, who was a prosecutor at Nuremberg, who said that six million Jews were wiped out in Germany during the War. However the six million, insofar as accuracy is concerned, is overstated. He then said, and I hope I have quoted him correctly, "We have in Germany a few who wrote books containing our views."

He then described how he, himself, was attacked, beaten up and subjected to hardship as a result of the views that he has that the Holocaust did not happen and that certainly no gassings occurred.

He said he found the accused greedy for knowledge and information. Mr. Zundel, he said, constantly asked for information concerning gas chambers. Dr. Faurisson provided that information as best he could.

He said the reason that Hoess, Hoettl and Gerstein were so co-operative in giving their confessions concerning the existence of gas chambers in Germany, he repeated, was that they were afraid that if {151|152} they did not, they would be turned over to the Russians or sent to the Russian area at that time, which was not desirable. He then stated that the existence of the question of gas chambers as covered by the Press and court cases is what he termed as a "sacred cow".

He mentioned a trial where the question was not asked in a court proceeding involving some war crimes in Europe. He criticized many German trials stating that they were not fairly held, that the Western allies told West Germany what to do as the Russians told East Germany what to do.

He gave as an example one story of what allegedly occurred in a gas chamber where he said there were nine untruths in the story concerning children being given towels and soap and joyfully entering a room to be gassed, the room containing false shower heads. One by one, Dr. Faurisson counted the nine untruths that he said existed in that story.

He said that false stories about gas chambers, by reason of their repetition, are coming to be believed. Stories of gas chambers, he said, are individually inconsistent. Every week there is a new story. {152|153}

He said the term "final solution" is territorial in nature. It was used by Reinhard Heydrich, Chief of Police under Himmler, at one time, referring to Jews who were going to be sent eastward and not to be killed, but merely put in camps and displaced. He said the term has been used by others to mean the killing of Jews, but only recently. It is now changing back and it is unclear what the word means.

When he was cross-examined he was asked about the Einsatzgruppen. As I recorded his evidence he made it clear that he specialized only in what he considers to be the core of the Holocaust, namely, the

existence or non-existence of gas chambers. He has considered the reports of the Einsatzgruppen's acts, but that is not his specialty. He did not want to go into the subject of numbers in that regard.

He agreed that he had seen the reports of that source reporting the number of dead to Nazi superiors, but he does not remember what the reports contained. He was reminded that he was an expert on the Holocaust. In reply to that he said he was waiting for the real studies on the subject to emerge.

He had no estimate of how many Jews {153|154} died in the ghettos. He had not done that work. He was going to do it, but he has not gotten around to it.

He was then referred to Exhibit page 24, under the heading of "Humane Conditions". He was referred to the words, "Occasionally there was brutality, but such cases were immediately scrutinized by S.S. Judge Dr. Konrad Morgen of the Reich Criminal Police Office, whose job was to investigate irregularities at the various camps".

When asked, Dr. Faurisson agreed that this judge was an S.S. Judge and was the same person upon whom Dr. Faurisson had relied for the information concerning the death figures which he had used. This is the same judge who discussed extermination at the Maidanek camp.

He was then referred to the International Military Tribunal, Volume XX, page 492. That passage concerns the trial of one Wirth, a commander of a camp. Morgen quoted the same judge in that regard that Hitler ordered him to carry out the destruction of Jews. With a small detachment of Jews who were given much freedom and indulgences, yet other Jews were recruited to build yet [more] concentration camps. This was all in connection with a {154|155} Jewish wedding that Judge Morgen at that time was investigating.

Dr. Faurisson, as I recall his evidence, agreed that this was the same incident which described how the trains full of deportees came into the camps, taken off the cars and told they were going to be resettled, but first they had to be stripped of their clothes to be disinfected. They were given claim checks for the clothes while they went into the room which they thought were shower rooms, but in reality were gas chambers.

Dr. Faurisson then spoke in rather deprecating terms of Morgen. Faurisson said Morgen could not be believed in this particular story. He said that there were rumours of gas chambers that started after the War and cannot be supported.

He further went on to say that regarding the camps in the East which were taken over by the Russians, his words were, "We hear nothing about those camps. We have not even been given a plan. They may have been transit camps."

He said there were rumours of gas being used at Belzec. That emerged in the trial of Frank, Governor General of Poland. Dr. Faurisson said that Frank {155|156} took the responsibility and confessed to having exterminated the Jews by using gas in order to save his inferior-in-rank confreres.

Dr. Faurisson said he has not spoken to too many of the survivors, if any, of these camps. He was more interested in what was written that in what people tell him. He put the total deaths of all persons, as I have recorded [sic] his figures, at a top figure of three hundred and fifty thousand.

He agreed that a lot of his information has come from the International Tracing Service where he said there were forty million cards on file.

He seemed to be aware that in 1942, at the London Conference, the Allies had threatened Nazis in Germany that they would be prosecuted if extermination of Jews was not stopped.

He did not expect that railroads would go into such transit camps as Treblinka and Sobibor. He said railroads, if they go into camps, go both ways. This was so because people could come in by railroad [sic], but they could certainly come out by railroad or by other means.

Crown counsel put this suggestion to {156|157} him: "I suggest that the extermination description was consistent in all of the Hoess statements. Was there any significant difference?"

Dr. Faurisson answered: "It's the same vague story. You cannot know the number of gas chambers or their locations."

He said that because there is no evidence that he has heard from any survivor of any systematic approach to starve prisoners in these camps and work them till they died, he did not believe this occurred. He was asked what he thought the gas chamber at Dachau was used for. His reply was, "When I go to Dachau, I see they could not have used it for a gas chamber. It was never finished."

When asked what he thought the room in Dachau was used for, he said it might have been used as a shower room. He said, "I don't know about the ventilation systems. It's like a motel room."

He was then referred to page 11 of Exhibit 1 under the heading of, "Twisted Words and Groundless Assumptions". He was referred to the words about the lack of complete documentary evidence to support {157|158} the existence of an extermination plan has led to the habit of reinterpreting the documents that do survive. He was asked if there was not some evidence of genocide.

He replied, "It is not evidence of genocide because Himmler is speaking to German soldiers and is using war-like talk. They all know it's war-like talk, and everyone who is a soldier in wartime speaks like that."

He did appear to agree, members of the jury, that Hitler did sign a mercy-killing order from a euthanasia point of view for the incurably sick. He said it was odd that there were no documents from the Eastern [sic] camps as to the plans of those camps.

He did agree that the Eastern camps did exist and were called by Himmler as transit camps

I see now, members of the Jury, that it is one o'clock. We will adjourn till two fifteen.

— The jury retires. 1:00 p.m.

— Luncheon adjournment.

—— {158|159}

— Upon resuming.

— The jury returns. 2:30 p.m.

THE COURT: Members of the jury, when Dr. Faurisson was being cross-examined, he observed, in reply to Crown counsel's question, that on previous occasions he has been asked questions by people who say they have lost members of their family during this period of history; he is asked questions as to what happened to the members of their family.

Dr. Faurisson replied that he said to these people that he will provide them with a stamp and ask them to write to him with the name of all of their families who have been lost. He would try to trace those missing persons and let the questioner know. As I recorded his evidence, he said he has never received an answer from any of these people who have put questions like that to him.

Regarding the evidence of Henry Leader, he said that if Mr. Leader would provide him with a list of the members of the family that have been lost, he would check.

In concluding his evidence, Dr. Faurisson branded compensation claims made against Germany {159|160} as a gigantic fraud. He seemed to place a good deal of blame on one Goldman and one Ben Gurion who, he said, were Zionists or members of the Jewish Congress responsible for causing the West German Government of the day to improperly make an extraordinary and very heavy settlement with Israel.

He said that by the words "imaginary slaughter" that were used on page 30 of Exhibit 1 he meant a planned extermination. He said that in his opinion, on what investigations he has done, there was no Holocaust.

He concluded by saying that the Holocaust is a fantastic lie; it is a much bigger lie than those lies that were made against Germany emanating from World War I. In the lie of the Holocaust, as he termed it, he even mentioned that Pope Pius was somehow involved in it.

Dr. Barton is a psychiatrist. He lives in Rochester, New York. He was born in England and took his training there. As a medical student at the age of twenty-two in April 1945 he and a number of other medical students, [sic] he testified, were sent by the World Health Organization into Bergen Belsen. As I {160|161} interpreted his evidence, it was

rescue mission to assist the sad state of the inmates of that camp. He was there for a period of thirty days. Bergen Belsen was the only camp that he saw at that time. When he entered the camp with other students he gave a graphic description of what he smelled, what he saw and the absolutely horrific conditions that existed in the camp.

He said it was in a frightful state. There were dead bodies lying around. An air of hopelessness pervaded the whole area. Unwashed and starving people were suffering in great abundance. There was no running water in the camp. The inmates were vomiting. Certain diets were tried without success – in fact, in cases with fatal results.

In the end, at least five thousand of the nine thousand inmates, prisoners who were hospitalized, died. He thought initially what had occurred was what he had heard and accepted as the cause, namely, the planned massacre of these people. However, after making certain investigations and looking at certain records that he found in the camp, looking at the kitchen equipment including large stainless steel vats for cooking {161|162} and things like that, he began to rethink the situation.

He eventually came to the conclusion that this was not planned extermination at all. Rather, it was a condition caused by perhaps more than one cause, but the main one, as I understood his evidence to be, was the fact that this camp was constructed to accommodate a comparatively-speaking small number of inmates; there had been, before his arrival an influx of other prisoners in the figures of fifty to sixty thousand arrivals. They were mainly Jews who arrived from the East as a result of the Russian advance into Germany going west.

In the result, the administrators of Bergen Belsen, according to the evidence of Dr. Barton, were quite unable to cope with this huge influx of new prisoners. So they just gave up and were unable to feed them or care for them.

Typhus, tuberculosis, scurvy and malnutrition increased. It was the overcrowding problem that he viewed when he arrived.

He then went on to say in his evidence as I have recorded it that Bergen Belsen was a camp containing people who were there, in part at least, in {162|163} order to be exchanged by the Germans in return for money or money's worth. Their freedom was bartered for money, in other words.

He said that some inmates, as a result, were well-fed while others starved. He said a certain tyranny existed among the inmates themselves. As a result, there was a good deal of violence and lawlessness in the camp.

The camp was handed over to the Allies before the end of the War was formally pronounced. It was feared by Himmler that typhus would get out of the camp and affect the whole of Germany.

He was then asked by defence counsel to define the term "brainwashing". He gave as an example of what he referred to as brainwashing the Church of Scientology. He then described the process of brain washing whereby certain members of certain groups go through a process of constant repetition, threat, suggestion and promise where rewards are offered over and over again until such time as the subject is brainwashed and comes to temporarily or sometimes longer I believe in the idea that is inculcated into that person's mind. {163|164}

He said those who have a sense of humour or have an independent frame of thought are usually culled from that group first because they are not susceptible to being brainwashed. He was of the opinion that debate or free speech in an open society is essential to counteract brainwashing.

He said that while he does not believe that the deaths that he saw in Bergen Belsen were the result of intentional starvation of inmates, murder starvation and oppression did exist in that camp.

When he was cross-examined he reiterated that he found the conditions he described as having been due to the influx of people. He said again that this was a camp where people could be held in exchange for money. He agreed that the more healthy they appeared, the more money they would be worth.

He agreed that when prisoners came into the camp by train it was possible to bring in food to feed them on the same train that was employed

to transport prisoners there in the first place.

He also said that Hitler's Nazi Germany hooked the German people to the tenets of Nazism by giving certain members of the population property {164|165} that Nazis had confiscated from other persons. He did not agree that all of the Nazis at Nuremberg were brainwashed. He described Goering as an evil example of one, who could never be brainwashed.

Thies Christopherson was the next witness. He lives in Germany in the district of Schleswig-Holstein. He is aged sixty-seven. He served as an officer in the German Army in the Second World War.

He served for part of that time after he was wounded in 1939, the Blietzkrieg [Blitzkrieg] started and the Maginot Line was breached in France, by going first of all to Russia and then he was posted to a camp in the Auschwitz complex.

He said he only heard after the War about allegations of wholesale massacre of Jews at Auschwitz. He did not believe these stories. He said they were absolutely impossible to believe. When he heard those stories he branded them as having emanated as a result of propaganda.

He spoke to inmates of Auschwitz and rumours went around concerning gassing. He said he never saw the slightest evidence of any mass gassing at Auschwitz. He never smelled burning flesh. The air in Auschwitz was {165|166} very clean. He never saw the flames coming from any of the chimneys, crematoria, but people told him about this.

He heard about this first from his housemaid who was also a prisoner. She told him. He said he then took his bicycle and went to find places, but he could not find any evidence regarding cremation or anything about these rumours.

He understood that at the time about a hundred and forty to two hundred thousand people were in the Auschwitz area. He was told there was a crematorium at Auschwitz. He was not restricted in travelling through the camp.

He held a special rank as an officer with the letter "Z" attached to it. Inmates who were detailed to him to work came from Birkenau, and they were sent into the fields to work each day on rubber plants and he sent them out. He listened to their complaints. He tried to help these people, but always in an acceptable and straightforward manner.

He heard no stories from the inmates about mass gassings. When he heard stories he reported them to his superior officer first. He then described the camp as being a place where religious services were held {166|167} in special rooms set up for the religious requirement of all the denominations.

He said there was a cinema or movie theatre van that arrived in camp periodically. Workers under his charge went back to Birkenau every night. He got to know them on a first name basis by calling them Miss or Mrs. with some of them. He said that labour was not compulsory. One did not have to work if one did not want to.

He said around Birkenau there was a swamp with bushes and trees with some high ground some distance away, but if one dug a hole six meters square by six meters deep, it would fill up with water. One million people could not have passed through Birkenau; that would have been impossible.

He then said that in the beginning some of the inmates who worked under his jurisdiction at Birkenau seemed to appear to be physically weak, but after they had been working for a couple of weeks, they had regained their strength.

When he was cross-examined he admitted that he has been convicted of defamation against the State in Germany. He received a jail sentence. {167|168}

He said he never saw a crematorium at Birkenau, but he said he knew that one existed. He marked the Kanada location as to where he went on one of the exhibits with the initials "TC". He was never at Crematoriums IV or V, but he did mark where he was at Krema III.

He was then referred to page 18 of Exhibit and page 37 of his book written in German, where the following words appear: "After the War, Christopherson came to hear of a building with gigantic chimneys near the main camp."

He said that these were supposed to be the crematoria, but when he left Auschwitz in 1944, he had not seen the buildings there. He said that those words referred to the main camp and not to Birkenau.

He was then reminded by Crown counsel that he had just said in evidence that he had seen a crematorium itself. He replied that he was never inside the crematorium; that is what he meant; but he agreed he saw it from the outside.

He said that at midday prisoners received a hot meal of soup with meat in it, and occasionally they brought sandwiches from Birkenau to {168|169} eat in the field.

He said the Red Cross was in the camp in the summer, and all he saw was the red cross on the white vehicles. He did not speak to any representatives.

He said the publisher of the German version of Exhibit 1 is someone who is now serving a long jail term in Germany as a result of a bombing incident.

He said again that there was a room for religious services in Birkenau. Then he appeared to change his mind and said no, that that room was in the camp at Raisco [Rajsko] where he was located.

He said that celebrations of thanksgiving were held in camp, and they were very large performances. The prisoners provided the decorations and the orchestra. He then agreed with the cross-examiner that what the prisoners were doing was serving the Germans. The prisoners were waiters and the like.

He then said that prisoners could leave and go on leave, go away from the camp and come back, take a little holiday; they were replaced by another person until the prisoner who got out came back. {169|170} That was the evidence of Christopherson.

Dr. Lindsey is a chemist. He has been employed for many years with a large chemical firm. He works in the field of polymers, working with polyesters and things like that at the moment. His firm packages food.

He has always been interested in history and has attempted to apply his knowledge of chemistry to history. He was qualified as an expert in chemistry.

He has read a number of books including a book by Dr. Hilberg. He has also read material on the subject of the Nuremberg Trial. He became involved in researching the alleged war crimes in Poland. He has read Exhibit 1 written by Harwood. He read the Gerstein document and other documents.

In his studies he has researched Zyklon-B gas and its connection, if any, with inmates of concentration camps. He said that the subject was first stated to have occurred in a Polish investigation and at the trial regarding two German S.S. men. He looked at the accusations made in that trial and others.

He visited a number of camps, including {170|171} Auschwitz, Dachau, Maidanek, Mauthausen, Birkenau, Belzec, Chelmno, Sobibor and Lublin. He acknowledge[d] that people who support the fact that the Holocaust occurred outnumber those who doubt that it did.

On Zyklon-B gas, he said Zyklon-B is a trade name. It has been a product in existence for a long time. It is a deadly poison employed to kill animals, insects and vermin. It is very deadly.

He said Zyklon-B is produced with an agent to hold the gas stable and to convert it into a gaseous substance at a later time. He said once the content of the can of Zyklon-B is opened, all of the contents must be used.

Hydrogen cyanide, he said, is lighter than air. When it vaporizes it rises to the top of a room. He said it is unlikely that it was used, because if people climbed over one another to get to the highest point, if the gas rises, that would be unlikely.

He said that in his travels in Europe to look at German camps he saw crematoriums three times. He looked at aerial photographs. He then replied in answer to a question that with Zyklon-B, heat is required to vaporize it. {171|172}

When asked about evidence of witnesses who saw flames going many feet above the top of a chimney, he stated that high heat drains the mortar of its moisture and causes the mortar holding the bricks to disintegrate, thereby destroying the chimney.

He concluded that mass gassings in these camps did not occur. He has been forced to conclude this opinion and find that it was impossible that mass gassings happened in the manner that has been described. 2.5 million people could not have been gassed in crematoriums II, III, IV and V at Auschwitz-Birkenau.

The crematorium in Auschwitz is really an old ammunition magazine from the First World War. It would be impossible to use it as a gas chamber to kill people in the way it was alleged that this all occurred because it would require more hours to do it in a day than exist in a day.

The effect of the volume of gas escaping would make it difficult for anyone to work with the dead bodies. He concluded by saying that nobody was wilfully killed or intentionally killed by the Germans through the use of Zyklon-B. He has communicated this information to Mr. Zundel on more than one occasion. {172|172a}

This witness is a member of the Institute of Historical Review in California. He said that there was a great deal of interest in that organization in this subject.

He said gas masks are of little value unless you walk in and out of a chamber very quickly. Diesel engines take too long to produce the deadly gas to kill people.

He was then asked about the words used by the commentator on the film where the reference was made to the clothes of persons being hung up while they went into the gas chamber which produced the gas through pipes.

He said that when he looked, the camps involved do not have a gas chamber. When he was cross-examined he agreed that his knowledge of Zyklon-B comes from documents he has read and not from his personal experience with the substance.

He agreed that hydrogen chloride is a chemical some people can smell and others cannot. He then agreed that the Germans were going to use this substance as a gas to turn against opposing military forces, but the gas is so dangerous that they did not do it. {172a|173}

He said the dispute then arose over the warning that had to be put on each canister, and whether it should be left off the canister entirely. He said eventually it was taken off. He agreed that hydrogen cyanide boils at a temperature of seventy degrees fahrenheit.

When asked, he agreed that this gas is just a little bit lighter than air. If it were introduced into a room, it would rise slowly with those at the bottom being affected first. Those at the bottom, the children, he agreed, would be affected first. It would therefore have been likely that children would have been dead at the bottom with the adults on top.

He also agreed that the level of concentration of the gas in the air must reach a certain stage of density before death can occur through the skin. Hydrogen cyanide does not have an effect on a human body if the dose is sufficiently low. As long as the dose is not lethal, death does not follow.

He said coke is usually what is burned in blast furnaces. A lot of chimneys are built with special liners. He was asked whether he would be surprised if the liners were not put into chimneys at these {173|174} camps. He did say that the inmates built those chimneys to the best of his information.

He agreed that more hydrogen cyanide is required to kill bugs and cold-blooded creatures than it does to kill warm-blooded creatures like human beings.

Ditlieb Felderer was the next witness. He swore that one time he was a Jehovah's Witness. He is no longer a member of that religious persuasion. At one time he was a strong believer that the Jews were gassed by the Nazis during World War II; he then came to realize that Zionists were using the Holocaust for their own propaganda purposes.

He made inquiries. As a result he calls himself a revisionist. His words were, "We get together about whether there were gas chambers."

Over the last thirty years he has been to Birkenau twenty-seven to thirty times. He has seen the interior of every building there, including the kitchens and the theatre at Auschwitz, and he photographed a swimming pool at Auschwitz, between 1978 and the early nineteen eighties. He also photographed a theatre. In all, he has taken thirty

thousand pictures.

He has crawled inside the smoke channel {174|175} of the crematoria at Auschwitz and says that the channel does not go straight [sic] up, but stops at a pile of bricks inside it. The doors on Krema I, he said, are fakes; the ovens are fakes.

At Birkenau and in Crematorium II he was not allowed in any of the buildings around that area, but he made ingenious efforts to get into those buildings and succeeded. He examined the openings of the vents on top of the building known as the sauna. He said obviously somebody used a sledge hammer to open it up.

He searched for drainage in the building and searched for the blue colour that he said must be left by Zyklon-B on the bricks if that gas is used. He has photographs, he says, of the fake doors and the fake people in the artificial Krema ovens.

He used these photographs, including that of a swimming pool and a theatre, to explain what he calls the ridiculous suppositions of those who say people were gassed at Birkenau and Auschwitz. He thinks it is vital that people be shown this is a hoax. He is of the view that all hoaxes should be shown to people, especially historical hoaxes. He branded the Holocaust {175|176} as a historical hoax.

He calls his slides and the show he puts on with them, "The hoax of Auschwitz". He said, as I understood his evidence, that the inmates of Auschwitz swam in the pool; they had a banquet hall. He said the springboard apparatus on the pool is still there; he even described that there is a grotesque figure that takes water in and out, some figure on the water faucet.

He circled the Block 25 location of what he called the secret museum on one of the exhibits. He said that the museum contains a showcase including compositions made by inmates, including the Auschwitz Waltz. There are copies of letters to the outside, and very peaceful paintings done by inmates are in this museum. He says it is a secret museum.

He then described the banquet rooms for inmates where they used to dance to an orchestra. He described the sauna as a huge room, basement full of water that could not possibly have been used as a gas chamber.

He said he uses all of this information and he uses satire to expose hoaxes. He said he is a {176|177} person who has had trouble all his life. He then identified quite voluntarily another hoax, namely the Indians of North America. He said it was really the other way around, that it was the white people who scalped the Indians in North America in order to collect money. He called this another hoax that "we have encountered"

In cross-examination he agreed he was not an archeologist nor a forester, not a person who has studied forestry. He knows something about building because he has built a lot of Kingdom Halls. He said that the football field that was at Auschwitz has been moved and taken right out by the people who run the camp as a tourist attraction at the present time.

He said there are a number of authors that he quotes as his authority for saying that there was a hospital at Auschwitz for the prisoners. It is those same authorities that he quotes for the support of his view that there was a dance hall at Auschwitz for the prisoners. He said all of these pieces of information come from other authors.

He agreed that he was ejected from this courtroom last week for distributing pamphlets challenging {177|178} Dr. Hilberg to a debate. A sample of that pamphlet is Exhibit 41.

Members of the jury, that pamphlet is an exhibit here so that you may be permitted to assess the weight, if any, that you will accord to the evidence of Mr. Felderer. It is not here to prove the truth of its contents. You should only employ it in the way that I have stated and in no other way.

Mr. Felderer said he was convicted in Sweden for spreading material that he said Zionists did not like. He was then shown a number of documents which he recognized. He said he distributed Exhibit 42, which is a cartoon which shows a figure of what appears to be a male person in caricature, and underneath the words, "I was gassed six times, no,

ten times," etcetera.

He used the words to Mr. Griffiths in cross-examination in the following way. He said, "We published this flyer. Like Voltaire, we use satire. Satire should be used. The flyer was written by me."

He used another phrase, "Our flyers are smuggled into communist countries". He then read back from the back of what is now Exhibit No. 43. I am sure you will read that. That is to be used, members {178|179} of the jury, by you in the same way as the other exhibit.

He agreed that he prints material and distributes that material under the name of "Jewish Information". He does that because at one time he was expelled from a Jewish Synagogue which he alleged was prosecuting him.

He said, "We have Zionist information, Jehovah Witness information, Catholic information because the Catholics say they believe in saints." He then said, "We try to be friends with everybody."

He said in conclusion that the so-called Holocaust experts avoid debates. He wanted to debate with Dr. Hilberg because, he said, Dr. Hilberg is a hoax and he wanted a confrontation in order to prove this.

He distributes millions of pieces of literature around the world and uses satire to expose what he considers to be a hoax. He does not like to be lied to or fooled.

Members of the jury, there then followed a number of witnesses. Hans Schroeder was one. Mr. Auerswald was another. Jurgen Newmann [Neumann] was the third. {179|180} Frank Walus was a fourth. Mr. Zundel's son was yet another. Those witnesses all testified essentially to the fact that each has known the accused, Mr. Zundel, for varying periods of time. Each spoke in complimentary terms of the character of Mr. Zundel as being a person who had a good reputation, at least in the community that each witness was aware. Each found the accused to be helpful and trustworthy.

That evidence is admissible, members of the jury, so that you can employ it if you accept it, when you consider the credibility, if any, that you will accord to the evidence of Mr. Zundel when he testified. That evidence is admissible in that regard if you choose to accept it. You can accept all of it, part of it or none of it in the same way that you accept the evidence of any witness.

Douglas Collins testified as a witness on behalf of the defence. As I recall his testimony, he said that he read Exhibit No. 2 and did not agree with it, but it was a point of view. He said he read Exhibit 1 and did not agree with all of it, but he agreed with some of it and it was a point of view.

Mr. Walendy is German by nationality. {180|181} He is a writer. He has published a number of books on his own behalf which he has written, and books on behalf of others. He is a trained journalist. He wrote the book, "Europe in Flames".

He has been corresponding over the past several years with Mr. Zundel. He has supplied Mr. Zundel with information concerning the Holocaust. He made it clear that he does not believe that the Holocaust ever occurred. He said that the Allies in World War II did not know about any alleged persecution of the Jews until the end of the War and there have been many stories written on the subject.

The stories, he said, became enmeshed with one another, and while separately, they were uncoordinated in that they all came together with their contradictions; they produced an unclear and improbable, fanciful result.

He related, in support, the trial of a German engineer from the Farben Industrial Complex in Germany who was tried, as I understood the evidence, for complicity of the deaths of prisoners in these camps because the engineer was instrumental in the design or installation or both of the equipment in order to carry {181|182} out what was alleged to have been gassing.

The witness said that there has been much research in progress since the end of World War II in this particular area, and that many writers have written on the subject and on the number of Jews that were supposed to have perished, with the result that the numbers vary from fifteen thousand to six million.

Mr. Walendy says he owns and runs a book-selling service, as he said

the accused does. He was mildly critical of Mr. Zundel for having written on such subjects as flying saucers, but he said generally speaking, Mr. Zundel's writings are accepted with acclaim by the critics in Germany.

Mr. Walendy then made a very careful statement that there is no evidence that any Jew died as a result of being gassed in Germany. In his opinion, the six million figure included the number who may have been shot in Poland or other territories by the Einsatzgruppen, shot as partisans, or who died as servicemen with various armed forces.

He pointed out that no order of Hitler, Himmler or Heydrich to murder Jews has ever been turned up. He seemed to be of the view that the Western Jews {182|183} and Russian Jews have worked together to the detriment of the Balkan countries in the nineteen thirties. As a result of their having destroyed the intelligence of the Baltic States, when the Germans invaded these countries, many Jews were badly treated, but that bad treatment cannot be laid at the door of Hitler or Himmler. They were shot due to local anger and resentment, or they were mistreated in that way.

He agreed that he was on the editorial board of the Board of Historical Review along with Dr. Faurisson. Dr. Walendy has been a speaker in California. He knows Drs. Weber and Lindsey. He knows Mr. Felderer. They have all been involved with the Board of Historical Review.

He was then asked and he agreed that it seemed that Himmler at one time tried to get ownership, trusteeship of the land on which Auschwitz was located. He reiterated that the British and Americans had no knowledge of what went on in the camps until after the War.

He said that while he has never printed Exhibit 1, he had the publishing rights for all of Germany for that exhibit, which he does not now {183|184} publish because so many people get upset.

Ernst Zundel, the accused, testified on his own behalf. He was born in the Black Forest area of Germany in 1939. As a very young child he recalls the Allied bombing of his area and the effects of the results it had on not only himself, but members of his family.

He described the hardships as the War against Germany came to an end. After the currency reform in 1948, the ruined Germany came to life, the country began to prosper. His education, however, was hampered in that, he said, the textbooks he was given to read at school were censored, and the programme of de-Nazification which was started by the Allies, which included Canadians, British and Americans, continued [sic] for quite some time.

It was only at a later stage that Mr. Zundel discovered that the history that he was learning in school was one-sided. He went to a trade school and became a commercial artist. He then began to work and met people of all kinds and of all backgrounds. He came to disbelieve everything he had learned about history in school up to that time. {184|185}

At this time, the West German government was in the process of creating its own defence force. Mr. Zundel did not want to be a soldier. He even thought of leaving West Germany and going to East Germany. However he learned of a Canadian advertisement for immigrants, he applied and was accepted to this country.

He arrived here and immediately got a job paying him a very good salary in the field of graphic art. He was a photo retoucher. He married and was making sufficient monies that he and his wife were able to travel three months a year by taking trips. This provided him with the opportunity and, as he said, the excuse to meet various authors, persons of that type. He came to Canada because Canada had no army.

In seeking out authors, he was seeking for a way to get rid of the North American perception of Germans. He did not like watching such programmes as Hogan's Heroes and The Rat Patrol on television. He decided to go into in-depth research in order to change that image in the eyes of others who were not German.

The first thing that he learned was that the Allies were heroes with clay feet, as he said. He discovered that the white-skinned Canadians put others {185|186} in camps during the War. The Germans, he discovered, were also regarded as having a bad public image that he wanted to negate. It was a stereotype he wanted to change.

He engaged in letter-writing campaigns. He wrote to Canadian authorities to complain about this negative stereotype. He even ran for public political office. In 1977 and 1979 he began to concentrate on the Holocaust as an interest. He described it as an interest that became overwhelming. The guilt feelings that all Germans had, including himself, bothered him. He had the feeling that most Germans would not kill Jews.

He then began to doubt that the Germans [sic] killed six million Jews, that this was not true. The people he interviewed had something to say in that regard that would be of assistance. He spoke to a lot of people on the subject for a long time.

He spoke to physicians who treated Hitler. He became convinced that there was something that was not right about the Holocaust. Every time you turned on the television you saw Nazi flags and other things that were negative of the Germans. They showed {186|187} the Germans to be cowards, butchers and the Colonel Klinks of this world. Books that were being sold were on the subject of Nazi war criminals. He began to read.

He then described how comic books for children were sold in millions in the United States all showing the Germans as killers. That disturbed him. He had read enough.

He mentioned in his evidence that the Japanese were badly treated in a racial manner in Canada in camps during the War. He said if you read one Holocaust story, you have read them all because they are all the same. He said, "It becomes one big blob; the same story."

He became involved with other members of the German community. He became, as he described it, their ombudsman. He said, "We Germans have forgiven the Allies for the bombing raids during the War and for the treatment of prisoners." He said the biggest offenders were the comic books that have been put into circulation in the United States.

He described Dr. Vrba's book as one containing much artistic liberty. He began to describe the research that he has done. In this regard he was shown and he identified twenty-five or thirty books in {187|188} the English language. He was shown an almost equal number of books in the German language. Those in the English language are now exhibits. Some of the authors of those books he met and spoke with. He had correspondence with others. Yet others are unknown to him personally. In some cases he obtained affidavits from these persons.

Mr. Zundel's object always was to find out whether or not, and to confirm, as I understood his evidence, that there were no gas chambers employed in any of the German camps that killed prisoners, especially Jews.

He obtained affidavits that the apparatus installed allegedly for killing people in Auschwitz was installed by the Russians after the War so that it could be displayed for propaganda purposes.

He collaborated with Dr. Faurisson on the subject of Zyklon-B to show what kind of buildings would be needed, and with that he analogized American gas chambers used in the United States to kill civilian persons convicted of serious criminal offences.

When asked by Mr. Christie, he called the Holocaust a historical lie, in the same way as Dr. {188|189} Faurisson called it a historical lie. Mr. Zundel is of the view that between seven and eight hundred thousand Jews died in the Second World War in total.

He interviewed one Dr. App, who is now dead. He consulted an engineer about the gas chambers. He interviewed a Dr. Martin of Denver, Colorado, also a member of the Institute of Historical Review.

Mr. Zundel, in reading all these books, concluded that it would be physically impossible from a scientific point of view for Jews to be killed in gas chambers and Nazi prison camps. It would be impossible to kill them in the numbers that it is said they were killed by gassing, and then to send the bodies out and to accommodate those bodies in the crematoria that were there.

He has relied on Mr. Felderer's photographs taken of these camps. He said there was a swimming pool at Auschwitz that he saw in Felderer's photographs. There was a theatre for inmates to act out plays. He said there was a photo of a fencing match going on. Food served to the inmates was as good as any meal you can get in a cafeteria. {189|190}



He could not locate on the Auschwitz map Dr. Vrba's mortuary that Vrba swore existed, presided over by Mr. Wetzler. He has employed a lot of people to do research for him. He wanted to write on the subject concerning the Holocaust and did six million really die. He could not bring himself to do it because the subject was so distasteful.

He then read Exhibit No. 1. He thought it was a short version. He thought it was a vehicle that people could read and that he could sell. He imported them from England to start with. They arrived badly packaged. He then found an American source and decided to market Exhibit No. 1 by publishing the same.

He said if he was going to be closed down for hate literature, he would proceed with this book, Exhibit 1. His words, as I have recorded them, were, "If this was hate literature, I would have to publish it quickly."

He agreed that he overlooked some portions concerning the accuracy and truthfulness of the exhibit, but it was his opinion that it was ninety-nine per cent true.

He related then how he has been threatened {190|191} by the R.C.M.P., how he has been harassed by the Holocaust Association and the Jewish Defence League. He mentioned a certain television commentator who was fired for calling Israel an inappropriate nasty name.

He then said that there was a terror loose in the land for people to criticize the Holocaust. He described how he said his house has been bombed.

Mr. Zundel then testified that he hopes, after he has successfully completed his mission concerning the Holocaust, to then overturn the Nuremberg Trials.

He said that Dr. Vrba's claim of the number of Jews killed in Auschwitz is outrageous. The height of the buildings where the so-called gas chambers are located is barely above the ground in reality and was built in such a way that it would be impossible to accommodate the number of victims, and that was plain.

He called the film produced by the American Army when they liberated the camps sad. It was sad that Germans would be in charge of people in this condition. He said the producers of the film were blaming the Germans, but the Germans were as much victims of the War as the people who were in the camp. {191|192}

Members of the jury, I am sure that when you recall what you saw on the film, you will recall having seen German civilians being brought from the nearby towns to view what went on in the camps. I am sure you will recall what those civilians looked like and you will compare what those civilians looked like insofar as the health of their bodies was concerned with what you observed and the health of the bodies of the inmates who were seen inside that camp. That is for you to decide.

Exhibit 94 is a book that Mr. Zundel produced which lists a number of Jews who have become prominent in America. He swore that the author of the book seems to be proud of the fact that these people are Jews.

He refers to Jews being in charge of such powerful media outlets as the Washington Post newspaper, the New York Times, the Columbia Broadcasting Corporation. He even mentioned Paul Godfrey of Toronto who is now a publisher of the Toronto Sun.

Mr. Zundel was of the opinion that six million Jews could not have been killed in these camps because there was not enough coal or wood to do the job {192|193} for the bodies, nor were the furnaces large enough to accommodate all of the victims.

He said the Holocaust is a macabre, vicious joke. It is a con game on the people who go to Auschwitz out of respect of those they think died there.

He said that Dennis Urstein's evidence was, in essence, false. Urstein was not where he said he was. The building where Urstein said he removed bodies was below ground, yet Urstein said that was not so.

He then quoted various pieces of literature as to the very number of Jews that were killed from a very low number up to six million or more. Mr. Zundel takes the position that this is all a myth, with one story being added to another until all of the stories are rolled up together and a totally false picture emerges.

He repeated on more than one occasion during his testimony that the terrible death number reported in the German concentration camps were due to disease rather than gassing or deliberate German organized mistreatment and genocide.

He said that the Allied Wartime {193|194} diplomacy injected much propaganda into all of these things that have emerged in this trial with the purpose of distracting public attention at the end of the War from what the communist armies might do in Europe to the countries which they overran. They decided, instead, to concentrate on alleged Nazi atrocities to remove the public consciousness from the threat of the Russians over to allegations of atrocity on the part of the Nazis.

He said that Himmler's speech at Posen is suspect. It may have been a speech, in any event, that normal men give when they talk war talk; that is the kind of a speech and talk that ordinary men not being involved in War would never use in different circumstances. It is no different than the type of war talk that leaders on the Allied side employed.

He then proceeded to quote from books written by President Roosevelt's son and other prominent Americans who thought that Nuremberg's justice left a great deal to be desired, that the trials that alleged Nazi war criminals received at Nuremberg was not up to the usual American standard of justice.

He gave his reasons as to why he thought the Nuremberg Trials were not fair to the defence, even {194|195} to the lower ranks of the S.S. They were labelled as criminals who Mr. Zundel thought should not have been there.

We will now adjourn for ten minutes.

— The jury retires. 3:25 p.m.

— Short adjournment.

— Upon resuming.

— The jury returns. 3:45 p.m.

THE COURT: Members of the jury, Mr. Zundel identified Exhibits 156 through 168. These are all books and periodicals on the subject of Freemasonry. He said in answer to questions put by counsel that some of the subjects covered by these books he has read, he has formed an honest belief on what he has read as to their contents; others confirm a belief he had.

He stated that with respect to the contents of Exhibit No. 2 and the relationship of secret societies with Jewish connections, he repeated that Freemasonry was the cause of the French Revolution. He described how Freemasonry came to North America and the Christian relationships to secret societies.

He said the Roman Catholic Church does {195|196} not want its members to be Masons or join the memberships that he has named. He mentioned somebody in the United States that came to his death as a result of implications of Freemasonry. He said that George Washington overthrew the Government of Great Britain in the United States, that he was a Mason, and that Newsweek, in June of 1981, described an Italian scandal with a lodge, presumably Masonic, that is supposed to have defrauded the Italian State of much money.

Mr. Zundel said there is great ignorance in North America about Freemasonry. Europeans deal with the subject all the time in their writings. His desire is to alert people in North America that there is a secret society which is powerful and which has international connections.

He identified the New Catholic Encyclopaedia as one of the sources for his honest beliefs.

He said that when he used the words in Exhibit 2, "vicious, militant and greedy persons who call themselves Jews", he was referring to people who have threatened him, assaulted him, demonstrated around his house and made threatening telephone calls. These {196|197} people he believes to be members of an organization called the Jewish Defence League.

He was cross-examined. He agreed that he is one and the same person as the Christof who is named on the book, "The Hitler We Loved & Why". He supplied the photographs that went into that book. He did not write the copy that appears under the photographs. Someone else did that. He supplied the photographs to George Deaks who owns the



American White Power Publication Company. Free of charge, Mr. Deaks advertised "The Hitler We Loved & Why" as a favour to Mr. Zundel.

Mr. Zundel said that he, unbeknownst to himself, was named as a director on the board of White Power, but when he found out, he demanded that his name be taken off the board.

He looked at the book, "The Hitler We Loved & Why" and did not seem to see much wrong with its contents. At page 21, for example, he agreed that he supplied that photograph. He said that the copy of the words under it are acceptable to him. The copy under the photograph on page 32 would not have been written by him in the way it appears.

He agreed that he has contributed an {197|198} article to White Power, but he contributed that article under a name other than his own. He advertises certain cassette tapes and other types of tapes for sale.

For example, Tape 41 contains instructions on how to fool radio stations and the media by talking about unidentified flying objects, or UFOs, and then to use that as a wedge to discuss [sic] such subjects as Jewish problems and the Holocaust.

By using the words "Battle for Aryan men", he meant marches and advocating political action. He was asked regarding Tape No. 50, if the white race was in good shape. As I understood his reply he said it was not, because Jews control the newspapers.

He said that Aryans are Caucasians. If a person who is Jewish abandons his being Jewish, he can become an Aryan. By an Aryan victory, he meant freeing ourselves from lies. He said that we are allowing ourselves to be conquered by communists and Zionists.

When asked what he meant by the words, "All we need is truth", he then mentioned an analogy of a pickpocket being loose in a hall containing a thousand people. Even if no one touched the pickpocket, that {198|199} pickpocket was a danger to all until he was caught and eliminated from the room or taken out of the room.

He said that Mr. Friedman lied about the height of the flames coming out of the chimney at Birkenau, and that he could not smell burning flesh.

The book, "The Hitler We Loved & Why", is sold by him for money. It is one of the many books that he sells.

He was asked about Exhibit No. 2. He said he did not single out any Canadian banks. The reference has always been to American banks and American newspapers such as the Washington Post, the New York Times and papers in Los Angeles.

He said that banks have money, that wealth is power and power is influence. He is not an expert in the banking field. He did not delve into banking with as much thoroughness as he did the Holocaust legend, as he calls it.

Near the end of his evidence, members of the jury, I have written down what I thought Mr. Zundel said concerning his reference to all of these books. His words were, as I recorded them, "All of this only confirms what I already knew when I wrote 'The West, {199|200} War and Islam'."

He identified an article he wrote for Samisdat in 1980 directed to the people of Germany. One of the titles is "Samisdat Struggle Tips". At the bottom there is a note with the words that, "Germany's time has come. The Jews are only capable of rearguard action. At last the ideals of our fathers would be realized all over the world."

When asked what he meant by "ideals", he said hard work, frugality and honesty.

Harwood, who appears to be the author of Exhibit 1, Mr. Zundel said really is not named Harwood at all, apparently. Rather, the name of the author is one Verral[?]. Mr. Zundel found this out in 1982 or 1983. Mr. Varrel [sic] has since retired and will not attend this trial.

At page 4, under the heading of "Racial Problems Suppressed", Mr. Zundel appears to agree that the Zionists threaten the survival of the race itself if they continue doing what he said they are doing now. He then related how he met the French Canadian Arcand who was a member of the Canadian National Socialist Party, the symbol of which was a beaver over a swastika surrounded {200|201} by maple leaves.

Mr. Zundel said that the platform of the party was for Jews to be de-

ported from Canada. He wrote letters of introduction so the accused could meet various people in Great Britain[.]

Page 6, on the detention of enemy aliens, Mr. Zundel said he agreed that in Germany, from 1933 onward, the Jews were disenfranchised. Their passports were stamped with a "J". They were not citizens anymore as of 1935. No Jew could practise law except in a Jewish court. No Jew could teach except in a Jewish school. Jews could not hold public office.

He agreed that Eichmann offered to free a million Jews in return for military equipment in 1944. That was refused by the Allies. He said he wished the British had gone for the "truck deal", because many of the Jews who died at the end of the War would be with us today.

He was aware of the London Conference in 1942 when the Allies warned of the consequences of the mistreatment of Jews in Europe. To that he said the Allies were preparing a propaganda campaign and had {201|202} no knowledge of what was going on, if anything, in the camps in Nazi Germany.

He said, with regard to "Confessions Under Torture", he agreed that under this heading extermination is discussed rather than what would logically follow.

He knows of no German documents that the Einsatzgruppen killed hundreds and thousands of Jews. He said all documents in Allied hands are suspect. The numbers quoted killed by the Einsatzgruppen are exaggerated.

With regard to Exhibit 2 he said that when he referred to the West, he means the entire Western culture. The CBC, the BBC and others frequently are employed to put down Islamic people. Some of these stations are controlled by Zionists.

He said Exhibit 2 was sent to twelve hundred people. He repeated that this was at a time of agitation for war in the Middle East. He thought he could do something to calm things down.

Regarding the phrase employed, "The brainwashed Christians of the West", he says he has three files on vicious Jews, greedy Jews and militant Jews, and {202|203} a third file. When asked if the Council of Christians and Jews is part of a Zionist conspiracy, he answered affirmatively.

In 1981 he said to his German supporters that justice will be meted out to their tormentors. His quotation, "From the barrel of a gun" was something taken from Mao Tse Tung. He admitted having written, "While we have been dealing with these traitors for years, they may as well know that everyone of them has long been recorded, and all of them, every single one of them, will be made accountable this time."

When asked if that would be from the barrel of a gun, he replied, "That would only occur after proper Court proceedings had occurred."

Members of the jury, what I have gone through today, by way of a review of the evidence, is only a very small part of the evidence that was heard in the last seven weeks. If I went over all of the evidence, we would be here for another seven weeks, and I have no intention that that should occur.

It is your recall of the evidence and not mine that is all important. If what I have repeated does not accord with your recall of the evidence, then {203|204} you are duty bound to follow your own recall and to totally disregard mine.

What I have attempted to do here is to put back into your consciousness, evidence that took place in this courtroom a long time ago in part. I hope that I have succeeded.

I should also say to you that your duty is to listen to all of the evidence and not just part of it. Merely because I have not repeated all of the evidence does not mean that what I have not repeated is unimportant. It is very important.

All evidence is important. I know you have listened to it all with great care. I only wished to emphasize that your duty is to listen to all of the evidence and not just part of it. You have done that, and with those mild admonitions I now turn to summarize some of the positions of counsel in this trial.

Again I repeat that what I am about to say now is only a portion of what each counsel has submitted to you. Their addresses have been very

recently given. The contents of each, I am sure, are fresh in your mind. {204|205}

Some, but not necessarily all of what Mr. Christie had to say to you, is as follows:

He submits that in Exhibit 1 there is justification in law and fact for Mr. Zundel having published, "Did Six Million Really Die?" He reminds you there is no evidence of the existence of an order from Hitler or Himmler or anyone else, if one ever did exist, even verbally, to the effect that the Jews of Europe should be exterminated. There is no order to the Einsatzgruppen or to anyone else to that effect.

The words "out of the barrel of a gun" which were written by the accused were written at a point when the accused was angry. In any event, they constitute a quotation from a leader of China of some years ago.

There is no proof beyond a reasonable doubt on all of the evidence that the contents of either Exhibit 1 or Exhibit 2 are false. The Crown has failed to prove that. At the very least, there is a reasonable doubt to which the accused is entitled.

You are reminded that the accused has spent a hundred thousand dollars or more in defending himself. He has brought to court all of these books {205|206} because he honestly believes in their contents. He employed their contents as well as other sources to arrive at that honest belief.

It is submitted to you that the Germans are entitled to find out the truth. The Germans have been portrayed as butchers of six million people, which is a false portrayal. The six million story is incorrect and it is untrue.

The witness, Arnold Friedman, did not really see chimneys belching with smoke. That is because there was a total absence of sufficient supplies, if any, of coal or coke. There is not a line of evidence that the S.S. ever unloaded coal trucks, coal trains. There is no evidence that coke trains were unloaded by anybody. Certainly it would not be the S.S. or the Germans that did it, but the prisoners.

You are asked, in submission, to remember that to supply enough coke at the rate of eighty pounds of coke to cremate one body, you would need a hundred and six million pounds of coke. That is a great deal of that substance. There is no evidence that any supply such as that existed or was used to fuel the ovens to cremate all these people. {206|207}

It is significant that no prisoner in any of the camps said anything to a Red Cross representative.

You are reminded that Dr. Faurisson has been assaulted and ridiculed for what Mr. Christie submits were his sincere beliefs on this subject.

Exhibit 1 merely puts into perspective from a different point of view and from a different perspective what the writer of Exhibit 1 thought occurred insofar as the Holocaust is concerned in all of its facets. You are reminded that there are nasty politicians in this country who would put their opponents down through court trials.

The prosecution did not bring evidence in the form of maps or plans of crematoria. There is nothing put in by the Crown in that regard with respect to gas chambers, what they looked like, and where they were located specifically as a plan.

Mr. Christie states that certainly Jews suffered as a number of others did in World War II on both sides. They were placed in camps, as he says, for War reasons. They may well have been individually mistreated, but there is no proof that they were {207|208} intentionally annihilated as a matter of German policy.

You are reminded that Germany near 1945 and in 1945 was a country in the process of collapse. The country was in ruins as a result of bombing and the invasion by the Russians on the East and the Allies on the West.

Dr. Hilberg, it is submitted, has not been to any of these camps. Christopherson was in one. Dr. Barton has visited; Felderer has visited; Dr. Hilberg has not.

The film alleging the showing of the gas chamber at Dachau is misleading in that even now responsible opinion is held that there were no gassings at Dachau.

Exhibit 1 is at least ninety per cent proven to be true; only ten per cent is untrue, but the ten per cent is technically untrue and not essentially misleading or intentionally misleading.

It is submitted to you that no plans, no evidence of a budget to kill all these people has been shown. There is merely a belief expressed by some people that millions died. There is no realistic proof of the numbers. {208|209}

Mr. Christie asked the rhetorical question, "Where have all these people gone?" He submits to you that the answer as, as the two armies came together and had Germany between them, many people or many Jews crossed borders surreptitiously and secretly. As a result they became lost insofar as the ascertaining of their numbers and where certain racial groups had been at any given time during those momentous five years.

It is submitted to you that disease such as typhus carried away far more Jews than anyone would admit. Mr. Christie [sic] takes the position that there is a difference between people being gassed and people who die of diseases such as typhus, starvation and other causes.

Mr. Friedman, you are reminded, spoke of being hospitalized. Vrba had an operation. Yet they both say that if you go to the hospital in a camp, you do not come out.

Members of the jury, while it is for you to say and not for me, as I recall the operation that Vrba said he had, he bribed another doctor who was also himself an inmate to perform that operation without {209|210} official sanction.

It is submitted to you that Mr. Friedman could not really tell the difference between people being cremated and those that were not. His evidence was termed as fantasy. It is unlikely, it is submitted by Mr. Christie, that the gypsies would be loaded in trucks and be taken only two or three hundred yards to be gassed. It is far more likely that they were transferred to another camp.

You are asked this question: Why should Vrba's views on numbers be any different than Mr. Friedman's? The evidence of the selection by Mr. Friedman is faulty. You are asked, why would older people be selected if killing was the purpose, when their skill may have been required for matters other than work?

Mr. Fulop's evidence, Mr. Christie points out that he was beaten; he was not killed. The reason he was beaten was, he should not have been looking at naked women. His evidence about seeing ten people hung up on a single rope is dubious. His testimony is dubious.

Mr. Christie submits that Mr. Fulop {210|211} has an unbalanced mind, and Mr. Urstein's evidence is untrue because he said that from what he saw the gas chamber was at ground level, whereas the pictures that have been produced and the evidence that has been led at this trial would show that that chamber was, for the most part, below ground.

It is pointed out to you that where would the trains be that supposedly carried all the coal? Mr. Urstein's evidence was wrong concerning the colour of the bodies. They should have been red according to the evidence of the chemist. That was not the colour of the dead bodies that Mr. Urstein said.

With respect to the evidence of Henry Leader, it is pointed out that he could not identify the location of the gas chamber. His evidence cannot be relied upon for that and other reasons.

You are reminded that Dr. Vrba's evidence concerned the unloading of people, but there is not a line of evidence as to who unloaded the coke. Mr. Christie submits to you that there really must be an order in writing. There must be evidence of an order having been given in writing for {211|212} the death of the Jews, otherwise the evidence that they were killed by design will not stand up.

It is submitted to you that the difference between a concentration camp and a death camp comes at the point where a gas chamber exists or not. It is submitted to you that merely because survivors have testified that they are survivors does not make their evidence credible.

You are reminded of the evidence of Mr. von der Heide who also was transported in a cattle car at the end of the War when he was a serving soldier after the War had finished.

Insofar as "The West, War and Islam" is concerned, Mr. Christie sub-

mits to you that it is not a crime to send this to the Middle East. It would harm no one in Canada. It was an honest attempt, at least through the eyes of the accused, at solving what was perceived by Mr. Zundel to have been a serious political problem existing at the time. You are asked this question: How could this be racial intolerance when its recipients are thousands of miles away?

Mr. Christie submits that there is a difference, apparently, between British Masonic lodges {212|213} and European Masonry.

For all of the reasons that he gave, including what I have repeated and for a number of submissions I have not repeated, it is Mr. Christie's submission that both of these counts should be dismissed because they have not been proven, and that Mr. Zundel who does not have to prove anything, has disclosed an honest belief in the truth of the contents.

Counsel for the Crown branded as red herrings the defence submission concerning the freedom of expression, censorship and freedom of the press. He submits to you these are not the issues.

Mr. Griffiths says that a man can publish what he wants; if it is true, he cannot be prosecuted. Section 177 says that we cannot publish a false statement knowing that it is false thereby injuring or causing a likely injury to society. Nobody is allowed to deliberately lie and endanger the community at large. People are not entitled to inflame our society by deceit.

He then submits to you that the content of Exhibit 1, piece by piece, which he covered, consists in its totality as a web or a series of lies. Nowhere in {213|214} Exhibit 1 does it say that six million Jews were gassed. The pamphlet speaks of shootings, humane conditions in camps, the truth at last exposed.

What does it say, asks Mr. Griffiths? He said the central thought is that six million did not die; only several hundred thousand died; it is a conspiracy to gouge money from West Germany; it purports to present evidence in support.

On the other hand, Dr. Hilberg presented the widest range of subjects touching on this issue. It is suggested to you that his evidence was consistent; it shows that he has read thousands of Nazi documents. He has read transcripts through all of the War including the Nuremberg War Trials. He has testified about the testimony of guards and others, witnesses who testified there.

Dr. Hilberg has no criminal record. He wrote nothing untrue. A great weight should be given to his evidence. He did not bring documents because documents in the German language would do no good. He has read all of the documents. He has read Dr. Faurisson.

Chapter 3 concerns the number of Jews {214|215} who died. The Encyclopaedia Britannica [sic] was employed. The numbers were submitted to you by Mr. Griffiths.

Chapter 4, Dr. Hilberg said that there are many documents to show that many Jews were killed, such as the Kohrer [Korherr] Report and the Hans Frank Diary.

It is not war talk when Himmler made the Posen speech stating that Jews and Jewish women and children would be killed so that revenge could not be taken by the offspring. Himmler's speech is not a veiled illusion. When you see that in one of the exhibits, it speaks of killing women and children. Warriors do not talk of killing people penned in ghettos.

Chapter 5, Crown counsel submits that as early as 1942, at the London Conference, there is plenty of proof before you that the Allies said that Germany would be held responsible for its mistreatment of Jews.

Dr. Hilberg said that in all of the Nuremberg Trials, tens of thousands of defence documents were employed by both Crown and defence.

Under the heading, "Confessions Under Torture", that is misleading because the heading is "Confessions Under Torture", yet there follows underneath {215|216} it another subject entirely.

He points to the Simpson/van Roeder [Roden] Report mentioned in Exhibit No. 1. It will appear that the report is being used. It is not used at all; it is Van Roeden's [Roden] interview that is used, which is misleading.

It is submitted that people appear to be tortured, but there is no detail

or indication of torture itself. You are reminded that nobody at the Nuremberg Trials complained of torture. Rudolf Hoess himself did not complain of torture. The sole exception was Julius Streicher, who the Crown said was a racist and a journalist, that his allegations of torture consisted of his being told to kiss the feet of a black man, and if he was thirsty he could drink from the toilet.

It is submitted to you that when Mr. Zundel and Dr. Faurisson are faced with some of these principles, they resort to saying that the document was forged, or it is untrue, or that torture occurred.

It is submitted to you that there was no torture of any of the accused Nazis at Nuremberg.

Dr. Faurisson, with respect to the Einsatzgruppen, was evasive and would not comment on the reports that Dr. Hilberg said that the Berlin Nazi {216|217} authorities received every day of the people who were killed by the Einsatzgruppen, shot in the field as the German Armies moved eastward into Russia.

Dr. Vrba described pits where gassed human bodies were burned. It is submitted that this was marshy ground. You are then reminded that it was still possible to put a building of a crematoria partially under that marshy ground. You are asked to look at the aerial photos with reference to pits, and to look at the reference on those photos to see whether that ground was as marshy as it is said it was.

Dr. Vrba did not say that the trains came in day and night. It is submitted to you that Dr. Vrba said that when the trains did come in, two hours later the smoke started up in the chimneys.

Dr. Lindsey, it is submitted to you, was likely correct when he said that ordinary mortar in chimneys breaks down, but what an absurd assumption it is to assume that ordinary mortar was used in the chimneys of crematoria in Auschwitz.

Mr. Griffiths submits to you that Dr. Lindsey tried to deceive you regarding hydrogen cyanide; he failed to say it was just slightly lighter than air, {217|218} and he failed to say, until he was cross-examined, that it would take far more gas to kill through the skin than through the lungs.

Dr. Faurisson's plan of these camps obtained in 1945 proves nothing today. It cannot be related to the chambers before 1945, and the gas chambers, it is admitted, were dismantled. It is submitted that what exists on the ground today cannot be compared to what may have existed and what the Crown said may have existed as gas chambers which were taken apart brick by brick and dismantled as the Russians moved west.

Henry Leader, in the submission of the Crown, did say that gas masks were worn when the bodies were being taken from the gas chambers.

There is no evidence as to how much coke it takes to burn a body. You have Mr. Zundel's belief only as to what it takes.

For all of the reasons given, including Judge Konrad Morgen, the S.S. Judge who, at Nuremberg, stated that he could not possibly charge Hitler and Himmler who were his superiors with any offences, and yet that statement is not included in Exhibit 1, the total cumulative effect of Exhibit 1 is that the total {218|219} exhibit is deceptive; it is designed to be deceptive. Anyone reading it could not possibly do anything else but believe it if they were uninitiated and not knowledgeable. He calls Jews cheats and persons who unjustly allegedly robbed the Germans. The same applies for count number two.

It is submitted to you that this accused is not some sort of a harmless eccentric. Mr. Zundel is dangerous. He does not fall under the same category, in the submission of the Crown, as Mr. Felderer and others who testified. The accused could not possibly have an honest belief in the truth of either one of the two exhibits. For that reason, your verdict should be guilty with respect to both counts in the indictment.

Members of the jury, that is but some of the submissions of both counsel.

There are really two issues. Did the Holocaust occur? Speaking only for myself, and it is for you to say and no one else, it would seem that the evidence before you is overwhelming that it did.

Insofar as the issue of the honesty of the belief, it is not necessary that I make any comment on that. {219|220}

There is no such thing as a right verdict or a wrong verdict or a correct verdict. The only verdict that you are required to return in this trial is a true verdict according to the evidence that you have heard under oath at this trial.

You have no duty, members of the jury, by your verdict, of sending a message to anybody. Your duty is to render a verdict solely and only upon the evidence that you have heard according to the law that I have given to you.

Whether a Minister of the Crown in right of Canada is correct or incorrect in refusing admittance of a book from the United States into Canada is of no concern to you; it has no issue in this trial. You can rest assured that whatever true verdict you return, the face of this country will be no different tomorrow than it is today.

You have a serious obligation to ensure that Mr. Zundel receives a fair trial according to law. You have an equally serious duty to the community that you represent. The case now passes into your hands.

You are free to retire and consider {220|221} your verdict as soon as the deputies have been sworn in to that effect.

— Deputies sworn.

— The jury retires to deliberate their verdict.  
—— {221|222}

#### OBJECTIONS TO JURY CHARGE

THE COURT: Gentlemen, if as and when I have approval of the exhibit list, I want it sent in to the jury.

should go in until the time the jury should commence their deliberations.

THE COURT: I will hear your objections.

MR. CHRISTIE: Now?

THE COURT: Now.

MR. CHRISTIE: Yes. Well, first of all, this particular section of the Criminal Code has not been associated in a form of way with the use of the words in racial and social tolerance. As a result it is my submission that that is a matter of fact which also has to be decided upon by the jury.

In doing so, it was my submission, during my argument, that the values of our society and freedom of speech are relative to factors in what is, in effect, necessary for racial and social tolerance, {222|223} and it was certainly the argument of the Crown that that was irrelevant, but I didn't think that, as a matter of law, Your Honour should decide that freedom is not an aspect of social and racial tolerance, or that somehow they are totally unrelated or that the Charter of Rights and Freedoms that we have now is of no consequence in the process of deciding whether it is a value in our society, even apart from the social and racial tolerance that, perhaps, we are in the middle of. It is something of value because that is a part of s.177, which imports or is in the section, not a judgment value about social and racial tolerance.

One of two situations could occur in relation to the issue of free speech. It could also be a paramount value to racial and social tolerance. In fact, it could be of greater consequence separate and apart from the issue of truth itself. It could be of greater value to society than the issue or the concern about racial and social tolerance.

It is only because of an article of somebody by the name of Scott in the Canadian Bar Review that the words have ever been, in the past, associated with s.177, those words being racial and social tolerance. {223|224}

Now, it is my submission, and it was in my address part of my submission that racial and social tolerance is imposed without adequate freedom of speech, and that freedom of speech, separate and apart from the issue of truth, still is beneficial to racial and social tolerance, that it is far more important that freedom exists so that social and racial tolerance will continue than that we stifle such things that are in issue here, the articles 1 and 2, items 1 and 2.

It is certainly my submission that to have told the jury that freedom is not in issue, as my friend did, is his right, and it is his argument, but it is not, in my understanding, in the previous observations of either s.177 or jurisprudence in the matter, it is not established as a matter of law that the value of social and racial tolerance supersede other values, or that freedom is not a part of that value, that it is not a value they can

consider as being a part of necessarily the use and development of racial and social tolerance.

It was certainly my argument that it should be considered as part of the process of considering whether an offence exists to cause damage to racial or {224|225} social tolerance or not; but it seems as if in Your Honour's address at the very beginning you told the jury that there is nothing relevant about the argument that I raised about freedom.

You also said that the definition of "wilfull" [sic] should be the one used in s.386. Well, that refers specifically to Part 9, and Part 9 is a part of the Criminal Code which deals with the use of very dangerous items, which has been held to mean that "wilfully" includes recklessly, regarding those items, and I think with good cause. Fire is an article to which recklessness can be deemed wilfulness as fire is referred to in the negligent use of it in 390, which is Part 9. S.387 is in Part 9, and it deals with attacking internationally protected figures. Recklessness is not a defence in those circumstances. It deals with such things in Part 9 as false fire alarm; it uses the word "wilfully" then. And then recklessness is not a defence, because wilfulness implies recklessness as that s.386(1) indicates.

Section 394, which is the wilful prevention of the saving of a vessel, is recognized. Of course, these are things that are an obvious different {225|226} situation from the use of words, in that they are actions that are obviously dangerous in themselves, and then recklessness amounts to wilfulness [sic].

Posters or boundary markers, these are quite different aspects in the criminal law than the section concerning the use of words, and there are only two sections concerning word crime in the whole Criminal Law, and they are s.281 and s.177, and it is my submission that those two sections have been dealt with in the jurisprudence of the country pertaining to what degree of wilfulness is required.

It was dealt with specifically in the case of R. v. Buzzanga and Durocher vis-a-vis s.281(2). In that case the Court of Appeal of Ontario decided that "wilful" in this subsection means with the intention of promoting hatred and does not include recklessness."

So that, as Your Honour pointed out, s.177 is in the nuisance provisions of the Criminal Code. It is a crime committed by words alone, and it cannot be committed by recklessness alone, if the principle of Buzzanga and Durocher apply.

I see no reason why we should apply the higher standard of wilfulness to the promotion of {226|227} falsehood by words. They seem, with the greatest respect, to be of a very similar character, in that it is not a thing that is primarily and visibly and prima facie dangerous to speak words.

That is the case with such things as are included in Part 9. Part 9's definition for "wilfulness" includes recklessness, because the things in Part 9 are inherently dangerous in themselves, patently obviously dangerous in themselves – fire, fire alarm, impeding the rescue of a vessel. Recklessness, then, is tantamount to wilfulness; but as far as our so-far developed jurisprudence in the use of words is concerned, wilfulness is not recklessness, and to have employed the definition in s.386 is to ignore the definition which says, "Everyone who causes the occurrence of an event by doing an act or by omitting to do an act that it is his duty to do", to do nothing, that omission, knowing that the act or omission will probably cause the occurrence of the event and being reckless whether the event occurs or not shall be deemed" – and then it says "for the purposes of this Part", for the sake of emphasis, as they define it as being for the purposes of this Part, and this Part is Part 9, not every part of the Criminal Code, surely. And the {227|228} definition of wilfulness is understandable because it is not the nuisance section. It is not the word crime that is referred to as being wilful because it is reckless. It's a word crime. False news is alleged because the intent to do the act must be specifically to cause the damage referred to in the section or else, I suggest, we are interpreting law to prohibit, in the broadest possible terms, the communication of words, not in the narrowest terms. And in the principles of that, the interpretations of "wilfulness" have been specifically disapproved of in this court, in this Province, by the Court of Appeal in the case of Buzzanga and Durocher.

So I say to you that the definition of "wilful" that Your Honour put forward was an inappropriate definition for the sake of a charge under s.177.

Your Honour, I think I understood you to say the evidence of Botting and Collins would not have been relevant with regard to the mischief issue. It was my argument, intention and understanding that the evidence of those who said that the publication did not cause damage to society in racial and social tolerance would be relevant because they did say that the publication {228|229} in question had value for editorial purposes in contrasting it with other points of view. Likewise with Collins.

It is my submission that we should not have taken from the jury consideration of those pieces of evidence in considering what racial and public tolerance this publication has. In effect, they provided some indication of the redeeming social value of these publications in themselves without, in those circumstances, going to decide the truth or falsity of the issue, because they didn't necessarily say they agreed with that, but it produces a process of reasoning. It is part of the process of education and information however there may be disagreement about it. And it was part of my submission, a large part of my submission, probably three quarters or a half of my submission, that those pieces of evidence supersede the considerations of whether those items are true or false.

Now, at one stage Your Honour said that the witness, Faurisson, had been in court and that it should be considered as to whether he can be believed because he had been in court. Well, surely, Your Honour, many expert witnesses are in court to hear the proceeding of other witnesses. It is not as if there was some {229|230} failure to disclose his presence or denial of such in the course of the proceedings. He was here.

I quite understand the reference to the evidence of Rudolph, Felderer or Newman in that regard. They gave their explanation, and Your Honour considered they should be considered for that explanation, but to say that in respect of Faurisson, in my respectful submission, is to draw attention to something as if it had been some reason for disbelief when, in the terms of an expert witness, it is frequently done.

Now, I heard Your Honour's summation of Friedman's evidence and reference there made to two meters, whereas in the evidence in the transcript I've searched the matter and it is already transcribed, and he clearly said fourteen feet, and later, larger than the chimney itself.

In the summation of the evidence of Friedman it was quite clear that Your Honour, I recall saying, hearing Your Honour say that the jury should consider that the evidence of Fulop, I think, where he said ten thousand people in cars and a hundred and twenty per car, that they should compare that evidence with their experience in watching cars go by on the CP or {230|231} CNR line. I suggest that is to do what so often throughout the trial I have been told would be quite improper in respect to showing the evidence of slides of Auschwitz or Birkenau taken now, namely, to use experience derived in the nineteen seventies or eighties for the consideration of issues arising in 1941.

THE COURT: Well, I was thinking of my own self in the early nineteen thirties.

MR. CHRISTIE: Well, I think probably the times are somewhat different in terms of how many cars on a train, but I would say it is different in terms of the number of cars being able, in those days, to be carried in mountainous or other terrain. It is hard to say that the same conditions prevailed here as there, even then, or certainly now. It didn't seem clear to me whether Your Honour meant that the evidence of their comparison should be taken at some time ago.

Of course, it was of great concern to me that there was no reference to, in the summary of evidence, several things in the cross-examination pertaining to points where the witness, for example Hilberg, had clearly indicated that parts of the testimony, for example, in the book, "Did Six Million Really Die?" of {231|232} Wennerstrum where he eventually acknowledged that that had been Wennerstrum's view, none of that had ever been referred to. And my understanding also is there is an error in respect to, I think, a fairly significant error in the recount of the

evidence of Vrba where Your Honour mentioned that Vrba had said there is a ramp between Auschwitz and Birkenau that was five hundred – four hundred to five hundred feet long, and that the ramp could be seen in the Auschwitz Album.

It's my recollection of the evidence of Vrba certainly that he said there was no rail spur into Auschwitz-Birkenau till after he left, and that photographs of the ramp in Auschwitz-Birkenau, in fact it's got nothing to do with the ramp he said existed on the Warsaw to Krakow line in the middle between Birkenau and Auschwitz. Those are two different places. And yet it was my understanding, from Your Honour's charge, that the jury should look at the Auschwitz Album to see if it conforms with the evidence of Vrba about what he saw on the ramp.

Now, mention was made in-chief of the depth of the pits, although there was some mention in cross. It was my recollection that Vrba mentioned the {232|233} depth of the pits of six by six by six meters when he gave his evidence in-chief. The explanation of Vrba's evidence about seeing Himmler ignored, I think, the important fact that Himmler was supposed to have been seen by Vrba twice, and therefore there was little reason to not recognize him, as said in the book on occasion.

I recorded the summation of Your Honour in Urstein and Leader and I couldn't find any reference to anything brought out in cross-examination, especially about the colours of the bodies alleged by those two.

It's my submission, of course, in respect to the whole of the charge, that by placing in the words "in racial and social tolerance", the Crown has elected to import into the whole proceedings a value judgment on what are the values of society, that they have chosen to do by the indictment, and having chosen to do it, they have introduced a possibility for the defence to dispute that whatever was done, true or false, has a deleterious effect on social and racial tolerance.

It could be and was the argument of the defence, hopefully forcefully put forward, that the {233|234} issue of freedom of speech is central to the whole case, because regardless of what is the truth, falsity, correctness or error of the articles published, the value of freedom to communicate in this way, with the type of evidence that is before the Court, far supersedes any damage that could have been done to racial and social tolerance by such publication.

It is certainly my submission that to decide the right to read and to speak is less significant than that which is expressed by the words "racial and social tolerance". It is a value judgment the jury could make, but it is a value judgment to be open to the jury to consider, and I certainly tried to I put forward another value judgment on what is in the interests of racial and social tolerance, another value judgment on what are the values of societies in these values.

It isn't a clear-cut principle that racial and social tolerance is automatically the central issue of the case excluding the issues of freedom of speech that are peripheral, so to speak. It is certainly the case that to import these words into the charge, without any previous body of jurisprudence, to establish that {234|235} that is *prima facie* more important than freedom to discuss issues, and that it has no bearing on the freedom to discuss issues is, I think, it may be that Your Honour wishes to adopt my friend's argument. My friend's argument may be a good argument. I say that it is my understanding that it may be a good argument that can be countered by the argument that freedom cannot be subjected to the criterion that it's only such freedom as is limited by those things that produce good for racial and social tolerance.

So far, in our law, nothing has ever been written to say that, neither in a case that I am aware of, nor in any statute that exists. And so to have automatically given to the jury the charge that "You must put out of your minds this talk about the freedom issue because the issue is whether it affects racial or social tolerance" is, in my belief, to constitute a judgment to the exclusion of an issue of importance to the defence.

The article of Dr. Scott was, as far as I am aware, the only even theoretical writing on the subject, and it speculated at that time, now to have been proven true, that courts would eventually have {235|236} to consider that racial and social tolerance was a part of the public interest.

No doubt, it is a part of public interest. I am not disputing that. But is it

the paramount part, first of all, and is it such a significant issue that it excludes the consideration of any others in the process of deciding what is in the public interest? Because it is essentially the public interest that is the gravamen of the offence, not this peripheral allegation that social and racial tolerance is so important.

The public interest may, in fact, be more adversely affected by destroying freedom than it is beneficially affected by racial and social tolerance. So in my opinion the jury has to consider what is really in the public interest: preventing such writing as there is, or protecting what such freedom as there may be? And it does introduce a broader issue, I concede, a much broader issue, but it seems, with the greatest of respect, the whole issue doesn't have just a narrow focus to it. Just because the Crown puts those words in about racial and social tolerance does not, with respect, I would try to communicate, mean that we must {236|237} accept that definition as the public interest or a public interest.

If it is a public interest, it is certainly not the only public interest. And because the Crown alleges that it is a public interest, it certainly doesn't preclude the consideration of the other public interests that may be greater.

In fact, then, it would be my respectful submission that the jury can consider whether to place such emphasis on that so-called public interest is true at all. Is it a public interest? They should be entitled to think of that and to decide for themselves whether it is a public interest. The mere avoidance of it by the Crown's inclusion of the indictment does not establish it as a public interest. Nobody, so far, has introduced any evidence on that at all, I suppose; therefore it becomes an argument, and my friend's argument is well-made on the point, but I hoped that mine might also be considered.

I would submit that the jury has to decide if, by protecting racial and social tolerance in the way alleged by the Crown through the prohibition of {237|238} these opinions, putting aside, for the moment, the issue of whether it is true or false, a greater public interest is protected, or that further, by stopping such publications, assuming they find it to be false, that racial and social tolerance would be affected at all.

That, I suggest, is something that should be left to them to decide, for it hasn't, so far, been made clear that the issue of fact created by the addition of words to define a public interest can automatically be taken from the jury. And to say racial or social tolerance is an ingredient of the charge, as I suggest it is, is to acknowledge the defence position on racial and social tolerance that freedom is a necessary ingredient to that, and that controversy in history is also a necessary ingredient to racial and social tolerance and should be open to the jury to consider.

It was the argument of the defence, of course, that there being no expert in what is to the best interests of society, and I heard none, there's opinions that say – for example I called a journalist of years' experience and asked him, "Why is it useful to you?", and I called a professor, "Why is this type of publication of social value in your opinion?" And he gave his opinion. {238|239} But I got the very distinctive impression that Your Honour felt that his opinion on that issue was irrelevant – that is not to say that he is not a historian – in deciding the truth or falsity. But it is my submission that he tried to, and I think he gave some evidence to show that his view of his profession in this society was that it was a value greater than any detriment that might have occurred to racial and social tolerance.

So I thought the jury might be allowed the chance to consider that, because surely my argument was that it was more damaging to social and racial tolerance to preclude opinions in this circumstance.

In summarizing the evidence of Faurisson and his criticism of the three pillars of what he said were the exterminationist thesis, no mention was made that Gerstein was dead, and in summarizing the Red Cross Report, no mention was made that, well, I recall Your Honour saying that the commandant said nothing, if I recall correctly.

The essence of the whole issue about Dachau, and there were false stories of gassings in Dachau involving those so-called nine untruths, the story that Faurisson used as an example about false {239|240} stories of the gas chamber, the significance of it all is that it was in

Dachau where everyone now seems to concede there was no gas chambers. That was one of the main arguments that the defence raised through Dr. Faurisson that we have reason to doubt the existence of gas chambers from both the experts we produced and from the fact that the stories, explicit stories of specific numbers of children gassed on a specific day, using specific methods sworn to by witnesses, eye witnesses, had to be all completely false. That was the significance of the false story.

Well, it's quite obvious that Your Honour felt that the argument pertaining to the issue of the inability to feed the prisoners at the end of the War was that Your Honour felt that the civilian population had been fed at the end of the War. I suggest that there is no way that a jury can know, nor should they be asked to speculate as to how many people were represented by the visitors' film as, to how they were fed, what the circumstances were.

I suggest you invite the jury to say that somehow, because they were well-fed people in a film made after the fact, that therefore the German {240|241} population could have fed the prisoners in Bergen Belsen or other camps is to invite a speculation that I suggest should not be undertaken, because for one thing there is no answer able to be presented by the defence on a narrative that we are not allowed to cross-examine.

There was a grave area, I thought, of incorrect understanding on the issue of whether Felderer thought there was gas chambers on the bottom of the sauna in the summation of his evidence. I suggest that there is a confusion arising here, because Your Honour seems to indicate that the building known as the sauna was where Felderer said that sledge hammers had been used to make vents, and the basement being full of water couldn't be used for gas chamber.

Felderer gave evidence of the sauna, identified its location on the map and gave his understanding of what he saw in Leichenkeller I of Krema II where he took many pictures. They were totally different buildings, and I would think that that misunderstanding should be cleared up.

Your Honour described Felderer as being convicted of spreading material the Zionists didn't like. He said he was convicted of race hate, under the {241|242} race hate laws.

THE COURT: He also said that he was convicted of spreading material which the Zionists didn't like, because I did not get that out of my head. I got it right from him and I wrote it in my book.

MR. CHRISTIE: Now, in regard to Walus, whose evidence was totally ignored, as I recall – well, you referred to him as a character witness. There was certainly a significant reason why the defence called Walus. It wasn't just as a character witness, but as a victim of Zionist propaganda and mass hysteria about war crimes, that he mentioned Simon Wiesenthal, and Your Honour asked him about him, and he mentioned that that person had raised a totally false allegation.

In fact, he gave in example a demonstration – I can't think of a better word – for the process by which people become ostracized, alienated and victimized before they are even even tried, which is typical of those situations where Holocaust allegations are made. He risked what he has risked to come and testify that eleven persons, several of whom had never been in Poland themselves, eleven persons identified him. It is certainly my submission that that shows that those {242|243} who say this happened, and eye witnesses say this and that about people and things, when it comes to the Holocaust, tend to get so convinced of the need to prosecute wickedness that they ignore facts, and I thought that was a part of the theory of the defence that we were entitled to bring out; but unfortunately, in Your Honour's charge it was indicated that Walus was another character witness.

No mention was made at all of Botting or Weber and Weber's evidence as to having custody of documents necessary for the preparation of prosecution at Nuremberg and inaccessibility of those documents to defence, which is also part of the defence case. Whether he is an expert or not, his firsthand eye witness observations of those facts were relevant to the defence and were totally ignored in the summation that I heard of the evidence.

Likewise with Brentar, no mention at all is made of the fact that he is

involved in trying to help someone charged with an alleged war crime, and the difficulties placed in his way by the officials of the day is a significant argument on behalf of the defence, nothing of which was mentioned. No mention, either, was {243|244} made of Gary Botting.

Well, these people are brought at great time and expense over great expanse for the defence to bring to the jury to indicate reasons why people have the right to dispute the truth of the allegations that are made with the same kind of fervour against Walus as they were made in 1945 against others.

In the summation yesterday it was suggested that the jury need not, or ought not to take the statement of the accused that he had an honest belief at face value, but they should look further to determine its foundation. They may, if they wish, take it at face value. I suggest they should not be told that they cannot, or imply that they cannot take it at face value.

I was concerned also about this statement that the fact that the Attorney General may or may not have responded is of no consequence to the case. The letter to the Attorney General is, in my submission, a great indication of the desire of the accused to comply with the law. That letter was sent prior to the charge being laid seeking directions, and it is of consequence that the law enforcement officer of the province decides not to respond to a request for information about what {244|245} may or may not be published. That certainly would go to the sincerity and honesty of the accused's belief. To be told that they are not entitled to look at that, it would be, in my submission, to deny the accused the right to say, as he did, that he tried to comply with the law by getting directions from the very person who is entrusted by the Government of the province with its administration. Thank you.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Thank you, Your Honour. You didn't mention Sergeant Luby, Your Honour, in your review.

Your Honour, we've had seven weeks of evidence. I think that —

THE COURT: Do you have any objections yourself to the charge?

MR. GRIFFITHS: No, sir.

THE COURT: I don't need to hear from you with respect to any reply, because I don't intend to call the jury in.

MR. GRIFFITHS: Your Honour, I'm sorry, there is one thing. It isn't something that the {245|246} jury has to be called back now for, but some point at the end of this trial they should be given a warning that the deliberations should be kept to themselves. There has been so much publicity.

THE COURT: I intend to do that at the end, but I can do it now.

There are three questions that the jury have sent. The first is, "Please provide the index of exhibits." The second is, "Please provide a transcript of the complete trial up to the summations and the judge's charge." And the third is, "please provide a transcript of counsel's summation and the judge's charge when available."

What I propose to do is, subject to what I hear from defence and from the Crown, I propose to provide them immediately with an index of the exhibits.

Secondly, I propose to provide them with the transcript of counsel's summation to the jury, Mr. Christie's and Mr. Griffiths', because they exist. I do not propose to provide them with a transcript of the whole trial proceedings because I am going to tell them that that would take far longer than is reasonable.

Now, are there any objections to what {246|247} I intend to do? Mr. Christie?

MR. CHRISTIE: No, sir.

MR. GRIFFITHS: No, Your Honour.

THE COURT: Bring back the jury, please.  
—— {247|248}

FURTHER CHARGE TO THE JURY

— The jury enters. 5:10 p.m.

THE COURT: Members of the jury, have you selected someone to preside over your deliberations? Thank you.

I have three pieces of paper. All three are undated. I gather they are in your writing and signature.

The first one reads, "please provide a transcript of the full trial up to counsel's summation and the judge's charge."

You are nodding in the affirmative.

The second one reads, "Please provide a transcript of counsel's summation and judge's charge when available."

The third one reads, "Please provide the index of the exhibits."

Are those the questions, sir?

THE FOREMAN OF THE JURY: Yes, sir.

THE COURT: The index of the exhibits will be provided immediately.

The transcript of counsel's summation can be provided quickly. It exists. Our reporter has worked very hard on that. I might ask her to see if she can run off some copies and have them delivered to you. {248|249} My charge and a transcript of the complete trial will be, for all practical purposes, incapable of fulfilling simply because to transcribe the trial proceedings that started on or about the 7th of January of this year until now I would have to think will take some months.

Insofar as my charge is concerned, I would think that that would take a good many days at a min[jim]um.

Madam Reporter, do you agree? Nod or shake your head. You are nodding.

So for the others the answer is yes, and they will be fulfilled quickly. Is there anything else? Thank you. You can retire.

— The jury retires. 5:15 p.m.

— The hearing adjourns pending jury deliberations.

— Upon resuming. {249|250}

— Upon the hearing resuming.

THE COURT: Gentlemen, I have a question from the jury, in writing. It is dated February 27, 1985. The text reads, "May we please have a restatement of the judge's charge re the legal interpretation of s.177."

What I propose to do, subject to the comment of both counsel, is that I read s.177 to them from the Criminal Code. I then propose to re-charge the jury along the lines that I charged them before from the notes that I have prepared. In deference to counsel for the accused and his objection I may omit the definition of "wilful" pursuant to s.383 of the Criminal Code, but otherwise I propose to re-instruct them with respect to what I said before.

MR. GRIFFITHS: Content, Your Honour.

THE COURT: Defence?

MR. CHRISTIE: Yes, sir. It wouldn't be any help to give them a copy of the section, is it?

THE COURT: They have not asked for it.

Secondly, I propose, again subject {250|251} to the comment of counsel, to indicate to the jury that I am somewhat concerned about the fact that they have been working hard, as we all have. They have had three full days of a good deal of listening. That, in my respectful view, is work. I propose to suggest to them that they break it off now, it being virtually 8:00 p.m., and that they resume at nine-thirty tomorrow morning when it will be more fresh in the brain department.

Is there any objection to that?

MR. GRIFFITHS: The re-charge at the moment?

THE COURT: No. I propose to recharge them now, but then break off till the morning.

—— {251|252}

— The jury enters. 7:35 p.m.

THE COURT: Members of the jury, I have in my hand a note that is dated February 27, 1985, which says, "May we please have a restatement of the judge's charge re the legal interpretation of section 177. (Signed) Norman Carrier". Is that the request, sir?

THE FOREMAN OF THE JURY: Yes, it is, Your Honour.

THE COURT: Thank you. We will file that with the others.

— EXHIBIT "E" Question from the jury.

THE COURT: Members of the jury, section 177 of the Criminal Code reads as follows: "Everyone who wilfully publishes a statement, tale or news that he knows is false and that causes or is likely to cause injury or mischief to a public interest is guilty of an indictable offence"

That is the relevant section.

As I indicated to you earlier, members {252|253} of the jury, the Cana-



dian Parliament placed that section into the Criminal Code for a reason. The purpose is to discourage those who deliberately and intentionally disseminate, by publishing, false news or statements into the community at large, thereby intending the actual or the likely result of creating community unrest.

The Canadian community daily abounds with rumours, stories and gossip of every stripe. Some is based on fact; some is not. From a multitude of sources there comes a daily avalanche of stories, opinions, rumours, pure gossip, learned fact, some true and some less so.

This has occurred for so long and with such repetition that almost automatically most passes unnoticed and unchallenged in our free society.

There comes a rare occasion, however, when the criminal justice system in Canada examines what has been written or said. The purpose is to investigate [sic] whether what has been published amounts to a crime against the community as a whole according to the Criminal Code.

That, members of the jury, is why you are here. There is nothing in the wording of s.177 that I perceive which in any way prohibits freedom of speech. {253|254}

This section, as I view it, is not intended to prohibit either back-fence gossip about who did what and with whom, nor to stifle vigorous dissent on the issues and affairs of Canadian citizens who strive to improve the quality of life in an imperfect world.

On the other hand, the law recognizes that nobody has the unbridled right to say anything one feels like saying and put it under the heading of free speech.

No one, for example, has the right to yell, "Fire", in a crowded movie theatre when there is no fire.

This section, quite properly, is designed to eliminate from the Canadian community the evil of false statements, and news published for the purpose of creating mischief in the form of social unrest stirred up by racial intolerance. This section seeks to avoid acts which create community unrest.

The Crown must prove a number of elements. All must be proven beyond a reasonable doubt. There is no burden upon the accused to prove anything. The burden of proof remains upon the Crown from the {254|255} beginning to the end of the trial.

If, at the end of all of the evidence, the addresses of counsel and my charge you each conclude that the Crown has failed to prove each element that I will mention in a moment, or if you are left in reasonable doubt, then you must return a verdict of not guilty with respect to either or both counts in this indictment.

On the other hand, if, after you have considered the total evidence, the addresses of counsel and my charge, you conclude that the Crown has proved the guilt of the accused beyond a reasonable doubt, then you may return a verdict of guilty to either or both counts, as you shall decide.

Primarily, the Crown must prove that Ernst Zundel published "The West, War and Islam" and "Did Six Million Really Die?". Secondly, the Crown must prove that the contents of each exhibit, in its essentials, are false – that is to say, essentially untrue.

The Crown must prove that the accused wilfully published each exhibit, if you find that he did, and that at the time he published he knew the essential contents of each to be false. To reach a verdict with respect to each {255|256} count you must carefully examine all of the evidence and apply it as you shall decide, separately, to each of the two counts.

To publish something is to make it known. To publish is to announce. To publish is to print and offer for sale, especially in the form of a book, magazine, article or essay. To publish is to make something known for all to see.

The accused has admitted the publication of Exhibit "Did Six Million Really Die?". He has admitted writing "The West, War and Islam". He did not specifically admit publishing "The West, War and Islam".

You will decide whether or not the Crown has proven that he did.

While it is for you and no one else to say, it seems to me that you should [sic] have little difficulty in finding Mr. Zundel published both

exhibits.

If you will look at the bottom of the eight or ten lines of "The West, War and Islam" you will see a signature, which appears to be Ernst Zundel's; you will see an address, 206 Carlton Street, and a telephone number. You will see that at the bottom of that exhibit there is an offer or a release so that it can be reproduced {256|257} and taken up and disseminated by others; you will see there a request or an offer to receive money in return for having sent that publication out. You should have no difficulty in concluding proof of publication.

The Crown must prove wilful publication of each exhibit. To publish something wilfully is to publish it freely and voluntarily, and intending the results of one's intentional design.

A wilful act of publishing, in the criminal sense, may be described as making something known intentionally, knowingly and purposely without justifiable excuse. It is a wilful act of doing something, as distinguished from an act done carelessly, thoughtlessly or accidentally.

A wilful act is done by design, without regard for the rights of others, in a reckless manner, with a disregard for the consequences and with indifference to the natural and probable consequences.

The word "mischief" [sic] has long been used in our law. "Mischief" is something meaning an evil or a danger to the general community. "Mischief" is a harm or an injury. "Mischief" is something which is designed to cause annoyance or distress to others. {257|258}

To tolerate means to put up with, to permit, to let be without interference. Tolerance is a willingness to bear with others, especially with those whose views differ from one's own. To tolerate is to forebear.

On the total evidence led throughout the whole of the trial from the beginning to the end, you must each be satisfied that the Crown has proven that the actual result, or the likely or probable result of each publication is community unrest stirred up by racial intolerance on the part of some segments of the community at large.

When I refer to the community at large, I mean the total community at large, not just a segment of it. It contains, and I refer to people of all racial and religious persuasion.

It is not sufficient that either or both Exhibits 1 and 2 be ill-advised, stupid, in bad taste, intolerant, bigoted or disagreeable. The Crown must prove on the evidence led throughout the whole of the trial that Mr. Zundel, at the time he published either or both exhibits, if you find that he did, did not have an honest belief in the essential truth of each. {258|259}

I hasten to point out that merely because a person says that he or she possessed an honest belief in the truth of something does not necessarily make it so. Regard must be had by each of you, as jurors, to what really, if anything, formed a basis of the honest belief in the essential parts of each exhibit.

I then went on to explain to you, members of the jury, how you should employ certain of the exhibits that went in with relation to each count. I am not entirely sure that that is part of what you want me to repeat. If it is, please write again and I will be glad to have you back and do that.

As a judge I do the very best I can to answer questions from jurors, but I do not purport to put upon them by repeating things that they do not ask for.

So that we can understand one another that way, then, I do not intend to repeat anything more except to say this to you, and what I am about to say to you now, at this time, is what I said to you this morning.

I said that while it is for you and no one else to say, it seems to me that the basic issues regarding both exhibits are clear. The issues are these: {259|260}

Upon the total evidence led in this trial, are each of you satisfied that the evidence discloses that Mr. Zundel published both exhibits? If he did, when he published both did he publish them in a wilful manner as I have described it with no honest belief in the essential truth of each?

If you conclude that the answer to any of these questions is no, or if you are left in reasonable doubt concerning any, you will return a verdict of not guilty with regard to either or both counts in the indictment, as you shall decide.

If, however, your answer is yes to those questions, then you must go



on to decide whether or not, on the same standard of proof, upon the total evidence led, you are satisfied that either or both exhibits would likely produce mischief in the form of racial intolerance on the part of certain segments of the Canadian community at large.

That is what I indicated to you this morning. I hope that that answers the question. If it does not, please let me know.

In the meantime, members of the jury, I have discussed with counsel the fact that you have been {260|261} very patient and very attentive. You have done a lot of listening for the last three days. It is now ten after eight in the evening.

I pointed out to counsel, and they both agreed, that listening is work. With that you might agree.

I am not in any way being mandatory here. The case is up to you. It is in your hands. However, I thought you might want to retire this evening to a hotel. I am sure that you are as tired as we all are and that you might wish to start fresh in the morning at nine thirty.

Does that seem to meet with your approval?

THE FOREMAN OF THE JURY: Yes, Your Honour.

THE COURT: Thank you very much. Then you are free to retire until tomorrow morning at nine-thirty, when you will please be back in your jury room.

The transcripts of the addresses of counsel are partially prepared. The machinery that is available at the moment will not produce all of them. It has produced some of them. I have decided that when {261|262} we get all twelve copies, you will get them and we do not want to hand them out piecemeal.

Have a good evening. Thank you very much.

— The jury retires. 8:12 p.m.

— Whereupon the hearing is adjourned to February 27, 1985.

## **FEBRUARY 27, 1985**

— Upon the hearing resuming

— The jury enters. 3:10 p.m.

THE REGISTRAR: Would the Foreman please stand?

Members of the jury, have you agreed upon your verdict? How say you, do you find the accused at bar, Ernst Zundel, guilty or not guilty to

count one, "The West, War and Islam"?

THE FOREMAN OF THE JURY: Not guilty.

THE REGISTRAR: Count two, "Did Six Million Really Die?", guilty or not guilty? {262|263}

THE FOREMAN OF THE JURY: Guilty.

THE REGISTRAR: Members of the jury, hearken to your verdict as the Court hath recorded it: You find the accused, Ernst Zundel, not guilty, count one; guilty, count two. So say you all.

THE COURT: Do you wish the jury polled, Mr. Christie?

MR. CHRISTIE: Yes, please, Your Honour.

THE COURT: Poll the jury, please.

THE REGISTRAR: Members of the jury, as I call your names, please answer "Agree", if you agree with the verdict, or "Disagree", if you disagree.

— Jury polled — all agreed.

THE COURT: Members of the jury, I wish to thank you very much for having taken from your personal lives, as a duty in a democratic society, seven weeks in order to listen with the care that you have employed in this case, and the attention you have paid to the evidence.

You have performed your duties with what is always expected of jurors, with dedication on {263|264} behalf of the Court and on behalf of the community. Thank you very much.

In letting you go now back to your own personal lives, I should say this to you, that your deliberations are secret. As a matter of law, they should be kept secret. Under no circumstances are you permitted to reveal to anyone what occurred within the confines of your jury room during your deliberations. That is the law. Please resist the temptation to disclose anything that went on to anybody, however enticing that temptation may be, and however persistent others may be in putting questions to you. That is the way our system of justice survives in this country.

Thank you very much. You are now free to go.

— The jury retires.

Certified correct to the best of my skill and ability.

C.S.R. CARMEN OAKE

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{1} IN THE DISTRICT COURT OF ONTARIO

BETWEEN:

HER MAJESTY THE QUEEN

vs.

ERNST ZÜNDEL

SENTENCING PROCEEDING

BEFORE: The Honourable Judge H.R. Locke and a Jury

APPEARANCES:

P. Griffiths, Esq. For the Crown

D. Christie, Esq. For the Accused

The District Courthouse  
Toronto, Ontario  
February 28, 1985.  
March 25, 1985. {1|2}

**SUBMISSIONS ON SENTENCE**

MR. GRIFFITHS: Subject to Your Honour, Mr. Christie and I are prepared to proceed now for sentencing.

THE COURT: Mr. Christie?

MR. CHRISTIE: Yes, Your Honour. My client wishes to be sentenced now. You've heard all the evidence and no doubt have made up your mind what you consider an appropriate sentence.

THE COURT: No, I have not.

MR. CHRISTIE: Well, I have nothing further to add to what has already been said, because Your Honour has had ample opportunity to hear both the accused, his character witnesses, and the story of his life for a considerable period of time.

THE COURT: That's true.

MR. CHRISTIE: And I therefore conclude that there is nothing to which I could add with any assistance to Your Honour, and therefore we wish to be sentenced today.

Thank you.

THE COURT: Mr. Griffiths?

MR. GRIFFITHS: Your Honour, in mitigation of sentence for Mr. Zündel, he is a first offender and has no criminal record. He has never been in trouble with the law before. I agree with Mr. Christie that we have substantial evidence as to his stability and roots in the community and {2|3} his industriousness in his field as a graphic artist. Those are all matters that I commend to Your Honour to consider in mitigation of sentence.

Your Honour, in aggravation in matters that I submit you should take into consideration in aggravation of sentence, there is first the pain that this material has caused within the community. I am prepared, if Your Honour wishes, to call evidence to that effect. I think that the interest, the concern and the pain in the community have been evident every day throughout the last two months. The community, I would suggest, Your Honour, needs protection from Mr. Zündel and others like minded. And when I say "the community", Your Honour, I am not talking about the Jewish community or the German community. I am talking about our Canadian community. It's especially important, I'd suggest, in Canada, where our multi-cultural mosaic is at the very heart of our national identity, that material of this nature be discouraged and that the distributors of material of this nature be discouraged.

General deterrence, Your Honour, I would respectfully submit, could form a significant part of your sentence. There is a profit motive involved here as well. Mr. Zündel is not just distributing the material, he is distributing {3|4} it for money and making money out of, as the jury found, selling material of a racial and social disharmony in our community, and I would suggest that is a significant aggravating factor.

In effect, Your Honour, while this is a matter that concerns all of us in the community, a substantial portion of our Toronto community and Canadian community has been put on trial during the course of this proceeding and there has been pain, dissension and disharmony within our community as a result.

I would suggest to Your Honour that, for the deterrence of Mr. Zündel and for the deterrence of others who would disseminate hate material or material sowing dissension in our community, there should be a substantial period of incarceration. I would suggest that such a period of incarceration be followed by a period of probation for three years, the terms of that probation being that Mr. Zündel no longer publish or distribute material that calls the Holocaust a hoax.

Those are my submissions, Your Honour.

THE COURT: Mr. Christie?

MR. CHRISTIE: I have no reply.

THE COURT: Stand up. Say it again. {4|5}

MR. CHRISTIE: I have no reply, Your Honour.

THE COURT: Now you can sit down.

MR. CHRISTIE: Thank you very much.

THE COURT: (To the accused) You can be seated, sir. What are the conditions of the bail?

MR. GRIFFITHS: Mr. Zündel, Your Honour, was brought before the Court initially by way of summons, so he was on his own bail.

THE COURT: Thank you. I do not propose to pass sentence now. I propose to pass it at a point in time within the latter part of the month of March. I invite counsel for the accused to let me have his convenience from and including the 25th of March for the passing of sentence. In the meantime, whether either side asks for it or not, I want a pre-sentence report. I should say that I intend to order that this accused be kept in custody until the date of sentence unless he posts bail in terms to be discussed at this time, and set.

I invite counsel for the accused to make submissions with respect to fair and proper terms of bail, taking into consideration the fact that this accused's status has changed and he is now a convicted person. In the event {5|6} that I receive no assistance, as I have received no assistance on the very difficult matter of sentence from Mr. Christie, I shall be obliged to rely upon counsel for the Crown and upon my own experience.

Mr. Christie, are you prepared to co-operate to that point?

MR. CHRISTIE: Well, I am always prepared to co-operate, Your Honour. I just don't know what else I could have said to you.

THE COURT: Well, you might have thought twice before you accused me of having concluded the sentence before I heard submissions. That was uncalled for and unfair.

MR. CHRISTIE: Well, Your Honour, if I may speak to the subject of bail...

THE COURT: Yes, please.

MR. CHRISTIE: I have only to say that there is no suggestion whatsoever that Mr. Zündel has failed to appear at each of the thirty-eight or so days of this trial, or at any other time. That he is a well-established member of the community I think is conceded, and there is, I suggest, no reason to think that he will either disregard an order of this Court or fail to appear at any time. That, I think, is a matter of well-established record. In the face {6|7} of that and no previous record, I am sure Your Honour will make whatever is the appropriate disposition.

THE COURT: What is your convenience with respect to a return date?

MR. CHRISTIE: I am, at the time of the 27th of March, committed to the Supreme Court of Queen's Bench in Alberta and will be from that date probably until the end of June.

THE COURT: How about the 25th and the 26th?

MR. CHRISTIE: Your Honour, if the date was unavailable for me, I am sure Mr. Zündel can arrange other counsel and I am sure he will do so.

THE COURT: The trial, Mr. Christie, is not finished and ended until sentence is passed. I will expect your presence. You will please tell me when you can be here.

MR. CHRISTIE: Well, sir, it will mean that I will have to come back, which I will have to do, then.

THE COURT: You will. There is a matter that you and I will be discussing at that time, in addition to the matter of the gratuitous insult that you just offered to me now. That will all be discussed at the end of the trial, and not now. What is your convenience? {7|8}

MR. CHRISTIE: My convenience is to meet your convenience, sir.

Whatever it is you may say, and I will arrange my time between now and the 25th of March.

THE COURT: Thank you. The accused will be held in custody until he is released. \$1,000 with deposit on the following conditions, and there is only one.

He will not, between now and the time of sentence on the 25th of March, 1985, directly or indirectly, write or publish anything on the subject of the Holocaust. If he is not prepared to abide by that condition, he will remain in custody.

He will be sentenced on the 25th of March. I will expect a pre-sentence report before that time.

— Whereupon the hearing is adjourned to March 25, 1985, at ten o'clock.

—— {8|9}

### MARCH 25, 1985

THE COURT: Good morning.

MR. GRIFFITHS: Good morning, Your Honour. The matter of Ernst Zundel for sentencing this morning, Your Honour.

THE COURT: Mr. Christie, has your client read the pre-sentence report?

MR. CHRISTIE: Yes, Your Honour.

THE COURT: Are there any submissions on the report, or are there any other submissions?

MR. CHRISTIE: My client has read the pre-sentence report and takes no issue with it. I have some other submissions.

THE COURT: Yes. Go ahead.

MR. CHRISTIE: Would it be Your Honour's wish that I make them now, or may I have the Crown's position on that, or —

THE COURT: I am flexible. What is your position?

MR. GRIFFITHS: Well, Your Honour, I am taking no different position than I did on the last day we were in court. My submissions will be precisely the same. {9|10}

THE COURT: All right, I will hear from Crown first, on the understanding that if the Crown wishes the right of reply, he can have it. Does that sound fair to you, Mr. Christie?

MR. CHRISTIE: I thought, since I wasn't going to be calling any evidence, I would be in that position. I am satisfied, if my friend has no alterations from his position, that I can address that, if that please Your Honour.

THE COURT: Then go ahead.

MR. CHRISTIE: Thank you.

First of all, Your Honour, the Crown seeks a jail sentence for a first offence under a section where no precedent exists for incarceration at all. It is my understanding there is no case in Canada where a person has been incarcerated for publishing their opinions found later to be false.

I am instructed to say, further, that the accused maintains his earlier evidence, and stands on what he indicated to be his honest belief.

The Crown says that — and I quote — there is pain that this material has caused within this community, and that this has resulted from the trial, {10|11} proceedings at trial. My friend says this is a matter which concerns all of us in the community, and the Canadian community has been put on trial during the course of these proceedings.

I would point out that in the course of any proceeding where an accused pleads not guilty and raises a defence, the community has regarded it as the right of an accused to do so, and in that sense the community has been itself put on trial, so to speak, by the denial of the accused.

It would be, in my submission, wrong to suggest that because the accused availed himself of his right to plead not guilty, and thereby a trial resulted, and thereby, from the trial, pain, dissension and disharmony in the community resulted, that it be attributed to and used as a form of speech to sentence that the community has been put on trial by the trial itself.

It would be my submission that it is still the right of the accused to plead his case, to lead his evidence, and to argue his case as he be-

liev[e]s the truth to be, and in doing so, the community has put him on trial and he should not be blamed for the consequences of a trial over which he had no control {11|12}

The Crown seeks a substantial period of incarceration. As I said, without any precedent in Canadian history for incarceration under this section, they are indeed asking for more than justice requires. They suggest that a period of incarceration be followed by a period of probation for three years. I point out that that's the maximum period of probation that I am aware exists under s.664(2) (b); in other words, the Crown seeks, for a first offence, the highest penalty that one can pay, I think, which is jail, and the longest period of probation which can be given under the law — three years. In my submission, that is excessive.

It is, in my submission, necessary to consider that the booklet, "Did Six Million Really Die?", is not as broad a book as some people have described it. It doesn't deny persecution of Jews. It doesn't deny death of Jews in the hundreds of thousands. It doesn't deny crematoria. It doesn't deny the programme of forced labour. It doesn't deny death due to malnutrition and typhus and other diseases. It only denies the figure of six million, the gas chambers, and the planning that is attributed in the crime of genocide. {12|13}

It hasn't been mentioned in the report provided by the probation officer what sentence is recommended. I can certainly sympathize with the probation officer in not being able to do so, there being no precedent under this section that would seem appropriate.

What, in essence, I say is true is that the book, "Did Six Million Really Die?" is a historical point of view which does not really suit or come within the ambit of the section as it was intended.

The accused, since the conviction, has been publicly vilified from Vancouver, where I am aware he has been referred to as a perverted monster, to other parts of the country, where he has been similarly vilified. For a man who has no previous record and has been a law-abiding citizen, has been a loving husband and father, as is portrayed in the pre-sentence report, who is a man with values and beliefs very strongly held, it would seem that the disapprobation and vilification expressed from coast to coast would be part of a punishment, and a fairly serious one.

My friend's submission about public injury and the public interest, in which he said he speaks for the community as a whole, is questionable, I suggest. {13|14} Prior to the trial he mentions no injury to a public interest. In the trial itself there was no evidence of prior injury to a public interest.

It was interesting to observe that when my friend speaks of representing a public interest, it seemed there were persons in court throughout the trial with whom he consulted from time to time who later appeared as representatives of the Canadian Jewish Congress at a press conference immediately after the conviction. It would seem to indicate that a public interest can be narrowly defined, if my friend's submission holds. It would seem it can be defined as narrowly as the group that made public statements on the subject after the conviction.

I suggest that the crime of false-news is a very common occurrence. It is not a rare thing. It's a rare thing to be prosecuted, but it is not an uncommon thing that false statements are made every day through the media, and often by the media, sometimes quoting others in the media. How we define public interest, then, is difficult to decide. I would like to point out that the accused asked for guidelines to the Attorney General of Ontario prior to its prosecution for what he might be {14|15} free to publish. I think in evidence is a letter which he wrote on the 10th of November, 1983, to the Attorney General, in which he said, and, I quote:

"I would like to suggest and request that your committee of lawyers supply me with their guidelines and criteria on hate content so that I may apply them to my writings in advance of publication. Similarly, these guidelines should be available to all writers, educators, media representatives, etc., so that everyone in the community can know exactly what the rules are in Ontario. I make this request solely in the interests of insuring greater community harmony, the lessening of inter-ethnic tensions and misunderstandings and for the relief of current

anxieties and uncertainties on the subject of hate literature.”

– to which he received no reply.

In effect, he asked for what information he could get as to what he could publish. He received no {15|16} reply from the same people who later, in the same month, decided to prosecute him.

I suggest that the public interest broadly defined beyond that of those people who took the occasion as an opportunity to hold a press conference to announce their support of the conviction would have to recognize that punishment for presenting views which courts find to be false ought not to be severe, because the implications upon others who have opinions that could be challenged will be extensive.

I would like to give an example of what frequently occurs as an example of the common nature of false news, things that are said every day that come within that definition. And I quote, for example, in regard to this trial itself, so that I need not prove my point beyond the evidence that is already before you, in the *Ottawa Citizen* of March 2nd, 1985, where it is published for the world to read, that Mr. Alan Borgway (ph) said: You have the word theory being used to describe crematoria regarded for forty years as fact. It becomes a theory.

There was no suggestion in the trial of a theory of a crematoria. And that is published for all the world to see. The crematoria is an admitted fact {16|17} in the book, “Did Six Million Really Die?”, always was. It was admitted by the accused under oath. It was never denied. And I am not asking that anyone consider what was said to be subject to prosecution, because of course, someone other than myself, perhaps the Attorney General, defines, and later if a judge and jury defines, the court defines what is in the public interest.

I suggest that if my friend’s request for incarceration is appropriate, that those who take the opportunity that exists in a free society to express themselves will do so in a far more circumspect manner, I’m sure. Maybe that is what the Crown seeks, but I suggest that it really ill-becomes the Crown to demand jail for a first offence of publishing something which, prior to the trial, they don’t demonstrate had a great effect on society.

Endeavouring to find examples of situations where people were punished for what they wrote or what they said in Canada is quite difficult, because there are very few instances of such punishment, but I would like to point out, by way of analogy, that in the United States, where a man was convicted of teaching that God did not exist and that man evolved from apes, in the State of Tennessee, he was fined, I think, \$200. He was not sent to jail. But {17|18} the Crown here asks Your Honour to sentence the accused to jail.

I would think that with the mass media of communication able to do the magnificent job of presenting the established and correct point of view from coast to coast, with massive ridicule for Mr. Zundel, that we should feel more secure today than the world felt from the errors of opinion of John Scopes, and, therefore, we should not need the more severe penalties [sic] of jail, sixty years later, for someone who denied the numbers and the existence of gas chambers, or a plan in an event, forty years ago in Europe. I wonder why the Crown should think that more serious, more dangerous to society than someone denying the existence of God, or that man was created by God.

It would be opportune to point out that the world did not suffer terribly from someone – and it’s done every day – denying the existence of God. It would seem that the Crown seeks to make it more dangerous, considering it more damaging to society to deny the allegations of certain people about events forty years ago in Europe.

I would ask Your Honour to consider {18|19} that in our more tolerant society, jail is not necessary for non-violent errors of opinion that may – and Your Honour can decide how much affects the public interest. And it’s also true in the Scopes trial the defence put forward the defence of truth of Mr. Scopes’s view, and ridiculed the views of the prosecution and they lost. In other words, he was found to be wrong in his views.

It’s interesting also to consider those who, in history, have been wrong in their views and what has happened to them and what has happened to their views. The only part of the world where people do, generally, go to jail for publishing their views today, I think, to a large extent,

would be communist countries. They are often convicted there of publishing false views against the government or against the appropriate authority or un-Soviet activity, for example, but their views don’t and they are often referred to, as Samisdat Publishers, publishers who publish without official sanction, secretly often.

I hope Your Honour will see it appropriate and proper to measure our progress from the nineteen twenties with a confidence in the odd citizen to make decisions and not be affected by erroneous or false views {19|20} that we don’t need to incarcerate the person who has them to protect society.

In considering the massive ability of our society as it is currently technically able to present what can be viewed as the correct opinion, does society need so much protection from those whose views it regards as erroneous that they should be incarcerated?

The probation order sought by the Crown – is very obscure. It supports the maximum dimension of time. It speaks of the Holocaust as if that was a precise, definite word. I suppose it includes every story told by Jewish persons respecting their suffering in the Second World War. I don’t know if it applies to non-Jewish persons; according to Dr. Hilberg it did not; but some people say the Second World War itself could be viewed as a Holocaust, but I suppose it’s not the Holocaust. But it seems difficult for us, with ordinary intelligence, to perceive the precise meaning of that word, and therefore it becomes a dangerous prohibition to indicate to an accused that he may not publish about a subject the definition of which is rather obscure.

Therefore, if the court desires to impose a term of probation, I would ask that the term be {20|21} defined, and perhaps Your Honour has already done that in the trial. I don’t know that that answers some of my concerns, and perhaps not.

What if Mr. Zundel finds some new information or evidence to support his view that gas chambers were, indeed, an invention of Zionists? May he not write about that? If he wishes to write about his trial would the Crown deny him that right, because the trial might involve the Holocaust? May he not speak about that? May he not speak about that? May he not publish about that? It seems, then, he is silenced from putting forward what his views are about the trial.

Another thing that Crown said which I would like to take issue with is the suggestion that he published this book, “Did Six Million Really Die?”, for money. I am instructed that he published and paid for the printing of approximately ten thousand copies of this book, and sold about one per cent – far less than five hundred. He gave them all away. He gave them to lawyers, to members of Parliament, to teachers, to those in positions of authority, because he thought they should consider the point of view and they should decide. As it says in his introduction, he puts it forward for their {21|22} consideration. He did not make money publishing this in any way. If anything, he accomplished for himself, it was the satisfaction of a missionary zeal to put forward a point of view in which he fervently believes.

So I suggest money is not a motive for Mr. Zundel’s publication, and the Crown, in the absence of evidence of that, should have enquired of us, and I am sure we would have been delighted to tell the Crown just exactly what the financial situation was. This booklet did not make Mr. Zundel any money. The printing of ten thousand copies would, I am informed, cost a good deal more than any money he ever derived from the sale of approximately one per cent of the issues.

Many people have written books about other trials, and will, no doubt, about this trial; but if a probation order was imposed that Mr. Zundel might not speak about the Holocaust, would that include his inability to publish a reply to those that have written about him? He is, after all, a publisher who earns his money by writing and publishing.

I ask Your Honour to consider whether the Crown’s request for a probation order would place such reasonable limits as should be put upon a citizen in a free {22|23} society which would be ordinarily acceptable in a free and democratic society.

It would seem that if the broad definition sought by the Crown is imposed, that people might write about the accused, but he might not write about himself, nor about what he might believe. He might not

publish because the trial involved his views on the subject the Crown emphatically and categorically calls the Holocaust, and says he ought not to write about.

He is well aware, from this trial, of the costs to him of publishing anything that will get him into jeopardy, but what does the Holocaust mean? Does it mean he may not speak about the things he believes and says in this trial?

It would seem the definition of the Holocaust is precisely what anyone who believes in it says it means, and that is very difficult for anyone to know in advance. We can read dictionaries, and they say some general things; but if it means that no one may publish, or he, rather, may not publish about what happened to Jews in the Second World War, it would seem to affect his right to publish about his own trial, and that would affect his right to freedom of expression {23|24}

The Crown's essential submission is that we must bring in punishment to silence people like Mr. Zundel for what he has said. I say to Your Honour that is not the way to bring about racial or social harmony. The power exists in the media to put forward the appropriate and proper views, and they generally do, and they, of course, are subject to discipline if they don't, through their many goals and bodies and the CRTC and other sources. To punish with jail people like Mr. Zundel will bring about intolerance, bitterness, resentment and other like things; and that is not in the public interest, because Mr. Zundel and others do believe what they say they believe, and I suggest that trials in courts on what is the historic truth will not likely convince them that they are wrong, nor will punishment upon those whose views they share.

Society is quite secure against erroneous opinions, because our freedom gives us the power to answer with magnificent duplications and repetition of views that are correct.

The accused is certainly a man who pays a high price for his beliefs. He was portrayed by my learned friend as having sympathies with certain political {24|25} ideals that our society deems wrong, I gather, from my friend's submission; but I would like to point out that among those persons in the past who have been categorized in that same way would be included Socrates, Jesus Christ, Galileo, Copernicus, Alexander Solzhenitsyn, Pasternak, Luther, Emil Zola, Archbishop Makarios, and Cardinal Mindszenti, all of whom, at times, were incarcerated for their views. But I would like to point out – not that my client is necessarily as worthy as any of those – but that putting people in jail has been shown to be a notoriously bad way to stop anyone's opinion. There are gentler, kinder, more effective ways with reason, and with education, with the exchange of ideas, with discussions in society, debates, forums. And Mr. Zundel is not a man who objects to debate. In fact, he participates when he can.

In the Soviet Union, at the present time, people like Sheranski and Zakaroff have done nothing that I am aware of of any violent nature, but their views are wrong, apparently. Certainly it does no particular good to society to incarcerate people whose views are wrong. And I might point out that those people I mentioned had been, in the past, and those at present, were convicted {25|26} before competent courts in the country of their day. And now the prosecution here seeks for a first offender what I suggest is wrong – jail, and asks for severe restrictions on his right to publish, which is his livelihood.

Your Honour will decide what is right and appropriate for society, but I point out that society does not need jail to succeed in putting forward correct views, and it seems as if jail had very little consequences for ideas, as those examples from the past would indicate; ideas seem to slip between the bars, and seldom are prevented from communication, often with greater success.

As I say, in the Scopes case where someone denied the existence of God and preached that man was descended from apes, a fine of \$200 was imposed in the nineteen twenties. The penalty that Your Honour will impose will decide whether, in fact, we are more secure than the State of Tennessee in Scopes, by virtue of what Mr. Zundel has published in error, than they were in that day or not.

I would point out that in the introduction to "Did Six Million Really Die?" the accused clearly indicates that he puts the book forward for discus-

sion. He believes in it. But I point out that, as the pre-{26|27} sentence report says, he doesn't demand that people agree with him, only that they consider his opinion. That point was made by the writer of the pre-sentence report in respect not only to his family, but it would seem, from the observations made by that rather sensitive report, that Mr. Zundel doesn't come across as a person who demands that everyone believe what he believes.

I would ask that Your Honour consider that we do tolerate with less than danger to our society many opinions. I point out that, for example, on December 2nd, 1978, in the Toronto Star, on page P6, a Rubin Slonin (ph) wrote that the killing of Jews was a myth and the crucifix is a myth, and the central myth in Christianity concerns anti-Jewish bias. No one should prosecute him. No one did. But if they had, I would suggest that society would not need protection with his incarceration.

It would seem to be a fairly strong statement to say the killing of Jesus [Jesus] is a myth, albeit a sacred myth. Some Christians may be offended by that; the crucifix is a myth – some Christians may be offended by that. That we tolerate.

It was only yesterday that I read that certain bishops think we should expunge parts of the New {27|28} Testament because they create problems. Revisionism is not new. It will go on. To protect against bad revisionism we need not prohibit all revisionism, and we need not punish those whom we find to have erred in that regard by putting them in jail. They are not the malicious, perverted monsters that the media have portrayed, and they are not in need of incarceration to correct their erroneous opinions. Indeed, Mr. Zundel is all the more convinced, after this trial, that what he published was correct.

In conclusion, my client has been and intends to continue to be a law-abiding citizen. He intends, wherever possible, to consult with the authorities as to what he may or may not publish. In short, he is not the dangerous man that he's portrayed to be in my friend's submission or many of the things that have been said about him. In fact, he is, I say to Your Honour, far more truly portrayed in the pre-sentence report and by those who took the stand in his defence as a kindly man with a sense of humour, but with good will, and someone who believes in speaking the truth, no matter what it costs. Thank you, sir.

THE COURT: Thank you. Mr. Griffiths.

MR. GRIFFITHS: Thank you, Your Honour. {28|29}

Your Honour, as I indicated at the outset, my submission to you as to sentence is the same now as it was some three weeks ago, that there should be a substantial period of incarceration followed by a period of three years' probation with terms that I will go into in a moment – the same terms as before.

I would respectfully suggest, Your Honour, that at this juncture in time we are beyond the stage of talking about somebody with an honest belief in views who is being persecuted because of that honest belief. We are beyond the stage of talking about incarcerating people whose views are wrong, because the jury has made a finding here – if I am understanding Mr. Christie's able submissions this morning – that Mr. Zundel did not have those honest beliefs; he deliberately lied. That is why we are here.

We are not talking about any legitimate school of historical revisionism or punishing those who honestly err with jail. We are talking about somebody who deliberately lied, published those lies to the public at large, to the detriment of the public interest. I would respectfully suggest, Your Honour, that the pain in the community that I referred {29|30} to some three weeks ago, the anguish in the Canadian community has been indicated repeatedly over the last three weeks in columns in newspaper articles, phone-in radio shows, television programmes. This is an issue for the entire Canadian community, not for the Canadian Jewish Congress alone, or any other particular group alone.

My comments at that time, as well, Your Honour, were directed – if I wasn't clear I will try to make it clearer now – to the pain caused to a particular segment of the community: namely, the Jewish segment of the community in particular; that much as a rape victim in days gone by, before the Criminal Code was amended, was often more on trial



than an accused in the nature of the cross-examination, the ordeal the victim was put through in testifying, that is the kind of ordeal the Jewish community was put through in this trial.

I agree with my friend, it is not what this trial has done, it is what the article has done as well, and I think, with respect, Your Honour, my comments on that I made to the jury, and I don't feel the need to repeat them now. I would indicate, however, that in that {30|31} pamphlet tract, "Did Six Million Really Die?", there is an appeal by Mr. Zundel for contributions to a legal defence fund at the time that it was published. There is certainly a clear awareness by Mr. Zundel that he is quite probably breaking the law in publishing it. No news to him. He took that chance and published it.

Following this lengthy and turbulent trial, Mr. Zundel was widely quoted as saying that it was worth it – he had a million dollars' worth of publicity. Maybe that was bravado by Mr. Zundel and he is now more concerned, at the hour of his sentencing, than with the nature of the publicity and the notoriety that he received.

There's been no expression of remorse or sadness from Mr. Zundel, and that's a factor that I invite Your Honour to take into account in considering specific deterrence of Mr. Zundel, and in considering rehabilitation. It is a factor for Your Honour on sentencing.

The third factor on sentencing, Your Honour, is general deterrence, and certainly within the last eighteen months the Attorney General of this province, then the Honourable Roy McMurtry, felt strongly {31|32} enough about the incidence of this type of material that a special division was formed, a special project in the Ontario Provincial Police, called Project H, for the control of material of this nature. So it is a problem in the community. And that is something that I would invite Your Honour to address in sentence.

Mr. Christie raises, once again, the letter that Mr. Zundel wrote, apparently, to Mr. McMurtry on November 10th of 1983 asking for guidelines prior to his prosecution. Well, it was prior to his prosecution all right, and after litigation – publication of his material. Guidelines at that point would have had no effect on this prosecution.

Your Honour, the Criminal Code provides, s.663, for Your Honour to make a probation order, and one of the matters that you can direct yourself to in making a probation order under s.663(2) (h) is preventing a repetition by the accused of the same offence, or the commission of other offences. That, really, Your Honour, is what my submission on the last day with respect to a probation order was directed to.

Mr. Zundel, I think, has made it clear that this is an abiding interest of his, to publish material {32|33} of this nature. It is certainly clear in the pre-sentence report that it is an abiding interest of his, and I would suggest that it is appropriate, in considering rehabilitation, and specific deterrence, that he be prevented from committing a further offence of a similar nature. That is why I make the recommendation for the probation order that I do.

I agree with Mr. Christie that on the last day I was not precise enough in my terms, and I would suggest that it is appropriate that the matter be precisely defined as well as we can so that Mr. Zundel understands well what it is that he is, in my submission, to be asked not to do.

I suggest that a probation order should contain a term, that Mr. Zundel personally, or through any company that he owns or controls, such as Samisdat Publishing, be prohibited from publishing, writing, distributing or speaking publicly on the subject of the attempted annihilation of European Jewry, known as the Holocaust.

I would further suggest, Your Honour, that a recommendation should accompany, if there is a period of incarceration imposed by Your Honour, there {33|34} would, as I understand, be a lapse in time between the time that Mr. Zundel would be released from jail until such time as the end of sentence and the probation order took effect, and I would ask that there be a recommendation that any such order, if there is such an order, restricting that area that he can publish in, be included in any parole order.

Probation orders, Your Honour, are a restriction on the freedoms of individuals, freedom of association with others, often with a criminal record, their freedom of movement. Sometimes they can be kept out of

a certain area of the city, or told to remain within the city.

Curfew is a very common item in a probation order, and surely, following a conviction, that is part of the sentencing process, is the restriction of individuals' freedoms, either wholly, through incarceration, or in part, through a probation order, and I suggest there is nothing inappropriate about that.

Subject to Your Honour, those would be my submissions.

THE COURT: Thank you. Mr. Christie.

MR. CHRISTIE: Thank you, Your Honour. {34|35}

My friend reiterates his position respecting pain in the Canadian community, which I would point out again he acknowledged the result of the trial. It's not evident, from anything my friend has said, that there was some pre-existing pain prior to the trial that the Canadian community was affected by.

I am well aware, as, no doubt, everyone is, of the anxiety by many editorial writers who disapprove of everything Mr. Zundel represents; but nonetheless they feel that it is dangerous to have prosecuted him for giving him either a platform, or affecting freedom of speech. I read editorials to that effect in almost every newspaper in Canada.

However, that is not Mr. Zundel's fault that he was put on trial, or that he had the temerity to raise, in his own defence, his opinions.

My friend says there is no expression of remorse or sadness. Well, my client maintains his honest belief, and I suggest that what was written and what he said, if he believes it, and he says he does, cannot justify remorse or sadness any more than someone who conscientiously [sic] believes an opinion which courts may find to be wrong can justify in their own conscience, {35|36} saying, "I'm sorry I believe this", or, "I'm sorry I say this or said this." And what the Attorney General feels about other people and their actions is not really known. The fact that he establishes a project called H, which I assume stands for "Hate", is not the responsibility of my client, is not an indication of anything besides a decision of an officer of the government. It doesn't signify that there is some raising [rising] demon of hate in the community that needs to have general deterrence applied. Not one instance of any action, or anything specific is mentioned in the way of this new perceived danger to the community of Canada.

I was quite surprised to hear the new definition of the Holocaust as the attempted annihilation of European Jewry, not specifying when, not specifying where, not specifying how; any attempted annihilation of European Jewry is now the Holocaust. I was hopeful of some precise definition so my client will say, "Well, I don't agree with the restrictions, but I can certainly understand it, and I know now where I must and must not publish." The attempted annihilation of European Jewry as the Holocaust has no time, no date, does not even come within the Second World War, I guess, goes anywhere. {36|37} Every time I hear a definition of the Holocaust, it's different. I suppose that we must now accept the proposition that anything that denies attempted annihilation of European Jewry would be forbidden, whether or not it be in the Second World War or at any other time.

I agree that what my friend says is true about the daily restrictions of freedom of individuals after they have committed a crime. A crime such as publishing is not a crime like other crimes. It's not the crime of rape. There is no analogy to the crime of rape. It is not a vicious, violent, physical act. It is not an act of theft or deprivation of property. It is, in fact, the utterance of words. And I tried to point out to my friend, and I tried to make him aware of the fact that those persons in the past who, by words alone and not deeds, had committed offences against their society and were, therefore, punished, the punishment was not effective – not because it wasn't the best of desires, perhaps, to the people seeking the punishment, but the words and the utterances of words, and even their publication, is not a crime like other crimes that we can say, we will apply all the same old rules because it affects everyone's right to communicate and it must be, {37|38} therefore, dealt with as a special type of offence. To apply the same routine restrictions to people's rights to communicate as one applies to their rights to go near beer parlors where drugs are trafficked, or to deal with them as if they have committed violent offences or other types of offences is not to

perceive the difference between a person's expression of opinion, however false or wrong, and any other kind of criminal behaviour.

I suggest it's a dangerous precedent not to maintain that distinction, not to be alive to the implications for all of us who do nothing wrong, steal nothing from anyone, but who say things from time to time that others might not agree with. We are not dealing with an area of offence that has not got broad and over-whelming implications for freedoms of speech, and that must be kept in mind, because in my submission it is very important.

Thank you, sir.

THE COURT: Thank you. {38|39}

#### REASONS FOR SENTENCE

THE COURT: Ernst Zundel is age forty-six. He has no dependants. He has no criminal record. He describes himself as a publisher. In reality he is a neo-Nazi propagandist. He is a citizen of the Republic of West Germany. He emigrated to Canada in 1958. He has lived here ever since. He has apparently never applied for Canadian citizenship. He is a commercial artist by trade. I draw the inference that since his arrival in this country he has acquired substantial material wealth.

On February 28th, 1985, after a long trial, a jury that he helped select returned a verdict of guilty upon Mr. Zundel. The jury found that he wilfully published a false statement contrary to the Criminal Code.

The subject of the statement was the Holocaust. Mr. Zundel published a tract entitled, "Did Six Million Really Die?". The six million were the Jews of Europe slaughtered in death camps by German Nazis during World War II. The tract claims that the Holocaust never happened, that it is a Zionist fraudulent plot perpetrated by Jews in order to dishonestly extract money in reparations from Germany.

On the jury's verdict I now formally register the conviction. I ordered a pre-sentence report. I did so because counsel for the accused, at the time of the verdict, deliberately elected to be of no assistance to this {39|40} court on the difficult matter of sentence. This morning, however, Mr. Christie has been of substantial assistance to the Court in his submissions with respect to the matter of sentence.

Mr. Zundel and his entourage of followers and adherents should all know that the sentence to be imposed upon him by this Court, in part, is intended to reflect the views of the total Canadian community and not just any specific group of that community. Mr. Zundel should also know that he is perfectly free to believe and to practise anything he so chooses, provided he does not break Canadian laws.

He has chosen as a propaganda speciality the perpetuation of the "big lie" in the tradition of the now deceased sub-human monsters Adolf Hitler and Joseph Goebbels. The subject of the lie he has chosen is the Holocaust. The lie itself is that the Holocaust never occurred.

One is hard-pressed to contemplate a subject more likely to propagate the evil of public unrest fueled by racial intolerance in the Canadian community than to claim that the Holocaust is a fraudulent myth.

In this accused, there is not the slightest indication of either regret or remorse that he deliberately published this lie. This is the lie the jury found, obviously {40|41} that he published. He displays a total absence

of contrition.

The pre-sentence report quotes him as intending to continue the pursuit of his notions about the Holocaust.

From the evidence and the submissions of counsel, the only reasonable inference to be drawn is that the hope of Mr. Zundel's rehabilitation barely exists. Unfortunately, his stated visions of revived Aryan Nazi grandeur combine with his robust ego to prevent his civilized behaviour in our Canadian multi-cultural society. In addition, the aging process might have cemented his notions to the point where any moderation in his conduct and obsessive views is unlikely.

His wilful publication of this scurrilous document has deeply offended decent people of all racial origins. In addition, Mr. Zundel has slandered the memory of innocent murdered human beings. Many relatives and descendants of the slaughtered millions live in the Canadian community. They should be permitted to live within the peace, order and stable government that this country provides without the crude, unacceptable intrusions of Mr. Zundel and those of his ilk.

He published a blatant racist diatribe. When he did so, he knew the subject matter to be essentially false. With the unmistakable instinct of the street disturber, {41|42} he also knew that the publication would likely foment the evil of racial intolerance within our community. He published not for the purpose of honest public debate; rather he published with the fixed intention of destabilizing the Canadian community. He has created his elaborate propaganda apparatus all by himself. He is well-endowed with both logistical and financial support which emanates from several obvious sources.

Mr. Zundel is a danger to the community. The sentence to be imposed must, of necessity, emphasize deterrence to other like-minded racists and others from committing similar crimes. In addition, it is to be hoped that the sentence to be imposed will deter Mr. Zundel himself from further criminal conduct in the Canadian community in which he has elected to live, to feed upon, but not to formally join.

He will go to jail for fifteen months. In addition, he will be placed on probation for three years. The conditions are as follows:

1. He will obey all of the statutory conditions.
  2. He will remain within the jurisdiction {42|43} of the court.
  3. He will report to the probation officer forthwith upon his release.
  4. He will not publish in writing or by speaking in public by word of mouth, directly or indirectly, in his name or in any other name, corporate or personal, anything on the subject of the Holocaust or on any subject related directly or indirectly to the Holocaust [sic].
  5. I recommend that these conditions be made conditions of parole which I am quite satisfied he will quickly receive.
- That is the sentence. Remove the accused.

Certified correct to the best of my skill and ability.

C.S.R.

CARMEN OAKE

OFFICIAL COURT REPORTER

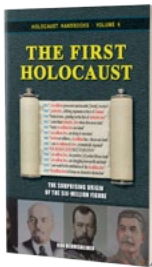
# HOLOCAUST HANDBOOKS

This ambitious, growing series addresses various aspects of the “Holocaust” of the WWII era. Most of them are based on decades of research from archives all over the world. They are heavily referenced. In contrast to most other works on this issue, the tomes of this series approach its topic with profound academic scrutiny and a critical attitude. Any Holocaust researcher ignoring this series will remain oblivious to some of the most important research in the field. These books are designed to both convince the common reader as well as academics. The following books have appeared so far, or are about to be released. Compare hardcopy and eBook prices at [www.findbookprices.com](http://www.findbookprices.com).

## SECTION ONE:

### General Overviews of the Holocaust

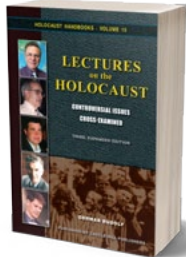
**The First Holocaust. The Surprising Origin of the Six-Million Figure.** By Don Heddesheimer. This compact but substantive study documents



propaganda spread prior to, during and after the FIRST World War that claimed East European Jewry was on the brink of annihilation. The magic number of suffering and dying Jews was 6 million back then as well. The book details how these Jewish fundraising operations in America raised vast sums in the name of feeding suffering Polish and Russian Jews but actually fun-

neled much of the money to Zionist and Communist groups. 5th ed., 200 pages, b&w illustrations, bibliography, index. (#6)

**Lectures on the Holocaust. Controversial Issues Cross Examined.** By Germar Rudolf. This book first explains why “the Holocaust” is an important topic, and that it is well to keep an open mind about it. It then tells how many main-



stream scholars expressed doubts and subsequently fell from grace. Next, the physical traces and documents about the various claimed crime scenes and murder weapons are discussed. After that, the reliability of witness testimony is examined. Finally, the author lobbies for a free exchange

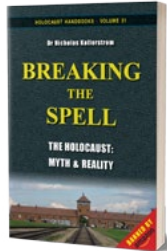
of ideas about this topic. This book gives the most-comprehensive and up-to-date overview of the critical research into the Holocaust. With its dialog style, it is pleasant to read, and it can even be used as an encyclopedic compendium. 3rd ed., 596 pages, b&w illustrations, bibliography, index. (#15)

**Breaking the Spell. The Holocaust, Myth & Reality.** By Nicholas Kollerstrom. In 1941, British Intelligence analysts cracked the German “Enigma” code. Hence, in 1942 and 1943, encrypted radio communications between German concentration camps and the Berlin headquarters were decrypted. The intercepted data

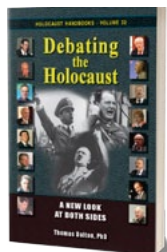


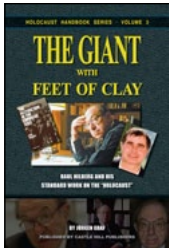
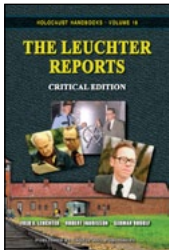
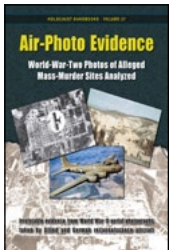
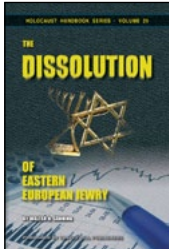
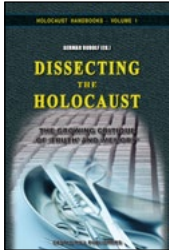
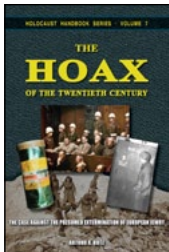
Pictured above are all of the scientific studies that comprise the series *Holocaust Handbooks* published thus far or are about to be released. More volumes and new editions are constantly in the works. Check [www.HolocaustHandbooks.com](http://www.HolocaustHandbooks.com) for updates.

refutes the orthodox “Holocaust” narrative. It reveals that the Germans were desperate to reduce the death rate in their labor camps, which was caused by catastrophic typhus epidemics. Dr. Kollerstrom, a science historian, has taken these intercepts and a wide array of mostly unchallenged corroborating evidence to show that “witness statements” supporting the human gas chamber narrative clearly clash with the available scientific data. Kollerstrom concludes that the history of the Nazi “Holocaust” has been written by the victors with ulterior motives. It is distorted, exaggerated and largely wrong. With a foreword by Prof. Dr. James Fetzer. 5th ed., 282 pages, b&w ill., bibl., index. (#31)



**Debating the Holocaust. A New Look at Both Sides.** By Thomas Dalton. Mainstream historians insist that there cannot be, may not be a debate about the Holocaust. But ignoring it does not make this controversy go away. Traditional scholars admit that there was neither a budget, a plan, nor an order for the Holocaust; that the key camps have all but vanished, and so have any human remains; that material and unequivocal documentary evidence is absent; and that there are serious problems with survivor testimonies. Dalton juxtaposes the traditional Holocaust narrative with revisionist challenges and then analyzes the mainstream’s responses to them. He reveals the weaknesses of both sides, while declaring revisionism





the winner of the current state of the debate. 4th ed., 342 pages, b&w illustrations, bibliography, index. (#32)

**The Hoax of the Twentieth Century. The Case against the Presumed Extermination of European Jewry.** By Arthur R. Butz. The first writer to analyze the entire Holocaust complex in a precise scientific manner. This book exhibits the overwhelming force of arguments accumulated by the mid-1970s. Butz's two main arguments are: 1. All major entities hostile to Germany must have known what was happening to the Jews under German authority. They acted during the war as if no mass slaughter was occurring. 2. All the evidence adduced to proof any mass slaughter has a dual interpretation, while only the innocuous one can be proven to be correct. This book continues to be a major historical reference work, frequently cited by prominent personalities. This edition has numerous supplements with new information gathered over the last 35 years. 4th ed., 524 pages, b&w illustrations, bibliography, index. (#7)

**Dissecting the Holocaust. The Growing Critique of 'Truth' and 'Memory.'** Edited by Germar Rudolf. *Dissecting the Holocaust* applies state-of-the-art scientific technique and classic methods of detection to investigate the alleged murder of millions of Jews by Germans during World War II. In 22 contributions—each of some 30 pages—the 17 authors dissect generally accepted paradigms of the "Holocaust." It reads as exciting as a crime novel: so many lies, forgeries and deceptions by politicians, historians and scientists are proven. This is the intellectual adventure of the 21st century. Be part of it! 3rd ed., 635 pages, b&w illustrations, bibliography, index. (#1)

**The Dissolution of Eastern European Jewry.** By Walter N. Sanning. Six Million Jews died in the Holocaust. Sanning did not take that number at face value, but thoroughly explored European population developments and shifts mainly caused by emigration as well as deportations and evacuations conducted by both Nazis and the Soviets, among other things. The book is based mainly on Jewish, Zionist and mainstream sources. It concludes that a sizeable share of the Jews found missing during local censuses after the Second World War, which were so far counted as "Holocaust victims," had either emigrated (mainly to Israel or the U.S.) or had been deported by Stalin to Siberian labor camps. 2nd ed., foreword by A.R. Butz, epilogue by Germar Rudolf containing important

updates; 224 pages, b&w illustrations, bibliography (#29).

**Air Photo Evidence: World War Two Photos of Alleged Mass Murder Sites Analyzed.** By Germar Rudolf (editor). During World War Two both German and Allied reconnaissance aircraft took countless air photos of places of tactical and strategic interest in Europe. These photos are prime evidence for the investigation of the Holocaust. Air photos of locations like Auschwitz, Majdanek, Treblinka, Babi Yar etc. permit an insight into what did or did not happen there. The author has unearthed many pertinent photos and has thoroughly analyzed them. This book is full of air photo reproductions and schematic drawings explaining them. According to the author, these images refute many of the atrocity claims made by witnesses in connection with events in the German sphere of influence. 5th edition; with a contribution by Carlo Mattogno. 168 pages, 8.5"×11", b&w illustrations, bibliography, index (#27).

**The Leuchter Reports: Critical Edition.** By Fred Leuchter, Robert Faurisson and Germar Rudolf. Between 1988 and 1991, U.S. expert on execution technologies Fred Leuchter wrote four detailed reports addressing whether the Third Reich operated homicidal gas chambers. The first report on Auschwitz and Majdanek became world famous. Based on chemical analyses and various technical arguments, Leuchter concluded that the locations investigated "could not have then been, or now be, utilized or seriously considered to function as execution gas chambers." The second report deals with gas-chamber claims for the camps Dachau, Mauthausen and Hartheim, while the third reviews design criteria and operation procedures of execution gas chambers in the U.S. The fourth report reviews Pressac's 1989 tome *Auschwitz*. 4th ed., 252 pages, b&w illustrations. (#16)

**The Giant with Feet of Clay: Raul Hilberg and His Standard Work on the Holocaust.** By Jürgen Graf. Raul Hilberg's major work *The Destruction of European Jewry* is an orthodox standard work on the Holocaust. But what evidence does Hilberg provide to back his thesis that there was a German plan to exterminate Jews, carried out mainly in gas chambers? Jürgen Graf applies the methods of critical analysis to Hilberg's evidence and examines the results in light of modern historiography. The results of Graf's critical analysis are devastating for Hilberg.



2nd, corrected edition, 139 pages, b&w illustrations, bibliography, index. (#3)

**Jewish Emigration from the Third Reich.** By Ingrid Weckert. Current historical writings about the Third Reich claim state it was difficult for Jews to flee from Nazi persecution. The truth is that Jewish emigration was welcomed by the German authorities. Emigration was not some kind of wild flight, but rather a lawfully determined and regulated matter. Weckert's booklet elucidates the emigration process in law and policy. She shows that German and Jewish authorities worked closely together. Jews interested in emigrating received detailed advice and offers of help from both sides. 2nd ed., 130 pages, index. (#12)

**Inside the Gas Chambers: The Extermination of Mainstream Holocaust Historiography.** By Carlo Mattogno. Neither increased media propaganda or political pressure nor judicial persecution can stifle revisionism. Hence, in early 2011, the Holocaust Orthodoxy published a 400 pp. book (in German) claiming to refute "revisionist propaganda," trying again to prove "once and for all" that there were homicidal gas chambers at the camps of Dachau, Natzweiler, Sachsenhausen, Mauthausen, Ravensbrück, Neuengamme, Stutthof... you name them. Mattogno shows with his detailed analysis of this work of propaganda that mainstream Holocaust hagiography is beating around the bush rather than addressing revisionist research results. He exposes their myths, distortions and lies. 2nd ed., 280 pages, b&w illustrations, bibliography, index. (#25)

## SECTION TWO: Specific non-Auschwitz Studies

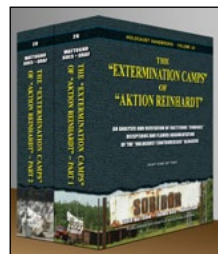
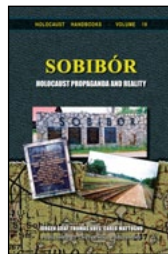
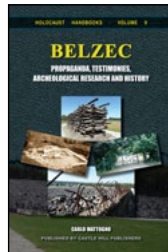
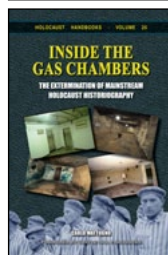
**Treblinka: Extermination Camp or Transit Camp?** By Carlo Mattogno and Jürgen Graf. It is alleged that at Treblinka in East Poland between 700,000 and 3,000,000 persons were murdered in 1942 and 1943. The weapons used were said to have been stationary and/or mobile gas chambers, fast-acting or slow-acting poison gas, unslaked lime, superheated steam, electricity, diesel exhaust fumes etc. Holocaust historians alleged that bodies were piled as high as multi-storied buildings and burned without a trace, using little or no fuel at all. Graf and Mattogno have now analyzed the origins, logic and technical feasibility of the official version of Treblinka. On the basis of numerous documents they reveal Treblinka's true identity as a mere transit

camp. 2nd ed., 372 pages, b&w illustrations, bibliography, index. (#8)

**Belzec in Propaganda, Testimonies, Archeological Research and History.** By Carlo Mattogno. Witnesses report that between 600,000 and 3 million Jews were murdered in the Belzec camp, located in Poland. Various murder weapons are claimed to have been used: diesel gas; unslaked lime in trains; high voltage; vacuum chambers; etc. The corpses were incinerated on huge pyres without leaving a trace. For those who know the stories about Treblinka this sounds familiar. Thus the author has restricted this study to the aspects which are new compared to Treblinka. In contrast to Treblinka, forensic drillings and excavations were performed at Belzec, the results of which are critically reviewed. 142 pages, b&w illustrations, bibliography, index. (#9)

**Sobibor: Holocaust Propaganda and Reality.** By Jürgen Graf, Thomas Kues and Carlo Mattogno. Between 25,000 and 2 million Jews are said to have been killed in gas chambers in the Sobibór camp in Poland. The corpses were allegedly buried in mass graves and later incinerated on pyres. This book investigates these claims and shows that they are based on the selective use of contradictory eyewitness testimony. Archeological surveys of the camp in 2000-2001 are analyzed, with fatal results for the extermination camp hypothesis. The book also documents the general National Socialist policy toward Jews, which never included a genocidal "final solution." 442 pages, b&w illustrations, bibliography, index. (#19)

**The "Extermination Camps" of "Aktion Reinhardt".** By Jürgen Graf, Thomas Kues and Carlo Mattogno. In late 2011, several members of the exterminationist *Holocaust Controversies* blog posted a study online which claims to refute three of our authors' monographs on the camps Belzec, Sobibor and Treblinka (see previous three entries). This tome is their point-by-point response, which makes "mincemeat" out of the bloggers' attempt at refutation. **Caution:** The two volumes of this work are an intellectual overkill for most people. They are recommended only for collectors, connoisseurs and professionals. These two books require familiarity with the above-mentioned books, of which they are a comprehensive update and expansion. 2nd ed., two volumes, total of 1396 pages, illustrations, bibliography. (#28)



**Chelmno: A Camp in History & Propaganda.** By Carlo Mattogno. At Chelmno, huge masses of Jewish prisoners are said to have been gassed in “gas vans” or shot (claims vary from 10,000 to 1.3 million victims). This study covers the subject from every angle, undermining the orthodox claims about the camp with an overwhelmingly effective body of evidence. Eyewitness statements, gas wagons as extermination weapons, forensics reports and excavations, German documents—all come under Mattogno’s scrutiny. Here are the uncensored facts about Chelmno, not the propaganda. 2nd ed., 188 pages, indexed, illustrated, bibliography. (#23)

**The Gas Vans: A Critical Investigation.** By Santiago Alvarez and Pierre Marais. It is alleged that the Nazis used mobile gas chambers to exterminate 700,000 people. Up until 2011, no thorough monograph had appeared on the topic. Santiago Alvarez has remedied the situation. Are witness statements reliable? Are documents genuine? Where are the murder weapons? Could they have operated as claimed? Where are the corpses? In order to get to the truth of the matter, Alvarez has scrutinized all known wartime documents and photos about this topic; he has analyzed a huge amount of witness statements as published in the literature and as presented in more than 30 trials held over the decades in Germany, Poland and Israel; and he has examined the claims made in the pertinent mainstream literature. The result of his research is mind-boggling. Note: This book and Mattogno’s book on Chelmno were edited in parallel to make sure they are consistent and not repetitive. 398 pages, b&w illustrations, bibliography, index. (#26)

**The Einsatzgruppen in the Occupied Eastern Territories: Genesis, Missions and Actions.** By C. Mattogno. Before invading the Soviet Union, the German authorities set up special units meant to secure the area behind the German front. Orthodox historians claim that these units called *Einsatzgruppen* primarily engaged in rounding up and mass-murdering Jews. This study sheds a critical light into this topic by reviewing all the pertinent sources as well as material traces. It reveals on the one hand that original war-time documents do not fully support the orthodox genocidal narrative, and on the other that most post-“liberation” sources such as testimonies and forensic reports are steeped in Soviet atrocity propaganda and are thus utterly unreliable. In addition,

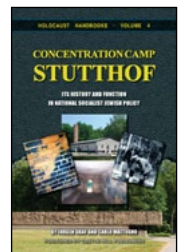
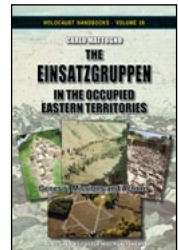
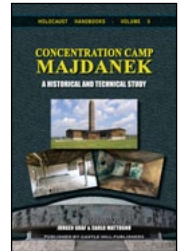
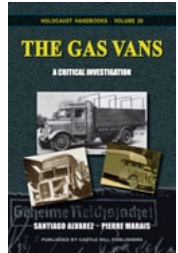
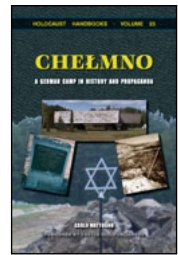
material traces of the claimed massacres are rare due to an attitude of collusion by governments and Jewish lobby groups. 830 pp., b&w illustrations, bibliography, index. (#39)

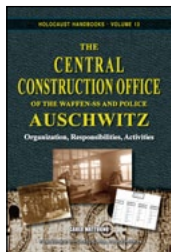
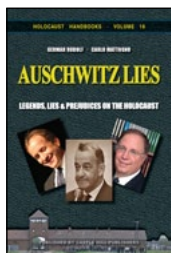
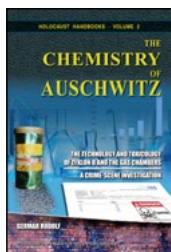
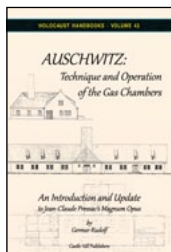
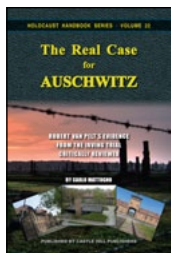
**Concentration Camp Majdanek. A Historical and Technical Study.** By Carlo Mattogno and Jürgen Graf. At war’s end, the Soviets claimed that up to two million Jews were murdered at the Majdanek Camp in seven gas chambers. Over the decades, however, the Majdanek Museum reduced the death toll three times to currently 78,000, and admitted that there were “only” two gas chambers. By exhaustively researching primary sources, the authors expertly dissect and repudiate the myth of homicidal gas chambers at that camp. They also critically investigated the legend of mass executions of Jews in tank trenches and prove them groundless. Again they have produced a standard work of methodical investigation which authentic historiography cannot ignore. 3rd ed., 358 pages, b&w illustrations, bibliography, index. (#5)

**Concentration Camp Stutthof and Its Function in National Socialist Jewish Policy.** By Carlo Mattogno and Jürgen Graf. Orthodox historians claim that the Stutthof Camp served as a “make-shift” extermination camp in 1944. Based mainly on archival resources, this study thoroughly debunks this view and shows that Stutthof was in fact a center for the organization of German forced labor toward the end of World War II. 4th ed., 170 pages, b&w illustrations, bibliography, index. (#4)

## SECTION THREE: Auschwitz Studies

**The Making of the Auschwitz Myth: Auschwitz in British Intercepts, Polish Underground Reports and Post-war Testimonies (1941-1947).** By Carlo Mattogno. Using messages sent by the Polish underground to London, SS radio messages sent to and from Auschwitz that were intercepted and decrypted by the British, and a plethora of witness statements made during the war and in the immediate postwar period, the author shows how exactly the myth of mass murder in Auschwitz gas chambers was created, and how it was turned subsequently into “history” by intellectually corrupt scholars who cherry-picked claims that fit into their agenda and ignored or actively covered up literally thousands of lies of “witnesses” to make their narrative look credible. Ca. 300





pp., b&w illustrations, bibliography, index. (Scheduled for mid-2020; #41)

**The Real Case of Auschwitz: Robert van Pelt's Evidence from the Irving Trial Critically Reviewed.** By Carlo Mattogno. Prof. Robert van Pelt is considered one of the best mainstream experts on Auschwitz. He became famous when appearing as an expert during the London libel trial of David Irving against Deborah Lipstadt. From it resulted a book titled *The Case for Auschwitz*, in which van Pelt laid out his case for the existence of homicidal gas chambers at that camp. This book is a scholarly response to Prof. van Pelt—and Jean-Claude Pressac, upon whose books van Pelt's study is largely based. Mattogno lists all the evidence van Pelt adduces, and shows one by one that van Pelt misrepresented and misinterpreted each single one of them. This is a book of prime political and scholarly importance to those looking for the truth about Auschwitz. 3rd ed., 692 pages, b&w illustrations, glossary, bibliography, index. (#22)

**Auschwitz: Plain Facts: A Response to Jean-Claude Pressac.** Edited by Germar Rudolf, with contributions by Serge Thion, Robert Faurisson and Carlo Mattogno. French pharmacist Jean-Claude Pressac tried to refute revisionist findings with the “technical” method. For this he was praised by the mainstream, and they proclaimed victory over the “revisionists.” In his book, Pressac's works and claims are shown to be unscientific in nature, as he never substantiate what he claims, and historically false, because he systematically misrepresents, misinterprets and misunderstands German wartime documents. 2nd ed., 226 pages, b&w illustrations, glossary bibliography, index. (#14)

**Auschwitz: Technique and Operation of the Gas Chambers: An Introduction and Update.** By Germar Rudolf. Pressac's 1989 oversize book of the same title was a trail blazer. Its many document reproductions are still valuable, but after decades of additional research, Pressac's annotations are outdated. This book summarizes the most pertinent research results on Auschwitz gained during the past 30 years. With many references to Pressac's epic tome, it serves as an update and correction to it, whether you own an original hard copy of it, read it online, borrow it from a library, purchase a reprint, or are just interested in such a summary in general. 144 pages, b&w illustrations, bibliography. (#42)

**The Chemistry of Auschwitz: The Technology and Toxicology of Zyklon B and the Gas Chambers – A Crime Scene Investigation.** By Germar Rudolf. This study documents forensic research on Auschwitz, where material traces and their interpretation reign supreme. Most of the claimed crime scenes – the claimed homicidal gas chambers – are still accessible to forensic examination to some degree. This book addresses questions such as: What did these gas chambers look like? How did they operate? In addition, the infamous Zyklon B can also be examined. What exactly was it? How does it kill? Does it leave traces in masonry that can be found still today? The author also discusses in depth similar forensic research conducted by other authors. 3rd ed., 442 pages, more than 120 color and almost 100 b&w illustrations, bibliography, index. (#2)

**Auschwitz Lies: Legends, Lies and Prejudices on the Holocaust.** By C. Mattogno and G. Rudolf. The fallacious research and alleged “refutation” of Revisionist scholars by French biochemist G. Wellers (attacking Leuchter's famous report), Polish chemist Dr. J. Markiewicz and U.S. chemist Dr. Richard Green (taking on Rudolf's chemical research), Dr. John Zimmerman (tackling Mattogno on cremation issues), Michael Shermer and Alex Grobman (trying to prove it all), as well as researchers Keren, McCarthy and Mazal (how turned cracks into architectural features), are exposed for what they are: blatant and easily exposed political lies created to ostracize dissident historians. 3rd ed., 398 pages, b&w illustrations, index. (#18)

**Auschwitz: The Central Construction Office.** By C. Mattogno. Based upon mostly unpublished German wartime documents, this study describes the history, organization, tasks and procedures of the one office which was responsible for the planning and construction of the Auschwitz camp complex, including the crematories which are said to have contained the “gas chambers.” 2nd ed., 188 pages, b&w illustrations, glossary, index. (#13)

**Garrison and Headquarters Orders of the Auschwitz Camp.** By C. Mattogno. A large number of all the orders ever issued by the various commanders of the infamous Auschwitz camp have been preserved. They reveal the true nature of the camp with all its daily events. There is not a trace in these orders pointing at anything sinister going on in this camp. Quite to the



contrary, many orders are in clear and insurmountable contradiction to claims that prisoners were mass murdered. This is a selection of the most pertinent of these orders together with comments putting them into their proper historical context. (Scheduled for late 2020; #34)

**Special Treatment in Auschwitz: Origin and Meaning of a Term.** By C. Mattogno. When appearing in German wartime documents, terms like “special treatment,” “special action,” and others have been interpreted as code words for mass murder. But that is not always true. This study focuses on documents about Auschwitz, showing that, while “special” had many different meanings, not a single one meant “execution.” Hence the practice of deciphering an alleged “code language” by assigning homicidal meaning to harmless documents – a key component of mainstream historiography – is untenable. 2nd ed., 166 pages, b&w illustrations, bibliography, index. (#10)

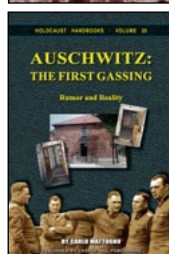
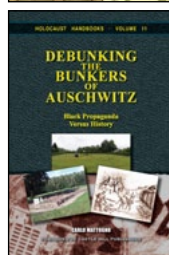
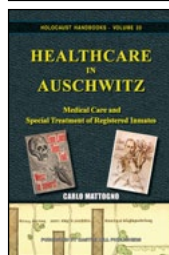
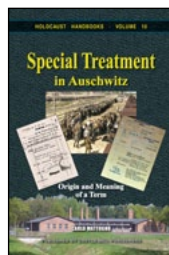
**Healthcare at Auschwitz.** By C. Mattogno. In extension of the above study on *Special Treatment in Auschwitz*, this study proves the extent to which the German authorities at Auschwitz tried to provide health care for the inmates. Part 1 of this book analyzes the inmates’ living conditions and the various sanitary and medical measures implemented. Part 2 explores what happened to registered inmates who were “selected” or subject to “special treatment” while disabled or sick. This study shows that a lot was tried to cure these inmates, especially under the aegis of Garrison Physician Dr. Wirths. Part 3 is dedicated to Dr. this very Wirths. His reality refutes the current stereotype of SS officers. 398 pages, b&w illustrations, bibliography, index. (#33)

**Debunking the Bunkers of Auschwitz: Black Propaganda vs. History.** By Carlo Mattogno. The bunkers at Auschwitz, two former farmhouses just outside the camp’s perimeter, are claimed to have been the first homicidal gas chambers at Auschwitz specifically equipped for this purpose. With the help of original German wartime files as well as revealing air photos taken by Allied reconnaissance aircraft in 1944, this study shows that these homicidal “bunkers” never existed, how the rumors about them evolved as black propaganda created by resistance groups in the camp, and how this propaganda was transformed into a false reality. 2nd ed., 292 pages, b&w ill., bibliography, index. (#11)

**Auschwitz: The First Gassing. Rumor and Reality.** By C. Mattogno. The first gassing in Auschwitz is claimed to have occurred on Sept. 3, 1941, in a basement room. The accounts reporting it are the archetypes for all later gassing accounts. This study analyzes all available sources about this alleged event. It shows that these sources contradict each other in location, date, victims etc, rendering it impossible to extract a consistent story. Original wartime documents inflict a final blow to this legend and prove without a shadow of a doubt that this legendary event never happened. 3rd ed., 190 pages, b&w illustrations, bibliography, index. (#20)

**Auschwitz: Crematorium I and the Alleged Homicidal Gassings.** By C. Mattogno. The morgue of Crematorium I in Auschwitz is said to be the first homicidal gas chamber there. This study investigates all statements by witnesses and analyzes hundreds of wartime documents to accurately write a history of that building. Where witnesses speak of gassings, they are either very vague or, if specific, contradict one another and are refuted by documented and material facts. The author also exposes the fraudulent attempts of mainstream historians to convert the witnesses’ black propaganda into “truth” by means of selective quotes, omissions, and distortions. Mattogno proves that this building’s morgue was never a homicidal gas chamber, nor could it have worked as such. 2nd ed., 152 pages, b&w illustrations, bibliography, index. (#21)

**Auschwitz: Open Air Incinerations.** By C. Mattogno. In spring and summer of 1944, 400,000 Hungarian Jews were deported to Auschwitz and allegedly murdered there in gas chambers. The Auschwitz crematoria are said to have been unable to cope with so many corpses. Therefore, every single day thousands of corpses are claimed to have been incinerated on huge pyres lit in deep trenches. The sky over Auschwitz was covered in thick smoke. This is what some witnesses want us to believe. This book examines the many testimonies regarding these incinerations and establishes whether these claims were even possible. Using air photos, physical evidence and wartime documents, the author shows that these claims are fiction. A new Appendix contains 3 papers on groundwater levels and cattle mass burnings. 2nd ed., 202 pages, b&w illustrations, bibliography, index. (#17)

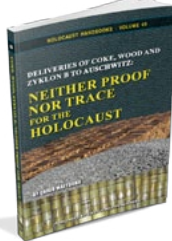




**The Cremation Furnaces of Auschwitz.** By Carlo Mattogno & Franco Deana. An exhaustive study of the history and technology of cremation in general and of the cremation furnaces of Auschwitz in particular. On a vast base of technical literature, extant wartime documents and material traces, the authors can establish the true nature and capacity of the Auschwitz cremation furnaces. They show that these devices were inferior make-shift versions of what was usually produced, and that their capacity to cremate corpses was lower than normal, too. 3 vols., 1198 pages, b&w and color illustrations (vols 2 & 3), bibliography, index, glossary. (#24)

**Curated Lies: The Auschwitz Museum's Misrepresentations, Distortions and Deceptions.** By Carlo Mattogno. Revisionist research results have put the Polish Auschwitz Museum under pressure to answer this challenge. They've answered. This book analyzes their answer and reveals the appallingly mendacious attitude of the Auschwitz Museum authorities when presenting documents from their archives. 248 pages, b&w illustrations, bibliography, index. (#38)

**Deliveries of Coke, Wood and Zyklon B to Auschwitz: Neither Proof Nor Trace for the Holocaust.** By Carlo Mattogno. Researchers from the Auschwitz Museum tried to prove the reality of mass extermination by pointing to documents about deliveries of wood and coke as well as Zyklon B to the Auschwitz Camp. If put into the actual historical and technical context, however, these documents prove the exact opposite of what these orthodox researchers claim. Ca. 250 pages, b&w illust., bibl., index. (Scheduled for 2021; #40)



## SECTION FOUR: Witness Critique

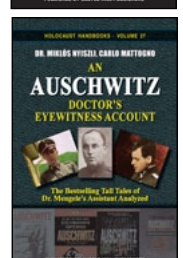
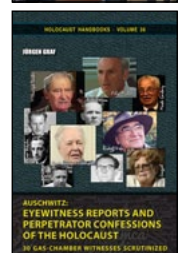
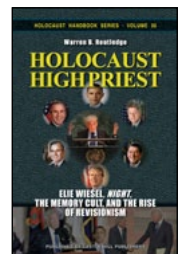
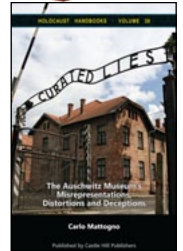
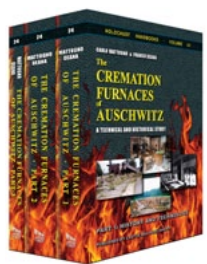
**Holocaust High Priest: Elie Wiesel, Night, the Memory Cult, and the Rise of Revisionism.** By Warren B. Routledge. The first unauthorized biography of Wiesel exposes both his personal deceptions and the whole myth of "the six million." It shows how Zi-

onist control has allowed Wiesel and his fellow extremists to force leaders of many nations, the U.N. and even popes to genuflect before Wiesel as symbolic acts of subordination to World Jewry, while at the same time forcing school children to submit to Holocaust brainwashing. 468 pages, b&w illust., bibliography, index. (#30)

**Auschwitz: Eyewitness Reports and Perpetrator Confessions.** By Jürgen Graf. The traditional narrative of what transpired at the infamous Auschwitz Camp during WWII rests almost exclusively on witness testimony. This study critically scrutinizes the 30 most important of them by checking them for internal coherence, and by comparing them with one another as well as with other evidence such as wartime documents, air photos, forensic research results, and material traces. The result is devastating for the traditional narrative. 372 pages, b&w illust., bibl., index. (#36)

**Commandant of Auschwitz: Rudolf Höss, His Torture and His Forced Confessions.** By Carlo Mattogno & Rudolf Höss. From 1940 to 1943, Rudolf Höss was the commandant of the infamous Auschwitz Camp. After the war, he was captured by the British. In the following 13 months until his execution, he made 85 depositions of various kinds in which he confessed his involvement in the "Holocaust." This study first reveals how the British tortured him to extract various "confessions." Next, all of Höss's depositions are analyzed by checking his claims for internal consistency and comparing them with established historical facts. The results are eye-opening... 2nd ed., 402 pages, b&w illustrations, bibliography, index. (#35)

**An Auschwitz Doctor's Eyewitness Account: The Tall Tales of Dr. Mengele's Assistant Analyzed.** By Miklos Nyiszli & Carlo Mattogno. Nyiszli, a Hungarian physician, ended up at Auschwitz in 1944 as Dr. Mengele's assistant. After the war he wrote a book and several other writings describing what he claimed to have experienced. To this day some traditional historians take his accounts seriously, while others reject them as grotesque lies and exaggerations. This study presents and analyzes Nyiszli's writings and skillfully separates truth from fabulous fabrication. 484 pages, b&w illustrations, bibliography, index. (#37)



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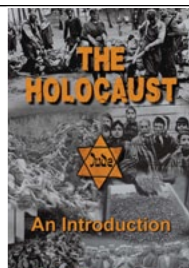
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## Thomas Dalton, *The Holocaust: An Introduction*

The Holocaust was perhaps the greatest crime of the 20th century. Six million Jews, we are told, died by gassing, shooting, and deprivation. But: Where did the six million figure come from? How, exactly, did the gas chambers work? Why do we have so little physical evidence from major death camps? Why haven't we found even a fraction of the six million bodies, or their ashes? Why has there been so much media suppression and governmental censorship on this topic? In a sense, the Holocaust is the greatest murder mystery in history. It is a topic of greatest importance for the present day. Let's explore the evidence, and see where it leads.

128 pp. pb, 5"×8", ill., bibl., index

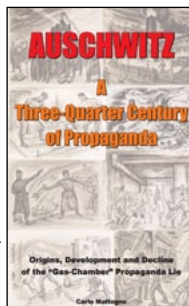


## Carlo Mattogno, *Auschwitz: A Three-Quarter Century of*

### *Propaganda: Origins, Development and Decline of the "Gas Chamber" Propaganda Lie*

During the war, wild rumors were circulating about Auschwitz: that the Germans were testing new war gases; that inmates were murdered in electrocution chambers, with gas showers or pneumatic hammer systems; that living people were sent on conveyor belts directly into cremation furnaces; that oils, grease and soap were made of the mass-murder victims. Nothing of it was true. When the Soviets captured Auschwitz in early 1945, they reported that 4 million inmates were killed on electrocution conveyor belts discharging their load directly into furnaces. That wasn't true either. After the war, "witnesses" and "experts" repeated these things and added more fantasies: mass murder with gas bombs, gas chambers made of canvas; carts driving living people into furnaces; that the crematoria of Auschwitz could have cremated 400 million victims... Again, none of it was true. This book gives an overview of the many rumors, myths and lies about Auschwitz which mainstream historians today reject as untrue. It then explains by which ridiculous methods some claims about Auschwitz were accepted as true and turned into "history," although they are just as untrue.

125 pp. pb, 5"×8", ill., bibl., index, b&w ill.

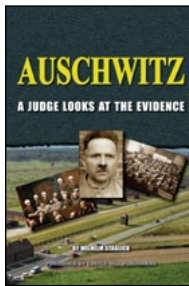


## Wilhelm Stäglich, *Auschwitz: A Judge Looks at the Evidence*

Auschwitz is the epicenter of the Holocaust, where more people are said to have been murdered than anywhere else. At this detention camp the industrialized Nazi mass murder is said to have reached its demonic pinnacle. This narrative is based on a wide range of evidence, the most important of which was presented during two trials: the International Military Tribunal of 1945/46, and the German Auschwitz Trial of 1963-1965 in Frankfurt.

The late Wilhelm Stäglich, until the mid-1970s a German judge, has so far been the only legal expert to critically analyze this evidence. His research reveals the incredibly scandalous way in which the Allied victors and later the German judicial authorities bent and broke the law in order to come to politically foregone conclusions. Stäglich also exposes the shockingly superficial way in which historians are dealing with the many incongruities and discrepancies of the historical record.

3rd edition 2015, 422 pp. pb, 6"×9", b&w ill.

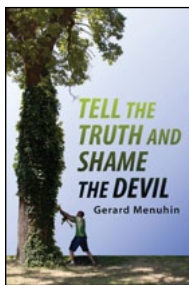


## Gerard Menuhin: *Tell the Truth & Shame the Devil*

A prominent Jew from a famous family says the "Holocaust" is a wartime propaganda myth which has turned into an extortion racket. Far from bearing the sole guilt for starting WWII as alleged at Nuremberg (for which many of the surviving German leaders were hanged) Germany is mostly innocent in this respect and made numerous attempts to avoid and later to end the confrontation. During the 1930s Germany was confronted by a powerful Jewish-dominated world plutocracy out to destroy it... Yes, a prominent Jew says all this. Accept it or reject it, but be sure to read it and judge for yourself!

The author is the son of the great American-born violinist Yehudi Menuhin, who, though from a long line of rabbinical ancestors, fiercely criticized the foreign policy of the state of Israel and its repression of the Palestinians in the Holy Land.

4th edition 2017, 432 pp. pb, 6"×9", b&w ill.



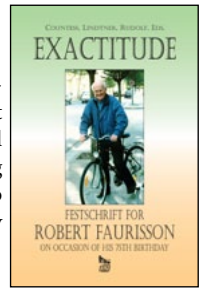
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Robert H. Countess, Christian Lindtner, Germar Rudolf (eds.),

***Exactitude: Festschrift for Prof. Dr. Robert Faurisson***

On January 25, 1929, a man was born who probably deserves the title of the most courageous intellectual of the 20th century and the beginning of the 21st century: Robert Faurisson. With bravery and steadfastness, he challenged the dark forces of historical and political fraud with his unrelenting exposure of their lies and hoaxes surrounding the orthodox Holocaust narrative. This book describes and celebrates the man, who passed away on October 21, 2018, and his work dedicated to accuracy and marked by insubmission.

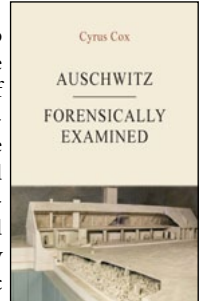
146 pp. pb, 6"×9", b&w ill.



Cyrus Cox, ***Auschwitz – Forensically Examined***

It is amazing what modern forensic crime-scene investigations can find out. This is also true for the Holocaust. There are many big tomes about this, such as Rudolf's 400+ page book on the *Chemistry of Auschwitz*, or Mattogno's 1200-page work on the crematoria of Auschwitz. But who reads those doorstops? Here is a booklet that condenses the most-important findings of Auschwitz forensics into a nutshell, quick and easy to read. In the first section, the forensic investigations conducted so far are reviewed. In the second section, the most-important results of these studies are summarized, making them accessible to everyone. The main arguments focus on two topics. The first centers around the poison allegedly used at Auschwitz for mass murder: Zyklon B. Did it leave any traces in masonry where it was used? Can it be detected to this day? The second topic deals with mass cremations. Did the crematoria of Auschwitz have the claimed huge capacity claimed for them? Do air photos taken during the war confirm witness statements on huge smoking pyres? Find the answers to these questions in this booklet, together with many references to source material and further reading. The third section reports on how the establishment has reacted to these research results.

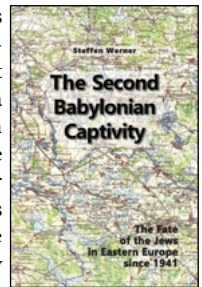
124 pp. pb., 5"×8", b&w ill., bibl., index



Steffen Werner, ***The Second Babylonian Captivity: The Fate of the Jews in Eastern Europe since 1941***

"But if they were not murdered, where did the six million deported Jews end up?" This is a standard objection to the revisionist thesis that the Jews were not killed in extermination camps. It demands a well-founded response. While researching an entirely different topic, Steffen Werner accidentally stumbled upon the most-peculiar demographic data of Byelorussia. Years of research subsequently revealed more and more evidence which eventually allowed him to substantiate a breathtaking and sensational proposition: The Third Reich did indeed deport many of the Jews of Europe to Eastern Europe in order to settle them there "in the swamp." This book, first published in German in 1990, was the first well-founded work showing what really happened to the Jews deported to the East by the National Socialists, how they have fared since, and who, what and where they are "now" (1990). It provides context and purpose for hitherto-obscure and seemingly arbitrary historical events and quite obviates all need for paranormal events such as genocide, gas chambers, and all their attendant horrors. With a preface by Germar Rudolf with references to more-recent research results in this field of study confirming Werner's thesis.

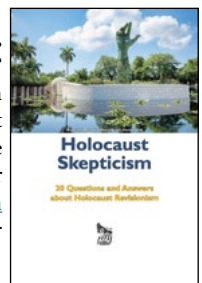
190 pp. pb, 6"×9", b&w ill., bibl., index



Germar Rudolf, ***Holocaust Skepticism: 20 Questions and Answers about Holocaust Revisionism***

This 15-page brochure introduces the novice to the concept of Holocaust revisionism, and answers 20 tough questions, among them: What does Holocaust revisionism claim? Why should I take Holocaust revisionism more seriously than the claim that the earth is flat? How about the testimonies by survivors and confessions by perpetrators? What about the pictures of corpse piles in the camps? Why does it matter how many Jews were killed by the Nazis, since even 1,000 would have been too many? ... Glossy full-color brochure. PDF file free of charge available at [www.HolocaustHandbooks.com](http://www.HolocaustHandbooks.com), [Option "Promotion"](#). This item is *not* copyright-protected. Hence, you can do with it whatever you want: download, post, email, print, multiply, hand out, sell...

15 pp., stapled, 8.5"×11", full-color throughout



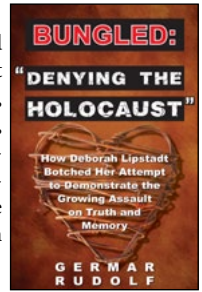
For prices and availability see [www.shop.codoh.com](http://www.shop.codoh.com) or write to: CHP, PO Box 243, Uckfield, TN22 9AW, UK



**Germar Rudolf, *Bungled: "Denying the Holocaust"* How Deborah Lipstadt Botched Her Attempt to Demonstrate the Growing Assault on Truth and Memory**

With her book *Denying the Holocaust*, Deborah Lipstadt tried to show the flawed methods and extremist motives of "Holocaust deniers." This book demonstrates that Dr. Lipstadt clearly has neither understood the principles of science and scholarship, nor has she any clue about the historical topics she is writing about. She misquotes, mistranslates, misrepresents, misinterprets, and makes a plethora of wild claims without backing them up with anything. Rather than dealing thoroughly with factual arguments, Lipstadt's book is full of *ad hominem* attacks on her opponents. It is an exercise in anti-intellectual pseudo-scientific arguments, an exhibition of ideological radicalism that rejects anything which contradicts its preset conclusions. **F for FAIL**

2nd ed., 224 pp. pb, 5"×8", bibl., index, b&w ill.



**Carolus Magnus, *Bungled: "Denying History"*. How Michael Shermer and Alex Grobman Botched Their Attempt to Refute Those Who Say the Holocaust Never Happened**

*Skeptic Magazine* editor Michael Shermer and Alex Grobman from the Simon Wiesenthal Center wrote a book in 2000 which they claim is "a thorough and thoughtful answer to all the claims of the Holocaust deniers." In 2009, a new "updated" edition appeared with the same ambitious goal. In the meantime, revisionists had published some 10,000 pages of archival and forensic research results. Would their updated edition indeed answer all the revisionist claims? In fact, Shermer and Grobman completely ignored the vast amount of recent scholarly studies and piled up a heap of falsifications, contortions, omissions, and fallacious interpretations of the evidence. Finally, what the authors claim to have demolished is not revisionism but a ridiculous parody of it. They ignored the known unreliability of their cherry-picked selection of evidence, utilizing unverified and incestuous sources, and obscuring the massive body of research and all the evidence that dooms their project to failure. **F for FAIL**

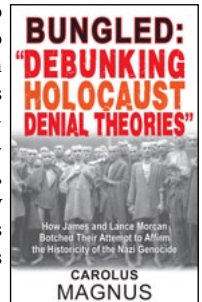
162 pp. pb, 5"×8", bibl., index, b&w ill.



**Carolus Magnus, *Bungled: "Debunking Holocaust Denial Theories"*. How James and Lance Morcan Botched Their Attempt to Affirm the Historicity of the Nazi Genocide**

The novelists and movie-makers James and Lance Morcan have produced a book "to end [Holocaust] denial once and for all." To do this, "no stone was left unturned" to verify historical assertions by presenting "a wide array of sources" meant "to shut down the debate deniers wish to create. One by one, the various arguments Holocaust deniers use to try to discredit wartime records are carefully scrutinized and then systematically disproven." It's a lie. First, the Morcans completely ignored the vast amount of recent scholarly studies published by revisionists; they didn't even identify them. Instead, they engaged in shadowboxing, creating some imaginary, bogus "revisionist" scarecrow which they then tore to pieces. In addition, their knowledge even of their own side's source material was dismal, and the way they backed up their misleading or false claims was pitifully inadequate. **F for FAIL.**

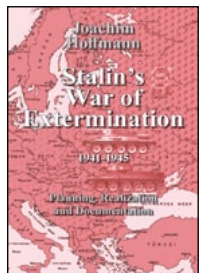
144 pp. pb, 5"×8", bibl., index, b&w ill.



**Joachim Hoffmann, *Stalin's War of Extermination 1941-1945***

A German government historian documents Stalin's murderous war against the German army and the German people. Based on the author's lifelong study of German and Russian military records, this book reveals the Red Army's grisly record of atrocities against soldiers and civilians, as ordered by Stalin. Since the 1920s, Stalin planned to invade Western Europe to initiate the "World Revolution." He prepared an attack which was unparalleled in history. The Germans noticed Stalin's aggressive intentions, but they underestimated the strength of the Red Army. What unfolded was the most-cruel war in history. This book shows how Stalin and his Bolshevik henchman used unimaginable violence and atrocities to break any resistance in the Red Army and to force their unwilling soldiers to fight against the Germans. The book explains how Soviet propagandists incited their soldiers to unlimited hatred against everything German, and he gives the reader a short but extremely unpleasant glimpse into what happened when these Soviet soldiers finally reached German soil in 1945: A gigantic wave of looting, arson, rape, torture, and mass murder...

428 pp. pb, 6"×9", bibl., index, b&w ill.



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## Udo Walendy, *Who Started World War II: Truth for a War-Torn World*

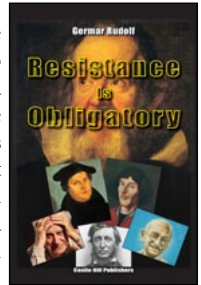
For seven decades, mainstream historians have insisted that Germany was the main, if not the sole culprit for unleashing World War II in Europe. In the present book this myth is refuted. There is available to the public today a great number of documents on the foreign policies of the Great Powers before September 1939 as well as a wealth of literature in the form of memoirs of the persons directly involved in the decisions that led to the outbreak of World War II. Together, they made possible Walendy's present mosaic-like reconstruction of the events before the outbreak of the war in 1939. This book has been published only after an intensive study of sources, taking the greatest care to minimize speculation and inference. The present edition has been translated completely anew from the German original and has been slightly revised.

500 pp. pb, 6"x9", index, bibl., b&w ill.



## Germar Rudolf: *Resistance is Obligatory!*

In 2005 Rudolf, a peaceful dissident and publisher of revisionist literature, was kidnapped by the U.S. government and deported to Germany. There the local lackey regime staged a show trial against him for his historical writings. Rudolf was not permitted to defend his historical opinions, as the German penal law prohibits this. Yet he defended himself anyway: 7 days long Rudolf held a speech in the court room, during which he proved systematically that only the revisionists are scholarly in their attitude, whereas the Holocaust orthodoxy is merely pseudo-scientific. He then explained in detail why it is everyone's obligation to resist, without violence, a government which throws peaceful dissident into dungeons. When Rudolf tried to publish his public defence speech as a book from his prison cell, the public prosecutor initiated a new criminal investigation against him. After his probation time ended in 2011, he dared publish this speech anyway...

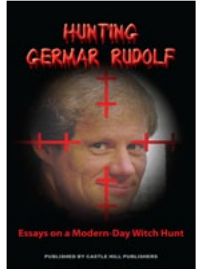


2nd ed. 2016, 378 pp. pb, 6"x9", b&w ill.

## Germar Rudolf, *Hunting Germar Rudolf: Essays on a Modern-Day Witch Hunt*

German-born revisionist activist, author and publisher Germar Rudolf describes which events made him convert from a Holocaust believer to a Holocaust skeptic, quickly rising to a leading personality within the revisionist movement. This in turn unleashed a tsunami of persecution against him: loss of his job, denied PhD exam, destruction of his family, driven into exile, slandered by the mass media, literally hunted, caught, put on a show trial where filing motions to introduce evidence is illegal under the threat of further prosecution, and finally locked up in prison for years for nothing else than his peaceful yet controversial scholarly writings. In several essays, Rudolf takes the reader on a journey through an absurd world of government and societal persecution which most of us could never even fathom actually exists....

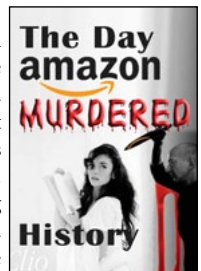
304 pp. pb, 6"x9", bibl., index, b&w ill.



## Germar Rudolf, *The Day Amazon Murdered History*

Amazon is the world's biggest book retailer. They dominate the U.S. and several foreign markets. Pursuant to the 1998 declaration of Amazon's founder Jeff Bezos to offer "the good, the bad and the ugly," customers once could buy every book that was in print and was legal to sell. However, in early 2017, a series of anonymous bomb threats against Jewish community centers occurred in the U.S., fueling a campaign by Jewish groups to coax Amazon into banning revisionist writings, false portraying them as anti-Semitic. On March 6, 2017, Amazon caved in and banned more than 100 books with dissenting viewpoints on the Holocaust. In April 2017, an Israeli Jew was arrested for having placed the fake bomb threats, a paid "service" he had offered for years. But that did not change Amazon's mind. Its stores remain closed for history books Jewish lobby groups disapprove of. This book accompanies the documentary of the same title. Both reveal how revisionist publications had become so powerfully convincing that the powers that be resorted to what looks like a dirty false-flag operation in order to get these books banned from Amazon...

128 pp. pb, 5"x8", bibl., b&w ill.



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## Thomas Dalton, *Hitler on the Jews*

That Adolf Hitler spoke out against the Jews is beyond obvious. But of the thousands of books and articles written on Hitler, virtually none quotes Hitler's exact words on the Jews. The reason for this is clear: Those in positions of influence have incentives to present a simplistic picture of Hitler as a blood-thirsty tyrant. However, Hitler's take on the Jews is far more complex and sophisticated. In this book, for the first time, you can make up your own mind by reading nearly every idea that Hitler put forth about the Jews, in considerable detail and in full context. This is the first book ever to compile his remarks on the Jews. As you will discover, Hitler's analysis of the Jews, though hostile, is erudite, detailed, and – surprise, surprise – largely aligns with events of recent decades. There are many lessons here for the modern-day world to learn.

200 pp. pb, 6"×9", index, bibl.



## Thomas Dalton, *Goebbels on the Jews*

From the age of 26 until his death in 1945, Joseph Goebbels kept a near-daily diary. From it, we get a detailed look at the attitudes of one of the highest-ranking men in Nazi Germany. Goebbels shared Hitler's dislike of the Jews, and likewise wanted them totally removed from the Reich territory. Ultimately, Goebbels and others sought to remove the Jews completely from the Eurasian land mass—perhaps to the island of Madagascar. This would be the “final solution” to the Jewish Question. Nowhere in the diary does Goebbels discuss any Hitler order to kill the Jews, nor is there any reference to extermination camps, gas chambers, or any methods of systematic mass-murder. Goebbels acknowledges that Jews did indeed die by the thousands; but the range and scope of killings evidently fall far short of the claimed figure of 6 million. This book contains, for the first time, every significant diary entry relating to the Jews or Jewish policy. Also included are partial or full citations of 10 major essays by Goebbels on the Jews.

274 pp. pb, 6"×9", index, bibl.



## Thomas Dalton, *The Jewish Hand in the World Wars*

For many centuries, Jews have had a negative reputation in many countries. The reasons given are plentiful, but less well known is their involvement in war. When we examine the causal factors for war, and look at its primary beneficiaries, we repeatedly find a Jewish presence. Throughout history, Jews have played an exceptionally active role in promoting and inciting war. With their long-notorious influence in government, we find recurrent instances of Jews promoting hardline stances, being uncompromising, and actively inciting people to hatred. Jewish misanthropy, rooted in Old Testament mandates, and combined with a ruthless materialism, has led them, time and again, to instigate warfare if it served their larger interests. This fact explains much about the present-day world. In this book, Thomas Dalton examines in detail the Jewish hand in the two world wars. Along the way, he dissects Jewish motives and Jewish strategies for maximizing gain amidst warfare, reaching back centuries.

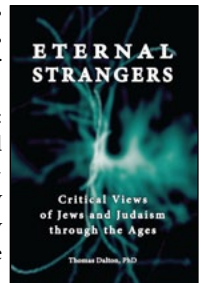
197 pp. pb, 6"×9", index, bibl.



## Thomas Dalton, *Eternal Strangers: Critical Views of Jews and Judaism Through the Ages*

It is common knowledge that Jews have been disliked for centuries—sometimes loathed, sometimes hated. But why? The standard reply is that anti-Semitism is a “disease” that, for some strange reason, has afflicted non-Jews for ages. But this makes little sense. Nor can it be an “irrational” reaction. Such things must have real, physical causal factors. Our best hope for understanding this recurrent ‘anti-Semitism’ is to study the history: to look at the actual words written by prominent critics of the Jews, in context, and with an eye to any common patterns that might emerge. Such a study reveals strikingly consistent observations: Jews are seen as pernicious, conniving, shifty liars; they harbor a deep-seated hatred of humanity; they are at once foolish and arrogant; they are socially disruptive and rebellious; they are ruthless exploiters and parasites; they are master criminals—the list goes on.

The persistence of such comments is remarkable and strongly suggests that the cause for such animosity resides in the Jews themselves—in their attitudes, their values, their ethnic traits and their beliefs. It is hard to come to any other conclusion than that Jews are inclined toward actions that trigger a



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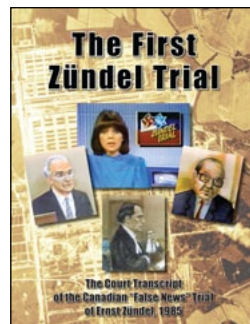
revulsion in non-Jews. Jews have always been, and will always be, eternal strangers. Given this fact, we have a difficult path forward. One lesson of history is that Jews will not change; if anything, they will become better at hiding their real motives and intents. Under such conditions, many great thinkers have come to the conclusion that Jews must be separated from the rest of humanity. *Eternal Strangers* is a profoundly important book. It addresses the modern-day “Jewish problem” in all its depth—something which is arguably at the root of many of the world’s social, political and economic problems. The matter is urgent; we haven’t a moment to lose.

186 pp. pb, 6”x9”, index, bibl.

### The Queen versus Zündel: *The First Zündel Trial: The Transcript*

In the early 1980s, Ernst Zündel, a German immigrant living in Toronto, was indicted for allegedly spreading “false news” by selling copies of Richard Hardwood’s brochure *Did Six Million Really Die?*, which challenged the accuracy of the orthodox Holocaust narrative. When the case went to court in 1985, so-called Holocaust experts and “eyewitnesses” of the alleged homicidal gas chambers at Auschwitz were cross-examined for the first time in history by a competent and skeptical legal team. The results were absolutely devastating for the Holocaust orthodoxy. Even the prosecutor, who had summoned these witnesses to bolster the mainstream Holocaust narrative, became at times annoyed by their incompetence and mendacity. For decades, these mind-boggling trial transcripts were hidden from public view. Now, for the first time, they have been published in print in this new book – unabridged and unedited.

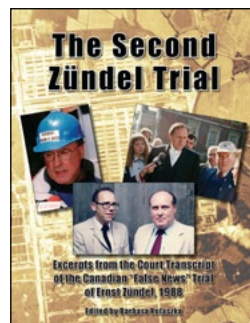
ca. 820 pp. pb, 8.5”x11”



### Barbara Kulaszka (ed.), *The Second Zündel Trial: Excerpts from the Transcript*

In 1988, German-Canadian Ernst Zündel was for on trial a second time for allegedly spreading “false news” about the Holocaust. Zündel staged a magnificent defense in an attempt to prove that revisionist concepts of “the Holocaust” are essentially correct. Although many of the key players have since passed away, including Zündel, this historic trial keeps having an impact. It inspired major research efforts as expounded in the series *Holocaust Handbooks*. In contrast to the First Zündel Trial of 1985, the second trial had a much greater impact internationally, mainly due to the *Leuchter Report*, the first independent forensic research performed on Auschwitz, which was endorsed on the witness stand by British bestselling historian David Irving. The present book features the essential contents of this landmark trial with all the gripping, at-times-dramatic details. When Amazon.com decided to ban this 1992 book on a landmark trial about the “Holocaust”, we decided to put it back in print, lest censorship prevail...

498 pp. pb, 8.5”x11”, bibl., index, b&w ill.



### Gerard Menuhin: *Lies & Gravy: Landmarks in Human Decay – Two Plays*

A long time ago, in a galaxy far, far away, the hallucination of global supremacy was born. Few paid it any attention. After centuries of interference, when the end is in sight, we’re more inclined to take it seriously. But now, we have only a few years of comparative freedom left before serfdom submerges us all. So it’s time to summarize our fall and to name the guilty, or, as some have it, to spot the loony. Sometimes the message is so dire that the only way to get it across is with humor – to act out our predicament and its causes. No amount of expert testimony can match the power of spectacle. Here, at times through the grotesque violence typical of Grand Guignol, at times through the milder but no-less-horrifying conspiracies of men incited by a congenital disorder to fulfill their drive for world domination, are a few of the most-telling stages in their crusade against humanity, and their consequences, as imagined by the author.

We wonder whether these two consecutive plays will ever be performed onstage...

112 pp. pb, 5”x8”

